

1 STATE OF NEVADA

2 EMPLOYEE-MANAGEMENT COMMITTEE

3 MEETING TRANSCRIPT

4 OCTOBER 21, 2021

5  
6 PARKER: Employee Management Committee, October 21, 2021  
7 at 9:04 a.m. There are two locations held at State Library  
8 Archives in Carson City and Grant Sawyer building. This is an  
9 in-person meeting. You'll comply to governor's mandate of  
10 social distancing and masking for all individuals, whether  
11 vaccinated or not. Um, masks must be worn properly to cover  
12 the nose and mouth at all times, with exception of when you're  
13 actually talking. As long as you're six feet away, you can  
14 take off your mask. The sites are connected, uh, by video  
15 conference, microphones and cameras are here in front of this  
16 panel. So whenever you're speaking, speak towards that way  
17 and look that way, that's also the only way that Las Vegas  
18 here and for the recording. And then in Las Vegas, um, at  
19 Grant Sawyer, can you explain where people need to speak  
20 towards for your recording or for -- yeah, so that we can hear  
21 too.

22 WHITTEN: Our microphone is also near the screens up  
23 there near the ceiling.

24 MULTIPLE: Ow, sorry, sorry, thank you, oh, can you hear?  
25 hello -- hello -- hello? They can't hear us. Can you hear

1 us? They can't hear us. They can't hear us. I -- she was  
2 pointing here. I'm not familiar with this. You can hear them  
3 now. Can you? You can hear us now. We can hear you. Okay.  
4 Sorry Chair.

5 PARKER: That's all right. Um, did you hear me about  
6 the -- the instructions about the video?

7 WHITTEN: Yes.

8 PARKER: Okay. And then you guys have already taken  
9 care of it in Southern Nevada to let your attendees know.  
10 Thank you so much. Um, uh, for evacuations, Carson City will  
11 follow staff out, depending on the emergency. We'll you go  
12 into the courtyard or we'll go across the street. Southern  
13 Nevada, you will follow staff there and they will take you to  
14 the designated area. Uh, I wanna remind everybody to speak  
15 clearly and port cameras and, um, I think that's it. Okay.  
16 So uh, we'll go ahead and open for public comment. No vote or  
17 action may be taken upon a matter raised during public comment  
18 until the matter itself has been specifically included on an  
19 agenda item or on an agenda as an item on which action may be  
20 taken. Comments will be limited to five minutes per person,  
21 and persons making comment will be asked to begin by stating  
22 their name for the record. Do we have any public comment in  
23 Southern Nevada in Las Vegas?

24 WHITTEN: There doesn't appear to be.

25 PARKER: Thank you. Any public comment in Carson City?

1 Okay. Hearing none, um, we'll go ahead and move on to item  
2 number three on the agenda, which is introductions and, uh,  
3 meeting overview. So first -- first we'll start with meeting  
4 or introductions of North for EMC members, and, uh, just for  
5 EMC members, and then staff that are active. So --

6 BAUER: Jennifer Bauer, State Public Charter School  
7 Authority.

8 PARKER: Stephanie Parker, EMC Chair with -- with UNR,  
9 NSHE.

10 GEYER: Sandy Geyer, Attorney General's office.

11 JACOBS: Maddie Jacobs, EMC Coordinator.

12 PARKER: Thank you. And then let's move down to  
13 Southern Nevada.

14 WHITTEN: Sonja Whitten, Business and Industry.

15 WEISS: Todd Weiss. Uh, Deputy Attorney General for  
16 the EMC.

17 RUSSELL: Turessa Russell, UNLV with NSHE.

18 SCOTT: Mary Jo Scott OPM, smart 21.

19 WRIGHT: Ivory Wright, EMC Admin Clerk.

20 PARKER: Awesome. All right, so just a little, um, I'm  
21 just gonna explain a little over the process that we're gonna  
22 go into each item we -- here we will, um, uh, you know, yeah,  
23 we have -- it looks like we have a motion to dismiss in  
24 several cases on here, but they're pretty much gonna be held  
25 the same night. Um, every party -- each party is allowed up

1 to one hour at the discretion of the chair to present his or  
2 her matter. Committee members may ask questions during any of  
3 the phases to ensure they understand the presentation. Um,  
4 that's the typical order, is we'll have opening statement by  
5 the employee or whoever brings the matter. Uh, an opening  
6 statement by the agency will also have a presentation by  
7 employee and presentation by agency, closing statement by the  
8 employee and closing statement by the agency. At the  
9 conclusion of each item, the committee will deliberate and  
10 take a vote. During deliberation, the parties may not  
11 participate or provide additional information unless  
12 questioned by the committee. The written decision will be  
13 provided within 45 days. Now, current act witness, any  
14 witnesses must state their name and their work location and  
15 occupation for the record, we don't need to know your personal  
16 address. Um, committee members and participants, I already  
17 said that, but I still wanna just say, um, committee members  
18 have per -- carefully read the material provided. With that  
19 said, redundant testimony and inefficient use of the time each  
20 party has for the presentation and viewed by the committee as  
21 ineffective. Committee members may ask questions again, um,  
22 at the recognition of the chair. So just wait for -- for me  
23 to acknowledge before proceeding. Also, I wanna remind all  
24 sides to be respectful during the hearing. The parties will  
25 need to return to work tomorrow, and as such, we're here to

1 listen to the employee's concerns and employee's perspective,  
2 as well as the agencies. We have a motion to dismiss. So,  
3 and then, um, any questions on that?

4 MORRISSEY: I -- I have a question. Um, my name's  
5 Timothy Morrissey, uh, Appeal in DETR. I just wanna make sure  
6 I'm clear after I give my, uh, argument to not dismiss the  
7 hearing, then do we go into the merits of the case anyway?

8 PARKER: So -- so the -- there's a motion to dismiss on  
9 the calendar or on the agenda. The results of that determines  
10 what we do now.

11 MORRISSEY: Okay -- Okay.

12 PARKER: So yeah, it'll be -- you'll be made aware of  
13 what the next step will be if there's next step. Okay?

14 MORRISSEY: Okay. Thank you.

15 PARKER: All right. So next I'm gonna move for adoption  
16 of the agenda.

17 WHITTEN: Sonja Whitten for the record. Motion to adopt  
18 the agenda.

19 RUSSELL: Turessa Russell, for the record. I'll second.

20 PARKER: Any -- uh, any discussion? All those in favor?

21 MULTIPLE: Aye -- aye -- aye -- aye.

22 PARKER: Any opposed? Still moved. So item number five  
23 is, um, a motion to dismiss grievance 7402 for Chad Stokes  
24 submitted by, uh, DETR, um, supporting documentation.

25 Actually, first before we move forward, does everybody accept

1 -- I wanna know if there's any objections to the packets that  
2 have been submitted for any cases today?

3 ZUPAN: Yes. Uh, this is Teletha Zupan on behalf of  
4 Mr. Boardman. Uh, to the extent that NDOC actually submitted  
5 a packet, he was never served with it. So we have not  
6 received it, had an opportunity to review it or to prepare to  
7 respond today. So we would request to continue the hearing on  
8 that basis so that we can have an opportunity to be served  
9 with it and respond to it accordingly.

10 SCOTT: Chair?

11 PARKER: Yes.

12 FLORES: Reece Flores, for the record, I'm here training  
13 EMC Coordinator. I did not see a packet from the agency from  
14 Department of Corrections for Mr. Boardman.

15 SCOTT: And it's my understanding that NDOC is not  
16 going to object to a continuance today. And I have an email  
17 from them saying that they will not object to it, should I --

18 PARKER: So is -- okay. So what we're doing is -- um,  
19 so is this for 7402?

20 SCOTT: No, it is not.

21 PARKER: Okay, 'cause we're not hearing that right now.

22 SCOTT: Oh, sorry. I thought there was an issue with  
23 the packet. We were supposed to --

24 PARKER: Yeah, you're talking about your dis -- your  
25 position when we get to that item, I'm just asking for the

1 packets that have been laid out and provided if there's any  
2 objections to the -- the packet that we received. Okay.  
3 Hearing none, we'll go ahead and enter those in. Thank you.  
4 Um, I also wanna explain, um, something the -- um, about  
5 packets the following grievance submitted exhibit packets with  
6 unredacted personal information. Unfortunately, packets had  
7 already been distributed to the committee. So committee  
8 members, please disregard the -- uh, the personal information  
9 on the employee packet for Timothy Morrissey, and employee  
10 packet for Thomas Hartman. Exhibit 1, page 1 on both of  
11 those, they -- they're not -- they've not been provided to.  
12 Um, anyone else that's (inaudible) of the grievances is  
13 information has been redacted from the packets from the  
14 public. Just be sensitive of that-- that information. We're  
15 not to disclose anything in your packet that's personal. And  
16 exhibit 1, page 1 and the Morrissey's and Hartman's packets  
17 yes.

18 SCOTT: Okay.

19 PARKER: Clear the air on that. So we'll go ahead and  
20 move forward then on item number five is a motion to dismiss  
21 on grievance 7402. And, um, the agency submitted that so  
22 we'll actually start with a -- so is there somebody here for -  
23 - for DETR?

24 BOUGHTER: Yes.

25 PARKER: For this case? Okay.

1 BOUGHTER: Yeah.

2 PARKER: Sorry, I can't see the whole room.

3 BOUGHTER: Yes. Hi, for the record, my name is Brian  
4 Boughter, Human Resources Officer for, uh, DETR.

5 PARKER: Awesome. Okay. And, um, do you wanna go ahead  
6 and present your request for the motion to dismiss?

7 BOUGHTER: Sure. For grievance 7402, Chad Stokes  
8 Workforce Services Representative three, uh, he filed this  
9 grievance based on a hypothetical disagreement with DETR's  
10 employee overtime policy, which has been in effect since 2011.  
11 Mr. Stokes does not allege that DETR, in fact, failed to  
12 compensate him for overtime hours worked because Mr. Stokes  
13 only presents a hypothetical disagreement. He has not alleged  
14 an act of a mission or occurrence that is within the EMC --  
15 EMC's jurisdiction under NRS 284.384. And this grievance  
16 should be dismissed for that reason. Thank you.

17 PARKER: Thanks, Mr. -- Mr. St -- Mr. Stokes?

18 STOKES: Yes, ma'am.

19 PARKER: Um, I -- are you down there --

20 STOKES: I am

21 PARKER: -- in Las Vegas? Okay. Um, first I -- I just  
22 wanna swear you in. I see I forgot that too, you guys. Um, I  
23 just, uh, need to swear you in. Uh, you promise to tell the  
24 truth and nothing but the truth?

25 STOKES: I do.



1 PARKER: Okay thank you. So go -- go ahead.

2 STOKES: So in response to the motion to dismiss, uh, I  
3 don't actually have that with me today, but in my response,  
4 the motion to dismiss was filed well after the ten day  
5 requirement. And in that response, I noted that when this  
6 grievance was filed, um, employees had been instructed on how  
7 to -- uh, how to file their overtime incorrectly. And so we  
8 have no proof that we were shorted any overtime during that,  
9 uh, time period.

10 PARKER: Okay.

11 STOKES: I believe -- I believe I put it all in the --  
12 uh, in the response to the motion to dismiss.

13 PARKER: Mr. Boughter, do you wanna respond?

14 BOUGHTER: Well, on behalf of DETR, I would again say that  
15 I don't believe that we were outside the timing. I was  
16 assured by the EMC coordinator that the motion to dismiss  
17 would be heard. Um, so we believe that we're, you know, in  
18 good standing with -- there really isn't anything to hear  
19 here. We've had the, um, employee overtime policy in effect  
20 since 2011. As I stated, uh, there's never been any issues  
21 and there isn't really an issue here today either.

22 STOKES: I'm sorry, can I -- can I respond to that?

23 PARKER: Who is that?

24 STOKES: So, but regardless of how long the --

25 PARKER: Wait -- wait -- wait -- wait. Who said should

1 I -- wait, hold on.

2 STOKES: Chad. Sorry.

3 PARKER: Who said can I respond to that? 'Cause I did  
4 not say, go ahead.

5 STOKES: I'm sorry. Uh, Chad Stokes Workforce Services  
6 rep. I'm the griever.

7 PARKER: Okay, go ahead.

8 STOKES: Sorry. Uh, regardless of how long the overtime  
9 policy has been in place, I can't speak to anybody else that  
10 has an issue with it. But when it -- when the motion to  
11 dismiss was filed, that was a -- a good ten to 20 days after  
12 the deadline had passed. So the motion to dismiss should be,  
13 uh, squashed anyway.

14 PARKER: So I'm gonna ask staff, sorry, to revi --  
15 review that 'cause it looks like it was received September  
16 24th, the motion to dismiss. Right. Did that exceed the ten  
17 days that was provided or were there any extensions?

18 FLORES: Ms. Flores, for the record, I apologize.  
19 Chair. Um, I do not have an answer for that. Um, I would  
20 have to go to the computer and see, but, um, if you want take  
21 a break, I can go check for you or --

22 PARKER: Yeah, let's go ahead and take a break. Just  
23 wanna make sure we're compliance with --

24 FLORES: Uh, ten minutes?

25 PARKER: Yep. Ten-minute break.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

\*\*\* END OF MEETING \*\*\*

1 STATE OF NEVADA

2 EMPLOYEE-MANAGEMENT COMMITTEE

3 MEETING TRANSCRIPT

4 OCTOBER 21, 2021

5  
6 FLORES: Three scores for the record. The  
7 question was, when was the agency supposed to submit a motion  
8 to dismiss the -- per the scheduling order? The motion to  
9 dismiss had to be filed by 10/27, and the agency submitted  
10 September 24th. Mr. Stokes submitted his response by October  
11 4th.

12 PARKER: Thank you so much. Appreciate it.  
13 October 27th -- October 27th?

14 FLORES: September 27th. I'm so sorry.

15 PARKER: Okay.

16 FLORES: Let's try it again. I'm so sorry --  
17 I'm so sorry. I just ran downstairs. Sorry -- Sorry. 9/27  
18 per the scheduling orders for Mr. Stokes, the motion to  
19 dismiss had to be filed by 9/27 and the agency submitted it on  
20 9/24.

21 PARKER: Thank you so much.

22 FLORES: I apologize.

23 PARKER: Okay. And Mr. Stokes, did you want  
24 to, uh, respond to that?

25 STOKES: Uh, it was my understanding that the

1 notice for the order was on August 26th or 28th around that  
2 timeframe, which would've only been until the second week of  
3 September.

4 PARKER: Okay. Well, the actual scheduling  
5 orders that they received gave them until September 27th.

6 STOKES: Okay.

7 PARKER: Okay. And, um, Mr. Boughter, did you  
8 have anything more, closing or anything more to add?

9 BOUGHTER: Um, not in terms of the motion to  
10 dismiss. We believe -- DETR believes that the committee's  
11 obligated to dismiss the grievance based on the fact that  
12 there isn't really a -- any event to, um, resolve here. We  
13 actually demonstrate -- uh, you know, I don't really want to  
14 go into the grievance, but we demonstrate that we did what was  
15 asked in the grievance as well. So if that helps.

16 PARKER: Thank you. Mr. Stokes, do you want  
17 closing -- Do you wanna provide closing comments before we  
18 deliberate?

19 STOKES: Uh, for -- just for the motion to  
20 dismiss, correct?

21 PARKER: Step? Yes, that's correct. Just for  
22 the motion.

23 STOKES: Okay. uh, you know, had -- had I  
24 been more familiar with the grievance process, I would've been  
25 able to put the specific incidents in there. Uh, when I filed

1 this grievance over a year and a half ago, uh, it took this  
2 long to get to this point, and none of the questions in the  
3 grievance process were ever actually answered, just that they  
4 were following NACS and IRSs. And it's still, to this day not  
5 true, which is why we're here. Uh, again, had I been more  
6 familiar with the grievance process, I would've been able to  
7 put those specific incidents in there and provided witness  
8 testimony to those incidents where we were told to file our  
9 overtime pay by subtracting our leave from it. Uh, there is  
10 no record of it because we were just told by management. So,  
11 you know, the only way I could prove that is with witness  
12 statements, and again, had I know the grievance process, I  
13 would've been able to provide that and submit the grievance  
14 properly.

15 PARKER: All right, thank you. Um, we're  
16 gonna go ahead and deliberate. You may get questions, but,  
17 um, only respond wants to acknowledge, uh, still committee  
18 members.

19 BAUER: Ms. Chair, this is Jennifer.

20 PARKER: Yes please.

21 BAUER: So looking solely on the substance of  
22 the -- the basis for the motion to dismiss, um, I agree with  
23 the agency. I don't see where there was the description of an  
24 event that constituted any justice, which is the basis for  
25 which an employee can file agreements. Um, I understand the

1 employee's concern about not understanding the grievance  
2 process and not being able to communicate the event. Um, I  
3 have an issue though that, um, lack of understanding be the  
4 basis for which we move this to a hearing because there are  
5 opportunities for learning the grievance process out there.  
6 There's always the ability to contact agency HR or division of  
7 Human Resource Management. There are, um, FAQs, there's  
8 information about how to file a grievance (inaudible). Um, so  
9 there -- I think there's plenty of opportunities to -- to --  
10 for an employee to learn how to file a grievance. Um, and so  
11 when I look at the substance of this grievance, which  
12 unfortunately I think is what we need to focus on, I don't see  
13 where there's a description of a specific event that led to an  
14 injustice between an employee and an employer. And so for  
15 that reason, um, I think if we were to move this to hearing,  
16 we would be going outside the contents and the four corners of  
17 the grievance. Thank you.

18 GEYER: Sandie Geyer, for the record, uh, I  
19 agree with my, uh, colleague here in the north.

20 PARKER: Anybody in southern Nevada?

21 WHITTEN: Sonja Whitten for the record. Um,  
22 there are concerns with the, um, information, um, regarding  
23 employees being told to flex time. Um, but unfortunately due  
24 to that information not being properly documented and we  
25 wouldn't be able to -- to address it, our hands are kind of

1 tied at this point. Um, it is very unfortunate that there's a  
2 very real possibility this employee was grieved, um, and just  
3 didn't know the proper way to -- to document that. Um, it --  
4 no employee should be told to flex time rather than being paid  
5 over time, that -- that's problematic. And to have read that  
6 several times throughout this was very troubling.

7 PARKER: Right, and I agree with you. This is  
8 Stephanie Parker for the record. Um, I agree that regarding  
9 and my -- it -- my issue is that now I don't think -- I don't  
10 know that the employee has provided something that we can fix  
11 for them. I still think that there's the ability to make  
12 recommendations about policy. So I -- that's why I would lean  
13 towards not granting the motion to dismiss

14 GEYER: Sandie Geyer for the record. Um,  
15 I -- I too have some concerns about an agency telling an  
16 employee that they only can flex when in actuality the  
17 employee does have the right to ask for comp time, which is  
18 time and a half. If the employer is also accommodating, they  
19 can pay overtime, pay at time and a half. Flex time is an  
20 issue for me because flex time has to be used within that same  
21 date period that it is actually accumulated. Comp time goes  
22 on your needs and is kept, uh, as a record there. So um, I --  
23 if this -- if this had gone forward, one of my questions to  
24 the agency was going to be, um, how did you compensate the  
25 employee with that flex time? Was it during that same pay



1 period that it was accumulated? Because if not, then that is  
2 definitely an issue.

3           BAUER:     Ms. Chair, this is Jennifer. Without  
4 going into the substance of the case, because we're not  
5 hearing this grievance right now, um, I -- I do see that there  
6 is the potential for this committee to, uh, hear the concerns  
7 that the grievance has brought about. I do see that there's  
8 potential for the committee to decide, um, whether the agency  
9 is following law, rigorous policy or, um, anything else. Um,  
10 I -- I -- I hope I'm not conflating the other grievances that  
11 are on the agenda for today, but I -- I think I read somewhere  
12 that, um, DETR employees are required to sign a variable work  
13 week agreement. I -- if that's relevant to this case, I hope  
14 I'm not conflating, I disagree on that -- that it's -- it's an  
15 agreement, so there's not a mandate for that. So I think that  
16 there are some concerns. Um, and I think if the employee is  
17 able to demonstrate in the future that an actual injustice  
18 occurred and um, able to tie it to a specific event, then I  
19 think the employee has the ability to file a subsequent  
20 grievance in -- in accordance with grievance pro -- grievance  
21 procedures. And then the committee could actually --

22           PARKER:     Turessa, did you wanna add anything?  
23 It's hard for me to see down there, if any.

24           RUSSELL:    Turessa Russell, for the record. I'm  
25 struggling with this one. I'm not sure where I'm -- how I'm

1 gonna vote on this one just yet.

2 PARKER: Yeah, it's Stephanie Parker for the  
3 record. I'd just like to throw out in the response to the  
4 dismiss -- miss to -- dismissed that the employee still has  
5 unanswered questions that he is not been able to give. So  
6 that's -- that -- that's another reason why I'm leaning  
7 towards not granting the motion to dismiss. Maybe this is the  
8 only venue that he'll be able to get his -- his question  
9 answered.

10 WHITTEN: Chair, was that a motion? Sonja  
11 Whitten for the record.

12 PARKER: Yes. I'll make that a motion. I  
13 move not -- I make a motion to deny the motion to dismiss.

14 WHITTEN: Sonja Whitten for the record. I'll  
15 second that.

16 PARKER: Uh, is there any discussion? All in  
17 favor?

18 MULTIPLE: Aye -- aye -- aye -- aye -- aye.

19 PARKER: Any opposed?

20 BAUER: Jennifer Bauer. Nay.

21 PARKER: Okay, so that is five, four and one  
22 against the motion carries. So the motion to dismiss is  
23 denied. And I'm going -- um, I'm actually gonna break here  
24 and -- uh, break from the -- the agenda. And because somebody  
25 let me know that they were willing to move for -- do something

1 specific on item number 11 so that we can clear this out. So  
2 um, 7402 -- the hearing for 7402 will not come next. We're  
3 gonna move on to item number 11, which is adjustment of  
4 grievance for Eric Boardman, number 7484, correction, are all  
5 parties present here?

6 RUSSELL: Sorry, could you repeat that?

7 PARKER: You're hearing feedback?

8 RUSSELL: No, I said could you repeat that we  
9 didn't hear?

10 PARKER: Oh, I'm sorry. We're gonna move  
11 ahead to item number 11 on the agenda. Um, earlier it was  
12 indicated that there was, uh, gonna be a request, uh, to ask  
13 for a continuance and somebody said that they were willing to,  
14 so I just wanted to see if, uh, those two par -- the two  
15 parties are available down there right now?

16 RUSSELL: Yes.

17 PARKER: And so um, uh, the grievance, uh, can  
18 go -- the grievant or the employee can go first. 'Cause I  
19 think they're the ones making the request.

20 ZUPAN: Thank you, Madam Chair. Okay, so I -  
21 - my name is Teletha Zupan, I'm appearing with the Grievant  
22 Eric Boardman on behalf of the Law Office of Daniel Marks.  
23 Um, Mr. Boardman was not served with the NDOCs packet, which I  
24 believe you guys confirmed earlier that you didn't receive it  
25 either. Well, it's very difficult for due process purposes to

1 be able to defend against their position substantively and  
2 procedurally if we don't know what it is, because they never  
3 provided it -- since they never provided it. Our client was  
4 never served with it. We believe the employer still has  
5 documents that will assist with this case and would request to  
6 have a continuance on that basis. It's my understanding that  
7 the other side's not opposing a continuance at this time  
8 either. And I believe I provided all of you an email  
9 previously where they confirmed that they had no objection.  
10 So on that basis, we think there is good 'cause to continue  
11 the hearing today to the next available date.

12 PARKER: Thank you. Um, who's here for the  
13 agency?

14 LEATHERS: Uh, the -- Christina Leathers  
15 Assistant Director, um, for the Nevada Department of  
16 Corrections. Um, yes, uh, the chief DAG for personnel for  
17 NDOC did contact me in regards to a continuance on this  
18 matter. Um, because I am aware of the EMC's prior decisions  
19 in regards to continuances outside of, um, the number of days,  
20 I was under the impression that the continuance would be  
21 denied. Therefore, I didn't have any objection to them making  
22 the request.

23 PARKER: Okay. And are you saying you have no  
24 objection to the request itself?

25 LEATHERS: Um, I -- Christina Leathers for the

1 record, my only objection is that, um, there was not a packet  
2 prepared. The information within the grievance itself, um, is  
3 very self-explanatory. I'm prepared -- the employer is  
4 prepared to move forward on this hearing based on the  
5 information contained within the grievance.

6 ZUPAN: May I respond?

7 PARKER: Yes, please.

8 ZUPAN: In light of the fact that our client  
9 was denied benefits, and that's the basis of the grievance, we  
10 think substantively it would be pertinent and helpful for the  
11 committee to be able to have the information as to what  
12 statutes Nevada Administrative Code the employer was relying  
13 on when they made the decision to unilaterally resend the paid  
14 leave that had been provided to our client and exhaust the  
15 leave. Thanks.

16 PARKER: Thank you. Um, the -- Stephanie  
17 Parker for the record, did you request documentation from and  
18 out?

19 ZUPAN: Um, I don't believe our office did,  
20 but I -- I'm not sure.

21 PARKER: Did you guys receive your request?

22 LEATHERS: Uh, Christina Leathers for the  
23 record, um, Chair, it's, uh, to my knowledge, there has not  
24 been a request for documentation. Further, um, this hearing  
25 has been on the calendar for some time and based on what we

1 believe the, um, employee or the grievance just sought counsel  
2 in the last two days for the hearing that's scheduled today.

3           ZUPAN:     And, uh, Chairpersons, I apologize  
4 Mr. Levine wasn't able to be here today because he got called  
5 away to another hearing. He was actually supposed to handle  
6 this matter, but he has another matter that he had to argue  
7 this morning in the Abe Judicial District Court. So he sent  
8 me in his stead. So I'm not sure as to the background as to  
9 when we were retained off the top of my head, but I was given  
10 the case yesterday and told to prepare for it.

11           PARKER:    Okay, thank you. Um, so generally,  
12 on the question of the continuance, uh, I -- I'm gonna pause  
13 this discussion and ask for the committee members to  
14 deliberate on just the question of the continuance. Okay?  
15 Anybody have any questions or any feedback?

16           GEYER:     Sandie Geyer for the record. Um, I  
17 would like to see what the employer has, uh, to put forth so I  
18 can, uh, take a look at both what the grievant and the  
19 employer are relying on as far as their position in this  
20 grievance.

21           BAUER:     Ms. Chair, this is Jennifer.

22           PARKER:    Yes.

23           BAUER:     I -- so I've heard the employer  
24 represent that the contents of what would be in packets if  
25 they submitted them -- are actually contained in the grievance

1 and the grievance exhibit. So I don't know that continuing  
2 would do any good from the employer's perspective based on  
3 what we've heard this morning. Um, but I mean, the -- the  
4 comp -- the matter is complex and, um, the matter may not be  
5 easily decided based on, uh, what's presented here. We don't  
6 know. So um, I think the ability to grant a continuance rest  
7 solely with the Chair, but, um, if -- if you're seeking our  
8 advice and input, um, I would not be opposed to a continuance  
9 to allow both parties sufficient or, well, they've had  
10 sufficient time, but additional time if they need to prepare.

11 PARKER: Okay.

12 WHITTEN: Sonja Whitten for the record.

13 PARKER: Yes.

14 WHITTEN: Chair. Uh, if it is, um, your --  
15 your wish to grant the continue, I -- I'm perfectly supportive  
16 of that.

17 PARKER: Anything else before we -- I'm  
18 leaning towards going -- uh -- uh, granting the continuance  
19 and I will actually make -- I don't know if I have to make a  
20 motion for that. Okay. Um, we're gonna go ahead and grant  
21 the motion for continuance for -- yes, staff will contact you  
22 on what the next available date is.

23 ZUPAN: Okay. Thank you Madam Chair.

24 PARKER: All right, thank you. So we'll go  
25 ahead and move forward with 7402. And is Mr. Stokes and Mr.

1 Boughter still down there?

2 BOUGHTER: It's Boughter for the record, please.

3 PARKER: Pardon me?

4 BOUGHTER: It's Boughter.

5 MULTIPLE: Boughtner? Thank -- Boughter.

6 BOUGHTER: Boughter. Correct.

7 PARKER: Boughter, I'm sorry. Thanks for  
8 correcting me. Okay. So on the actual, we'll start with  
9 opening statement by the employee.

10 STOKES: Uh, Chad Stokes. Uh, my opening  
11 statement is pretty basic, uh, since it sounds like we're only  
12 concerned about the overtime policy and not really the work  
13 schedules. Um, but in June of 2020, uh, we were, I say  
14 mandated, but it was more of a, uh, a directed to sign a  
15 variable work schedule at which time they -- the employer then  
16 started requesting overtime hours be worked. Um, and that's  
17 when this grievance came about. The -- uh, the response that  
18 I had received in step one of the grievance process didn't  
19 address any of the issues that I actually raised in the  
20 grievance. Uh, step two response only addressed the overtime  
21 policy and did not address the work week issue. Uh, it was  
22 stated in the responses to the grievance that, uh, we should  
23 be directing our questions to immediate supervisors. I had  
24 done that several times previously. My immediate supervisor,  
25 which is a manager of North Las Vegas Job Connect, could not



1 give me an answer because she didn't understand it herself.  
2 Uh, we had gone through all those channels, requested answers  
3 to all this and could never receive a -- a direct -- this is  
4 why we're doing things this way. So that's why the -- uh, the  
5 grievance has gone as far as it has. Uh, at no point in the  
6 grievance process was there an explanation given as to why  
7 DETR or how DETR is following the regulations. Uh, the NRS  
8 and the NAC, which is noted in the grievance and is also  
9 provided in the packet, uh, the overtime policy -- uh, well, I  
10 guess that'll get to -- we'll get to that in the actual  
11 hearing. Um, while there were specific instances and they  
12 weren't, uh, mentioned in the grievance, that's my fault for  
13 not knowing the process. Um, but the -- the goal for me today  
14 was to have this heard and hopefully, uh, a new policy  
15 written, which is beneficial to both employer and employee and  
16 does not, uh, take away compensation from the employees. Uh,  
17 that's pretty much all I have for an opening statement.

18 PARKER: All right. And then, um, Mr. Boughter  
19 -- Boughter, I'm sorry, Boughter.

20 BOUGHTER: Thank you, Mr. Brian Boughter for the  
21 record. Um, DETR's opening statement now that the committee  
22 has decided to go outside the parameters of a grievance, WSR  
23 3, Chad Stokes filed this grievance 7402 stating that overtime  
24 is defined as time work that exceeds eight hours in one  
25 calendar day for employees on a standard workday schedule, or

1 if the employer and the employee have agreed to a variable  
2 Workday schedule over 40 hours in a work week. The work week  
3 is 12:00 a.m. Monday through midnight Sunday. The proposed  
4 resolution is that DETR follow the NAC and NRS concerning  
5 overtime as well as rewrite its policies to fall in line with  
6 those codes and statutes. The statuses and codes are in place  
7 to ensure employees are compensated accurately for time and  
8 paid status. DETR follows the NAC and NRS with respect to  
9 time and attendance rules and regulations. DETR's overtime  
10 policy has been in effect without revision since March 7,  
11 2011, without issue. We also propose that DETR rewrite its  
12 policies to be compliant and ensure policies are compensated  
13 accurately for time and paid status. Your request was  
14 granted. DETR's overtime policy was reviewed by the state's  
15 payroll manager who provides assurance that the policy is  
16 compliant, allowing for employees to be placed on the standard  
17 or variable work schedule with overtime computed accordingly.  
18 And you can see that from the exhibits there. As a result,  
19 DETR believes it's incumbent upon the committee to dismiss the  
20 grievance with a recommendation that individual overtime sheet  
21 disputes be handled at the supervisory level. Should that  
22 interaction be unsuccessful, Mr. Stokes is encouraged seek  
23 appropriate remedies, which may or may not include the  
24 grievance process. You know, again, the agency believes here  
25 that we don't have a specific item to review and that the, um,

1 grievance itself was satisfied in terms of having the overtime  
2 policy reviewed. Um, there are exhibits that indicate that  
3 Mr. Stokes has the, uh, variable work schedule agreement. He  
4 asked for a revision that was granted. There was no issue  
5 with that. So we don't believe there's a reason to be here  
6 and we believe that you should dismiss the grievance.

7 PARKER: Okay. Are you asked -- uh -- uh,  
8 just, pardon me. 'Cause I just wanna make sure that you're  
9 saying you should deny the grievance -- grievance 'cause we've  
10 already resolved, dismissing it.

11 BOUGHTER: Yeah, we don't believe that this is  
12 actually a grievance. As you were deliberating in the motion  
13 to dismiss what you said was that this didn't -- a --  
14 constitute an act of omission with any specifics. So we're  
15 asking you to abide by that and dismiss the grievance because  
16 it's not valid.

17 PARKER: So okay, we've been there and we've  
18 addressed that issue. So this is going to be whether or not  
19 you want us to deny the grievance.

20 BOUGHTER: Very well.

21 PARKER: Motion is to dismiss. That's over  
22 and done with. Okay.

23 BOUGHTER: Yes. We believe that you should  
24 still deny the grievance. Yes, we do.

25 PARKER: All right. Um, so the employee can

1 go ahead and present their case now.

2           STOKES: Thank you. Um, Exhibit 1 is the  
3 grievance packet. I won't go through too much of that. Uh,  
4 everybody has a copy of it. And Exhibit 2 is the employee  
5 handbook, just, uh, highlighting the paid leave and overtime  
6 sessions in the employee handbook. Uh, which again, just  
7 calls out the work week schedule. Uh, overtime being paid on  
8 a standard work week, anything over eight hours a day or a  
9 non-standard work week, anything over 40 hours a week. In  
10 exhibit -- I'm sorry. Uh, the attendance and leave policy in  
11 the employee handbook also is in there. And, uh, definition  
12 of paid status means the time that an employee is working on  
13 leave with pay except catastrophic leave or on leave of  
14 absence pursuant to the NAC 2845 A. And in Exhibit 3 is the  
15 email that we received from our management team, um, to sign  
16 the variable workday schedule. This was when everybody was  
17 recalled from administrative leave during the pandemic to  
18 return to work and start assisting unemployment. Uh, you can  
19 see in the email that it -- it's not really a request, it's  
20 more of a -- uh, more of a mandate that we sign that to return  
21 to work. And in that same Exhibit 3, you see the request for  
22 that variable work schedule to be rescinded. There is no  
23 process for rescinding that variable work schedule. Um, other  
24 than a notification requesting the rescind. It took -- uh,  
25 after that request to rescind the variable work schedule, it

1 took a year. Uh, it was just rescinded this past July 28th, I  
2 believe, was the date that it finally was rescinded. Uh, and  
3 you can say with that original email, it was requested July of  
4 2020. Uh, the only reason I mentioned that, uh, variable work  
5 schedule versus the standard work week is because during that  
6 time, uh, during the pandemic, we had requested, uh, variable  
7 work that, uh, variable work schedules throughout the time,  
8 uh, working four tens or, you know, anything other than the  
9 Monday through Friday, eight to five. And every request was  
10 denied by management because our office hours are Monday  
11 through Friday, eight to five. Uh, so the -- the question  
12 that I had for management during that time was, why are we on  
13 a variable work schedule if we can't actually vary our work  
14 schedule? Uh, and the reason that we could all come up with  
15 is for the overtime policy because if we take leave, we would  
16 have to flex that time and we wouldn't be paid for our  
17 overtime hours. Uh, that was the only reason that we could  
18 come up with that management would do that. Uh, I requested  
19 an answer to that several times. Never received anything. So  
20 that's why it's mentioned in the grievance. Uh, you can see  
21 Exhibit 5 is the actual, uh, email from our management team  
22 that states how overtime is paid, uh, per the overtime policy.  
23 And that -- that time is flexed. Nowhere in here does it say  
24 that it's flexed at a one for one or a one and a half to one.  
25 But when we had to flex our time, it was a one for one. We

1 did not flex, uh, the one and a half to one. So we were  
2 losing that overtime, uh, hours either way. Uh, it was raised  
3 earlier. I will say that, uh, from going -- from memory, I do  
4 believe that we did flex those hours in the same pay period.  
5 It never carried to a different pay period. Um, but it was  
6 only for the one for one. Uh, so we still were losing hours.  
7 Uh, at the end of Exhibit 5, sorry, mine are mis-numbered.  
8 Hopefully yours aren't. At the end of Exhibit 5 is the -- an  
9 excerpt of the NACs for the paid status defined. The, uh, NAC  
10 284.245 overtime consideration of paid leave status and  
11 calculation states that paid leave status is considered as  
12 time worked in calculating overtime. And that's where the  
13 argument really got raised with that email because it says  
14 that you have to actually work those hours in order to be  
15 eligible for that overtime pay. Again, when we filed our --  
16 our time sheets initially our management team told us to just  
17 subtract the hours of leave that we were taking from the  
18 overtime hours that we had accrued. At no time did they say  
19 to note that on the little yellow stickies in needs or  
20 anywhere else, it was just subtract the time from your  
21 overtime and submit your pay as straight pay. So that's how  
22 we had been doing it for months. Um, I've worked for DETR for  
23 four years, and in that four years we had never been offered  
24 overtime. Uh, overtime was unheard of for at least Job  
25 Connect. So none of our employees actually knew what the

1 process was until we started filing. I'm not the only one  
2 that had a problem with it. I'm not the only one that got  
3 shorted hours. I'm just the only one that filed a grievance  
4 for it. Uh, Exhibit 6, I believe, again, mine are mis-  
5 numbered, hopefully yours are not, is the actual deed or  
6 overtime policy. And you can see where it is defined as time  
7 worked that exceeds eight hours in one calendar day for  
8 employees on a standard work week or workday schedule, or 40  
9 hours in a work week on a, uh, variable workday. The last  
10 paragraph of that employee overtime policy is to the extent  
11 possible, an employee shall flex his or her schedule  
12 accordingly with supervisory approval to avoid the occurrence  
13 of overtime and paid leave in the same workday or work week.  
14 Uh, I mean, to my knowledge, that directly contradicts the  
15 NAC, which says that overtime and calculation of paid leave  
16 status is considered as time worked. So the -- the policy is  
17 directly contradicting the NAC right there. It goes on to say  
18 if an employee on a standard workday scheduled reports, paid  
19 leave, and regular hours worked in the same workday, the  
20 amount of paid leave hours should be reduced so that no  
21 overtime is accrued during that workday. So again, going back  
22 to the NAC, the overtime policy is stating that you have to  
23 flex your time, but the NAC considers that paid leave status  
24 as time worked, but DETR's overtime policy is reducing those  
25 hours and taking that compensation from the employees. That's

1 pretty much my whole argument. Uh, I mean, I had -- I had  
2 requested answers to these questions and just got told that it  
3 was being reviewed and that we were in compliance. I don't  
4 see any compliance with the NAC anywhere in that policy. And,  
5 uh, again, hopefully we can, uh, get it rewritten to comply  
6 with the NAC.

7 PARKER: All right, thank you. Um, agency  
8 response or your -- present your case.

9 BOUGHTER: Uh, Brian Boughter --

10 PARKER: Unless you have cross-examination.  
11 I'm sorry.

12 BOUGHTER: No, just Brian Boughter for the  
13 record here. Um, I -- I would caution everyone to understand  
14 the difference between a variable work schedule agreement and  
15 a work shift assignment as being two different things. So  
16 whether you're doing a four -- four tens or five eights, um,  
17 isn't really the same thing as talking about the variable work  
18 schedule agreement for overtime after eight or after 40 hours.  
19 But that being said, again, in terms of the agency, in our  
20 response to, uh, Mr. Stokes and his grievance, you know,  
21 again, um, we as an agency, um, would like to administer the  
22 policies as best we can and we certainly attempt to do so. If  
23 there were some specific incident here that we could address,  
24 we would be glad to go through and address any of Mr. Stokes'  
25 concerns about when he was, uh, paid inappropriately. Um, so



1 far in today's discussion, I haven't heard anything that says  
2 that anyone has been paid inappropriately. There's just a  
3 concern about the way in which the NAC and the NRS read and  
4 the way in which they're interpreted. Again, the agency  
5 believes that with our, um, input from the state payroll, uh,  
6 manager, that our policy is fine and that it actually is  
7 flexible enough to allow for whether or not employees want to  
8 be on the eight-hour schedule, the OP8 or the 40-hour  
9 schedule. Um, as an agency, again, we don't care which one  
10 you're on, we just administer the policy based on whether  
11 you're on four -- uh, the OP8 or OP40. So again, it doesn't  
12 matter to us. But again, back to the substance of the  
13 grievance, again, the agency believes that we've been  
14 following the NRS and the NAC to the best of our ability for  
15 decades. Um, you know, I hear Mr. Stokes concern, the agency  
16 hears his concern, and again, I'd like to state to the  
17 committee and to everyone that, um, if we had something  
18 specific to look at, we would be more than happy to look at it  
19 and make sure that it was equitable and done to the employee's  
20 favor and satisfaction. Um, in the absence of anything like  
21 that, in the absence of anything specific, you know, again,  
22 I'm not sure that the committee has the standing to direct the  
23 agency to rewrite its policy. I think in terms of what we're  
24 doing here, the idea is really to address specific, um, items  
25 where the agency maybe has gone outside the parameters, but in

1 the absence of anything specific to look at, um, the agency  
2 doesn't really have anything to look at. So again, we would  
3 ask the committee while we accept that there are concerns and  
4 we hear what Mr. Stokes has to say, um, we believe that the  
5 committee is still obligated to deny the grievance. And if  
6 you would like to advise us to take a look at the policy or,  
7 um, review specific events, we would be more than happy to do  
8 so.

9 PARKER: Okay. Mr. Stokes, did you wanna  
10 cross examine?

11 STOKES: Uh, no ma'am. Thank you.

12 PARKER: And then did anybody have any  
13 questions before I move them into closing statements?

14 GEYER: I -- yes. Sandie Geyer for the  
15 record, I have a question for the employer. Um, with regards  
16 to the request to, uh, resend or cancel the, uh, variable work  
17 schedule, can you please give this committee the reason why it  
18 took a year for a response on that?

19 BOUGHTER: Uh, Brian Boughter, for the record, I  
20 cannot, I don't know that -- that document came to me for any  
21 kind of action. Um, it doesn't seem to be a document that  
22 requires a whole lot of, um, interaction either at eight or  
23 it's 40. And again, as an agency and as, uh, the personnel  
24 officer, it doesn't matter to us which one it is. So uh, what  
25 the interruption was there at the agency level, I don't know.

1 I can't answer that.

2 GEYER: Okay. Um, thank you. Uh, follow up  
3 Chair.

4 PARKER: Yes.

5 GEYER: Uh, according to the email from Molly  
6 Koch dated July 30, 2020, she indicated that, um, she -- she  
7 talked about the, uh, variable work schedule versus the  
8 standard. There appears to be more conversation with regards  
9 to, um, how to submit a request to discontinue that variable  
10 work schedule, uh, indicating that there is a simple form to  
11 fill out. So am I understanding that you are not aware of  
12 this or do not have any, uh, take in any of this? Is -- is  
13 this just something at the supervisory level?

14 BOUGHTER: Um, it is, it's something at the  
15 supervisory level. Um, and it's, you know, relative to entry  
16 level documents and, you know, just establishing, uh, what  
17 work schedule an employee is on 'cause it's required for, uh,  
18 the success factors or needs system. There has to be, um, an  
19 agreement in place.

20 PARKER: Anybody else?

21 BAUER: Ms. Chair, this is Jennifer.

22 PARKER: Yes.

23 BAUER: Couple questions for Mr. Boughter.

24 What is DETR's current policy or process for request for  
25 variable workday schedules?

1                   BOUGHTER: Uh, my understanding is during the  
2 new hire process, um, employers are given a variable work  
3 schedule agreement and, um, advised that it's either an eight  
4 or a 40-hour document. Um, I really don't know the specifics  
5 to what they're given or what they're advised at the time. I  
6 will say that one of our agencies actually has a -- a sort of  
7 unwritten policy where they prefer the people who were there  
8 about a year, uh, to stay on the overtime after eight-hour  
9 policy, something they want to do. Um, again, if the  
10 employees wanna do that, that's fine. If they wanna come to  
11 us and say they want to be on 40, that's fine as well.  
12 Doesn't matter to us.

13                   BAUER:       Jennifer Bauer, for the record. So  
14 you don't know if it's a department-wide policy to require  
15 this request or not?

16                   BOUGHTER: I believe it's a policy -- I believe  
17 it's a requirement that there needs to be a variable work  
18 schedule agreement on file because the, uh, overtime  
19 calculating system inside the, um, success factors or insights  
20 needs, uh, needs to know whether out -- uh, overtime is  
21 calculated on an eight-hour basis or on a 40 hour basis. And  
22 that's the purpose of the document, again, from the agency  
23 standpoint. Um, and from HR standpoint, we don't care whether  
24 you're on eight or whether you're on 40, it doesn't matter to  
25 us. And again, I would say sort of for the record here, I

1 believe I've heard in the discussion that there aren't any  
2 examples of overtime being applied inappropriately at this  
3 point. So you know, again, uh, the agency would offer -- we  
4 would love to make any of those correct if they're not. Um,  
5 but we need to see those specifics and without those, we don't  
6 really have anything we can look at.

7                   BAUER:     Second question, Jennifer Bauer for  
8 the record, Mr. Boughter, can you explain for the grievance  
9 and for the committee in consultation with the division of  
10 Human Resource Management and or with the Attorney General's  
11 office, how the agency policy does not conflict with the  
12 regulation that's cited 284. -- 284.245?

13                   BOUGHTER: I'm not sure I understand the  
14 question.

15                   BAUER:     Uh, Jennifer Bauer for the record,  
16 again, I -- I guess I'm just asking for clarification for the  
17 agreement and for the committee. Um, what advice were you  
18 given or was the agency given to demonstrate that the agency  
19 policy does not conflict with regulation?

20                   BOUGHTER: I don't believe that the agency  
21 policy does conflict with regulation.

22                   BAUER:     Tell us how please.

23                   BOUGHTER: Uh, that was the advice of our, uh,  
24 Deputy Attorney General and from, um, our state payroll  
25 manager, that our policy is compliant and allows for, uh,

1 variable work schedules, whether they be eight hours or  
2 whether they be 40, that the overtime policy allows for, um,  
3 either one of those to be handled. And again, individually we  
4 can discuss specifics. But again, I -- I don't have any  
5 specifics to discuss with you here.

6           BAUER:     Jennifer Bauer, for the record, I'm  
7 talking specifically about NRS 284.245, which states paid  
8 leave status is considered as time worked and calculating  
9 overtime. And then the DETR policy that discusses the use of  
10 flex time versus when overtime is accrued and the reduction of  
11 -- um, the reduction of leave for flex in the same pay week or  
12 same day. So um, I guess I'm just asking if you have any  
13 evidence in your consultation with the division of Human  
14 Resource Management or the AG's office to demonstrate why the  
15 agency policy does not conflict with that specific regulation.

16           BOUGHTER: I don't know that I have any -- Brian  
17 Boughter for the record. I don't know that I have anything  
18 specific other than the conversations and the information  
19 that's provided that says that our policy is fine.

20           BAUER:     Thank you.

21           PARKER:     So Stephanie Parker, for the record,  
22 I have a question for Mr. Boughter. Um, uh, you had stated  
23 before clarification on the difference between a, uh, variable  
24 work schedule and a work week, I believe, so I'm looking at a  
25 doc -- piece of documentation that says all DE -- DETR

1 employees are on a standard variable work schedule. Standard  
2 or variable? 'Cause I mean, I think there -- those are two  
3 different things. So I want to confirm that you are saying  
4 that you are requiring people to -- to do the -- the variable  
5 -- it's not in agreement with, it's actually just required.

6 BOUGHTER: I don't know that we have a  
7 requirement that anyone must be on the 40 or must be on the  
8 eight. I'm not aware of that requirement at all.

9 PARKER: Okay. I must have misunderstood  
10 earlier. Nothing stated earlier. Okay.

11 GEYER: Chair, for the record Sandie Geyer.  
12 Um, I -- I thought I too heard that you said that the employee  
13 must select one or the other.

14 BOUGHTER: Oh, I -- I did --

15 GEYER: Are we --

16 BOUGHTER: -- I did. Yes, that is correct. I  
17 said that the, uh, employees required to select one or  
18 another. Correct. The, um, overtime calculating system  
19 inside needs requires, uh, one or the other policy to be in  
20 place for the employee. That's how you calculate overtime.  
21 Perhaps you'd like to, um, have the, uh, state payroll person  
22 weigh in. Perhaps they can, um, uh, clarify your -- your  
23 question for you better than I can.

24 PARKER: Okay. 'Cause it's -- it, um, my  
25 understanding -- Stephanie Parker for the record, is that

1 people are on a standard work week until they request a  
2 variable. So is that an accurate statement or not?

3 BOUGHTER: I believe that's -- I believe that's  
4 mostly accurate, yes. Uh-huh --

5 PARKER: Okay.

6 BOUGHTER: I Believe --

7 PARKER: So your -- your requirement for them  
8 to fill out a form upon hiring is in essence forcing them to  
9 do a variable, a request for a variable workday schedule or do  
10 you have another one that says request for a standard work  
11 schedule?

12 BOUGHTER: I believe the document allows for  
13 either eight or 40 on the same document.

14 PARKER: Stephanie Parker for the record, um,  
15 the request for variable workday schedule does not have an  
16 option for a standard day, which would go into reason that if  
17 everybody starts with a standard and has to request one,  
18 either you give them the option but you don't require them to  
19 sign anything.

20 BOUGHTER: Is that a question?

21 PARKER: Uh, I think it's more of a statement.

22 RUSSELL: Turessa Russell for the record.

23 PARKER: Proceed.

24 RUSSELL: Um, what are the actual normal work  
25 hours and work days that the employees or Mr. Stokes is



1 expected to work?

2 BOUGHTER: Uh, depending on his work schedule,  
3 it would be either five eights or four tens. Most likely I  
4 think he's in the Job Connect, um, office and those would be  
5 five eights Monday through Friday eight to five.

6 RUSSELL: So if I'm understanding -- Turessa  
7 for the record, what was just stated, basically Mr. Stokes is  
8 working Monday through Friday, normally eight to five.

9 BOUGHTER: Yes ma'am.

10 RUSSELL: So I am not understanding other than  
11 how it affects overtime the purpose of a variable work week,  
12 'cause you -- I am not observing or hearing any option to work  
13 a four ten or a different other than Monday through Friday.  
14 So I'm having issues with the variable work week scheduled  
15 document. It appears to be a detriment to the employee when  
16 it comes to pay.

17 BOUGHTER: Again, I would ask to see what  
18 specifics it is we're talking about 'cause I'd like to see,  
19 you know, some event wherein again, Mr. Stokes admit there  
20 isn't any example of overtime not being calculated correctly.  
21 So again, could I have an example? Could I see what it is  
22 we're talking about?

23 STOKES: May I respond to that?

24 PARKER: Uh, state your name.

25 STOKES: Chad Stokes.

1 PARKER: Uh, proceed.

2 STOKES: So again, you mentioned the  
3 instances, no specific instances. Uh, I mentioned it earlier  
4 that our management team instructed us how to document our  
5 overtime in flex time. It was subtracted ourselves from  
6 leaves. So there is no documentation showing that we actually  
7 worked any overtime or took any leave. It's just straight  
8 time. And that was on advice from our management team who  
9 through the grievance process was advised to us that we have  
10 to go through supervisors and managers to get that  
11 information. They're the ones that are telling us this is how  
12 we have to document that. So again, there would be no  
13 instance that you could show because of the way they had us  
14 document that -- that overtime and flex time.

15 BOUGHTER: So I --

16 STOKES: There is no evidence other than --

17 BOUGHTER: If I may --

18 STOKES: -- other employees testifying to  
19 that.

20 BOUGHTER: Yeah. So Mr. Stokes, so what you're  
21 telling me is that you were directed by your --

22 PARKER: State your name -- state your name  
23 please.

24 BOUGHTER: Oh, I'm sorry.

25 PARKER: No problem.

1                   BOUGHTER: Brian Boughter for the record. Mr.  
2 Stokes, so what you're saying is you were directed by your  
3 management team to put hours on your time sheet, which were  
4 not the same hours with which you worked. In other words, if  
5 you worked from eight to six you were advised to put hours  
6 eight to five and then somehow make up the hours somewhere  
7 else along the way. Is that what you're telling me?

8                   STOKES: With the flex time because of sick  
9 leave, uh, I and four other guys in my office are all a 100  
10 percent disabled vets. We take sick leave quite often. Uh,  
11 anytime we take sick leave, those hours were reduced or would  
12 reduce our overtime that we worked previously in the week. So  
13 if I was working ten-hour days for the first four days and  
14 took any time on Friday, I had to subtract my overtime hours  
15 from the amount of time that I took on leave and just put it  
16 in as straight time. There was no sticky notes or anything  
17 that was allowed to be put in. We weren't advised to put any  
18 sticky notes in until well after the fact, uh, the DETR field  
19 chief, uh, Ron Fletcher came out and said that you should be  
20 utilizing those sticky notes. That was almost a year after  
21 the fact when all of our Job Connect employees had stopped  
22 working overtime hours. We haven't been allowed to work  
23 overtime hours for the last couple of months or month I should  
24 say. So this is all after the fact. I -- I can't prove  
25 something that happened a year ago because there was no

1 evidence because of the way that management had us document  
2 our overtime and leave hours. It was just subtracted on your  
3 own and submitted as straight time. Sorry, I hope that  
4 clarifies a little more for everybody.

5           BOUGHTER: Yeah. Uh, Brian Boughter for the  
6 agency here. You know, again, um, the concern that I -- that  
7 I'm hearing here is that, um, again, there -- there doesn't  
8 seem to be an effect on the overtime. And when you talk about  
9 taking leave during a week in which they're overtime, the  
10 policy does allow for an offset function because of the non-  
11 worked hours. That's pretty well standard. I believe that's  
12 standard. So um, that I don't have an issue with. I do  
13 however, have an issue if you were being asked to report items  
14 on your time sheet that didn't accurately reflect the hours  
15 that you were working so that we could calculate overtime  
16 properly. Again, what I'm hearing in terms of using leave  
17 during the week, that doesn't count towards the calculation of  
18 overtime and therefore that is the offset function. Paid  
19 hours do count towards overtime during the week regardless of  
20 when they come, whether they're after eight or after ten.

21           STOKES: I'm sorry, Chad Stokes. Can I -- can  
22 I comment on that?

23           PARKER: Okay. One last comment then we're  
24 gonna go to --

25           STOKES: Okay. I'm sorry. But, uh, what was

1 just said is the basically goes back to the flex time that the  
2 NAC provides for. That paid leave status is considered as  
3 time worked. That was the whole issue. There should not be  
4 an offset if I have to take paid leave in a week that I also  
5 worked overtime, the NAC provides that there is no offset.

6 PARKER: Okay.

7 STOKES: That's all. Thank you

8 GEYER: Chair. Sandie Geyer for the record.

9 Um, I'd like to point out in the employer's packet Exhibit B,  
10 uh, page 14, uh, it's an email exchange with, uh, Sarah Wolf  
11 and, uh, Mr. Boughtner, um, Boughter -- Boughter, I'm sorry.

12 BOUGHTER: Okay.

13 GEYER: You know, sorry. Um, s -- so I think  
14 that I -- I think we're -- you know, there's some question is  
15 with regards to your -- Mr. Boughter, your question to Sarah  
16 with regards to talking about if an employee works overtime  
17 but yet has taken sick leave during that same week that it  
18 appears that somebody is changing that sick leave coding to  
19 something else. Um, can you -- I -- I -- I have -- this is  
20 kind of, sorry, this is a little double question here. Um,  
21 Keena had also provided a response to this, but I don't see  
22 where her response has been attached because there was some  
23 additional detail there that Keena was providing with regards  
24 to, uh, the coding, uh, the work -- uh -- uh, Workday  
25 Agreement and how this all kind of placed together. Um, was

1 there a particular reason why Keena's response, uh, was not  
2 also attached to this?

3 BOUGHTER: Uh, Brian Boughter for the record,  
4 not that I'm aware of. And I believe we have a payroll  
5 representative here who maybe can address any concerns you may  
6 have. She should be up there. I think Keena is here.

7 PARKER: Okay. Um, so are those two people at  
8 the -- at your table there? I -- huh? Oh, I'm sorry. Okay.

9 JONES: Right here.

10 PARKER: Okay. Thank you. Hard for me to  
11 see. Um, okay. Did you want to respond 'cause this is your  
12 personal knowledge.

13 MULTIPLE: She's a witness.

14 PARKER: Oh, she's a witness. Okay. So I'm  
15 gonna swear you in first. You promise to tell the truth and  
16 nothing but the truth. Okay. Please state your name.

17 JONES: Keena Jones for the record.

18 PARKER: Yeah. Could you come up here?  
19 'Cause then they -- 'cause they can't see you it might be  
20 easier. And then sign on that list please.

21 JONES: Thank you, Ms. Chair.

22 PARKER: Thank you. And then to speak towards  
23 that area right there and state your name first please.

24 JONES: Uh, Keena Jones. DHRM, central  
25 payroll, State payroll manager.

1 PARKER: All righty. And -- and real quick,  
2 so, um, we also -- is Sean Burton present?

3 BOUGHTER: Uh, no, I don't believe so.

4 PARKER: Carlene Johnson? Okay. And Linda  
5 Parvin?

6 PARVIN: Yes.

7 PARKER: Yeah. In -- in Las Vegas?

8 PARVIN: Yes.

9 BOUGHTER: Yes.

10 PARKER: Okay. So you two, I just wanna swear  
11 you in right now. Um, so I'm gonna ask you the question and  
12 you're gonna say yes. And then I'll ask each of your names.  
13 Do you swear to tell the truth and nothing but the truth?

14 JOHNSON: Yes.

15 PARKER: Your name?

16 JOHNSON: Carlene Johnson.

17 PARKER: And do you swear to tell the truth  
18 and nothing but the truth?

19 PARVIN: Yes.

20 PARKER: Name?

21 PARVIN: Linda Parvin.

22 PARKER: Thank you. Okay, Ms. Jones, you can  
23 proceed.

24 JONES: Thank you, Ms. Chair. Um, I -- I  
25 don't have the email that is being referenced, um, in front of

1 me, but I can -- if you would like to provide, uh, committee  
2 additional information on the question that, um, committee  
3 member Jennifer Bauer had (inaudible).

4 PARKER: Oh, we better with that Packet  
5 Exhibit B, page 12. It's ability to search, right?

6 GEYER: Yes.

7 BAUER: In the agency packet Chair.

8 PARKER: In the agency packet.

9 JONES: Thanks.

10 BAUER: Ms. Chair, while staff is providing  
11 the witness --

12 BOUGHTER: Oh, yeah -- yeah.

13 PARKER: Proceed.

14 BAUER: Um, can I just reiterate my question  
15 of the witness?

16 PARKER: Yes.

17 BAUER: Since the agency was unable to  
18 answer.

19 PARKER: Absolutely.

20 BAUER: Jennifer Bauer for the record. Ms.  
21 Jones, um, in my previous experience, I'm aware that other  
22 agencies have similar policies to DETR. So can you explain,  
23 um, how your division and or the AG's office have advised that  
24 policies such as DETR'S do not conflict with the regulation?

25 JONES: Yes ma'am. Keena Jones for the



1 record, um, this question has come up to my office before and  
2 in fact I have a, uh, response from, uh, Wednesday, March 8th  
3 of 2017. And it was from, at that time the DHRM Deputy  
4 Administrator Shelley Blotter, who was over the DHRM employee  
5 management relations section. And it started out as an email  
6 about an agency that was asking the same question as far as  
7 flexing when the employee has signed the variable workday  
8 agreement. And Shelley's response, which I'm included on, is  
9 as stated on my email here, what my section typically advises  
10 is that employees with a variable work week agreement could be  
11 required to flex any annual leave before accruing overtime or  
12 comp time. Provided that the agency slash department has a  
13 policy stating that was the policy, don't recommend that  
14 requirement for sick leave. But we are aware of agencies that  
15 do have that in their policy. If the requirement to flex  
16 administrative leave before accruing overtime or comp time is  
17 also in the policy, then I don't think there is a problem  
18 requiring the employee to flex the time. On the other hand,  
19 if it isn't in the policy and it went before the EMC, I don't  
20 think that the agency would be in a defensible position to  
21 enforce that requirement. And that's the end of her email to  
22 me. Um, if it is historically how DHRM my office has also  
23 advised, I do recall, but I don't have in front of me a -- a  
24 conversation and email with Molly from DETR at the time. And  
25 I believe this information was provided to her as far as

1 Deputy Administrator Shelley Blotter's response.

2 PARKER: Okay. And Mr. Boughter, um, did your  
3 wi -- other witnesses have testimony that pertains to this as  
4 well?

5 BOUGHTER: I don't know that they have any  
6 specific information regarding this. Um, Ms. Jones was the  
7 one that, um, DETR was relying on to sort of be able to relay  
8 the DHRM sort of response and -- and stance on this position.

9 PARKER: So Ms. Jones, in the -- the  
10 communication that you shared, um, and the differences with  
11 the -- the NAC the -- um, with the other time, uh, calculation  
12 utilizing paid leave as work status, um, so that answer back  
13 was that it would not be defensible if it was challenged. Is  
14 that correct?

15 JONES: Uh, yes. Ms. Chair, in the  
16 conversation with Deputy Administrator Shelley Blotter, my  
17 takeaway from the conversation was that when the agency has a  
18 policy that states otherwise, that the policy of the agency  
19 comes into play and is enforceable. I think that I answered  
20 your question.

21 PARKER: So okay. Oh, um, any other questions  
22 down there before I have them move to the closing statements  
23 if they have anything? For committee members? I kind of  
24 broke them off after the presentation for us to ask these  
25 other questions.

1                   SCOTT:     Chair, Mary Jo Scott for the record.

2                   PARKER:     Yes.

3                   SCOTT:     I have one question for Mr. Stokes.

4 Did you ever get a document to rescind the variable work  
5 schedule?

6                   STOKES:     There is no document in the emails --  
7 uh, in the packet. You can see that there, uh, Molly Koch  
8 actually specifies that there is no process to rescind it --  
9 it's just an email. Uh --

10                  SCOTT:     Just that she would -- it said that  
11 she --

12                  STOKES:     Just, that it would be processed.  
13 Uh, again, it took a year for it to happen. That's when I  
14 followed up with a -- a subsequent email to Molly's  
15 replacement and she required supervisory approval before she  
16 would rescind it.

17                  SCOTT:     Okay.

18                  STOKES:     Um, that was -- that was all there  
19 was. Was just an email.

20                  SCOTT:     And what date was that -- that?

21                  STOKES:     Uh, the actual rescinding took place,  
22 uh, this year, July 28th, I believe. I don't have the email  
23 in the packet.

24                  SCOTT:     And you haven't worked overtime or  
25 flex since then?

1                   STOKES:    Uh, not since I had to start flexing  
2 the time I stopped working overtime.

3                   SCOTT:     Okay.  Thank you.

4                   PARKER:    So Stephanie Parker for the record.  
5 Mr. Stokes, if you were to go back in your payroll, would you  
6 be able to identify the dates of leave and be able to point  
7 out the times that it did impact you because of the incorrect,  
8 uh, way that, um, you were advised to enter your time?

9                   STOKES:    Um, I might be able to go back with  
10 emails to my manager showing what days I was gonna take leave,  
11 but in needs, there is no documentation that I could go back  
12 on that would actually show when those leave days occurred or  
13 when the overtime occurred because again, we would just  
14 subtract it from the overtime hours and put it in a straight  
15 time.

16                  PARKER:    Okay.  Sonja, did you have any  
17 questions?

18                  WHITTEN:   I do not at this time.

19                  PARKER:    Okay.  So um, Mr. Stokes a -- a  
20 quick, uh, closing statement if you will.  'Cause we're  
21 allowed, uh, an hour each.  So um, just keep that in mind.  
22 Um, so 'cause we're still gonna have to deliberate as well.

23                  STOKES:    Uh, I'll waive closing statement.  I  
24 -- I think I've made my -- my argument.

25                  PARKER:    Okay.  Mr. Bou -- Bo -- Boughter.

1 Thank you. I don't know why my mouth -- my mouth is really  
2 dry too, but, um --

3 BOUGHTER: Yeah. Brian Boughter for the record,  
4 yeah. Wou -- would like to make just a brief closing  
5 statement and -- and again, just to say, um, and to let Mr.  
6 Stokes know that, uh, we would be glad to fix anything, that  
7 there is an error out there. It's always been the HR policy  
8 and the state policy to fix anything that's wrong. Again, in  
9 the absence of something specific to fix, um, I just don't  
10 know quite how to help him. I believe that Ms. Jones has made  
11 the case that our policy, again, is flexible enough to handle,  
12 uh, whatever overtime requirements are done by the individual  
13 agencies at DETR. Um, but again, I -- I don't think that  
14 there's, um, anything that we can do for Mr. Stokes at this  
15 point, although I would, you know, again, advise the  
16 committee. We would be glad to take a look at any emails, any  
17 needs, entries, anything that he has. Um, and if we could  
18 determine if there was a shortcoming of some type, we would be  
19 glad to go ahead and fix that for him. You know, absent that,  
20 I think that DETR again believes that our policy is, um,  
21 reasonably sound and we're comfortable with it. And at this  
22 point, again, I would ask the committee to go ahead and  
23 dismiss the grievance maybe with the, um, advisory that the  
24 agency can take a look at, uh, some of Mr. Stokes time sheets  
25 or -- or, um, pay periods and see if there's something that we

1 can do to sort of flesh out, uh, something that was  
2 inequitable. And, uh, with that, um, thank you very much for  
3 listening. I appreciate everyone's time, um, and  
4 consideration. Thank you.

5 PARKER: Thank you. And -- and -- and the  
6 witnesses that did not get to speak, did you want to add  
7 anything? I know you've taken time to come here. Um,  
8 nobody's asking any questions. I just didn't know if you had  
9 anything that you wanted to add.

10 PARVIN: No, thank you.

11 PARKER: Sourthern Nevada?

12 JOHNSON: No, thank you.

13 PARKER: Okay. All right. So then we'll go -  
14 - go ahead and close for operations. Witnesses are excused if  
15 you'd like to be.

16 STOKES: Thank you.

17 JONES: Thank you.

18 GEYER: Chair. Sandie Geyer for the record.

19 Um, I'd like to kind of start off this deliberation with a  
20 couple of things. First of all, I'm appreciative of the  
21 agency indicating that they are willing to take a look at  
22 their policy. Um, a couple of things kind of come to mind  
23 with -- with regards to the, um, variable work schedule versus  
24 standard versus overtime versus flex versus comp. Um, I think  
25 that for many that can be very complicated to try to decide

1 what is best for that individual. Um, again, I will go back  
2 to the fact that anytime an employer is forcing employees to  
3 move from a standard to a variable work schedule now given the  
4 circumstances that we all are aware of during that time, DETR  
5 was faced with some very complicated situations with regards  
6 to their, uh, si -- their unemployment, uh, applications at  
7 having all hands-on-deck to try to help process these things.  
8 And I think it's very commendable of all of these employees  
9 that have stepped up and taken -- taken on those extra duties.  
10 Um, for me, I -- I -- I'm -- I'm -- I'm really torn about this  
11 situation though because, uh, I see -- I see some -- I see  
12 some issues with telling employees to change their time sheets  
13 to reflect something different than what was actually put in  
14 there. To me, I'm sorry, but that's fraud. And we have to be  
15 very -- very careful with how we are coaching our employees  
16 because whether or not the agency doesn't wanna be caught in a  
17 situation of having to pay overtime or any of -- you know, of  
18 -- of those particular circumstances. So um, yeah, I -- I  
19 open this up to my colleagues in the south and here in the  
20 north. Um, I think that we have a little bit of discussion to  
21 have about this.

22 PARKER: I agree. Stephanie -- I agree.  
23 Stephanie Parker -- Parker for the record. I agree and I  
24 think it's awesome that agency is willing to also look at, to  
25 see if they can identify any time, um, that was miscalculated,

1 you know, the entries and it's gonna be extremely hard. Even  
2 the employee has stated that there is no record when -- when  
3 you do a mis -- when -- when you do something that is this  
4 type of violation, but you're instructed to do that, don't  
5 need documentation. You know, um, some people just don't have  
6 that in -- in this case, he doesn't have that documentation.  
7 So um, that maybe going through his emails they could actually  
8 recover that. But I think there's something to be said for  
9 policy. My -- my other issue is that, um, stating that agency  
10 policy supersedes regulation or law. I think that's what I  
11 heard. I didn't -- okay -- okay. If a policy, the agency  
12 policy could supersede this, um, 284.245, I hope I didn't hear  
13 that, but that's what I was thinking, that they're using it to  
14 flex the time as opposed to using it as time worked and  
15 calculating the overtime.

16 WHITTEN: Sonja Whitten for the record.

17 PARKER: Yes proceed.

18 WHITTEN: Um, it is very troubling to have  
19 heard, uh, the grievant state that they were instructed to  
20 alter their time sheet with information that was not accurate.  
21 Um, that -- that's very troubling. Um, I would hope that, uh,  
22 the agency would take that as an opportunity to, um, go back  
23 with, uh, their supervisors and management staff and really  
24 train them properly on, uh, making sure time sheet status is  
25 documented accurately. Um, there shouldn't be an employee



1 instructed to alter the time that they were there. Um, we --  
2 we're supposed to -- to keep ac -- accurate records. Um, by  
3 the grievance on admission he doesn't have actual proof, um,  
4 because of the -- these were -- he was instructed by -- by  
5 his, uh, management team. Um, so -- so again, it -- it's  
6 troubling. I'm not sure what, if any, resolution could be  
7 provided, um, because it's unlikely that someone has kept  
8 emails from a year and a half ago. Um, but -- but if -- if  
9 that's the case, I guess you could go back and -- and take the  
10 time to -- to look at -- look at those things. But this is  
11 very troubling that, uh, an employee would be told to -- to  
12 alter their time sheet.

13 GEYER: Madam Chair, Sandie for -- Sandie  
14 Geyer for the record. In light of all of the information that  
15 we now have, um, I unfortunately feel as though there isn't  
16 really anything that we can do for the grievant. However, I  
17 would like to -- um, I would like to make a motion that the  
18 agency, um, go back, take a look at their policies and the  
19 procedures in which they are instructing their employees with  
20 regards to recording time, with regards to work schedules, um,  
21 and make sure that they are, um, communicating clearly so that  
22 everybody, not just the supervisors and the managers, but the  
23 employees themselves, that everybody is understanding exactly  
24 what the -- the parameters are with regards to if you are on a  
25 standard or -- or variable work schedule, how annual leave

1 sick leave come into play within that -- that pay period or  
2 that work week, and you then work overtime and how that can be  
3 resolved. Because, um, it's my understanding from my agency  
4 that -- um, that we can take admin -- that -- that we're  
5 granted admin leave if we -- within the same week that we work  
6 overtime. However, if you are, uh, on sick or annual leave  
7 and you work overtime, that, that cannot actually be overtime.  
8 And -- and -- and I know it's very -- very confusing. So I am  
9 gonna go back to my agency and I'm gonna have some -- some  
10 discussion with them as well because, um, I certainly don't  
11 wanna see us going down this road again. But again, back to  
12 the motion, I just would motion that the agency have that  
13 opportunity to, uh, take a -- take another look at their  
14 policy and make sure that their staff are trained  
15 appropriately and, um, caution them about instructing  
16 employees to change their time sheets.

17 PARKER: I'm gonna offer friendly amendment,  
18 um, with that motion. Are you asking that the -- the  
19 grievance be a -- approved -- granted or denied with that  
20 activity?

21 GEYER: Uh, again, Chair Sandie Geyer for the  
22 record, um -- um -- unfortunately, I -- we're gonna have to  
23 deny this grievance with the amendment of the motion back to  
24 the agency on the previous dated that I -- that I sent.

25 PARKER: Okay. there's a motion. Is there a

1 second? We need a second so we can move on to discussion.

2 (inaudible) motion --

3 WHITTEN: Can you restate the motion?

4 PARKER: Thank you.

5 WHITTEN: Sonja Whitten for the record,  
6 requesting the motion be restated.

7 GEYER: Ma -- Madam Chair Sandie Geyer for  
8 the record.

9 PARKER: Yes.

10 GEYER: I make a motion that the grievance is  
11 denied with the amendment of advising the agency to take  
12 another look at their policy, have additional training for  
13 their management supervisors and staff with regards to how  
14 coding of time sheets is to be done, and communication as for  
15 how the variable work schedule versus the standard work  
16 schedule apply in situations where employees could be  
17 obtaining or working overtime or flex time or comp time in  
18 receiving -- in receiving those compensations for anything  
19 that is worked either above or over the eight hours or the 40  
20 hours in a week.

21 WHITTEN: Sonja Whitten, I'll second.

22 PARKER: Okay. Discussion.

23 RUSSELL: Turessa Russell, for the record. I  
24 would, um, hope that the employer would look specifically at  
25 NAC 284.245. Some of the testimony and the documentation

1 presented is very disturbing to me as it relates to what  
2 appears to be lack of compliance with this particular NAC.

3           BAUER:     Ms. Chair. This is Jennifer.

4           PARKER:    Yes.

5           BAUER:     Um, although I support the motion to  
6 deny this grievance because I just don't think there's any  
7 action we can take specific to an event or a specific  
8 injustice. Um, I do agree that there's some -- there have  
9 been some missteps by the agency. There were missteps by  
10 requiring the employee sign something that's permissive, not  
11 mandated. Um, but I -- I cannot support, and I will not be  
12 voting in favor of the motion as stated, because there's been  
13 some strong words stated this morning with, um, what I think  
14 are actually allegations not founded, um, allegations of fraud  
15 or, um, uh, inaccuracies or, um, something that, um,  
16 supersedes the email specifically from Ms. Jones to Molly, I'm  
17 gonna slaughter this last name, Koch or Koch, um, states that  
18 the policy would set precedent. It would not supersede a law  
19 or regulation. Um, I don't have evidence that there's  
20 actually fraud that has occurred. Um, but I do have concerns,  
21 strong concerns that the employee has -- has been caught up in  
22 agency misstep, specifically with the requirement of a  
23 permissive document where it's been mandated, and then it took  
24 a year to rescind. So um, I have concerns, although I -- I  
25 think really the agency needs to go back and ensure that staff

1 are trained appropriately to comply with not only the law  
2 Reagan policy, but also the intent of the law Reagan policy.  
3 But, um, I -- I just can't support words like fraud and  
4 supersede.

5 WHITTEN: Sonja Whitten for the record. I  
6 don't believe fraud or supersede were in the motion. Um, I  
7 think that -- that was part of, uh, general discussion. Um, I  
8 -- I -- I, again, uh, I just feel very uncomfortable that, um,  
9 supervisors, management, whatever, would direct an employee to  
10 alter the information on their time sheet. That's troubling  
11 to me. Um, and I do, um, appreciate the agency saying they're  
12 willing to take a look and, and rectify that, because it was  
13 troubling to them as well to hear that. So -- so I -- I --  
14 I'm not -- I'm not saying that this isn't fixable. It was  
15 just very troubling and jarring to hear that -- that  
16 information -- an employee was directed to -- to change their  
17 -- their information on their time sheet.

18 BAUER: Ms. Chair, this is Jennifer. Member  
19 Whitten's correct. There wasn't allegations or statements in  
20 the motion of fraud or supersede, however it was in  
21 expression. Um, but employees can be directed all the time to  
22 change their time sheet if their time sheet is inaccurate. It  
23 is the obligation of the supervisor and of the agency to  
24 ensure that the time sheet is accurate, so employees can be  
25 changed or can be directed to change a time sheet when it is

1 not accurate. The issue is if an employee is directed to  
2 change the record that is accurate to something that is  
3 inaccurate, and that's where I'm not sure that we have that  
4 evidence. Um, if it complies with the policy, and the policy  
5 clearly states that use of leave shall be re -- reduced by  
6 flex time in the same day or same work week, if a variable  
7 work schedule agreement is in place, then -- then that is  
8 complying with policy that's not frauding the -- the system.  
9 So that's where I just don't have the evidence that fraud has  
10 occurred. Now, if -- if we have evidence where an employer is  
11 specifically told to report less time work than was actual,  
12 then yeah, that's a real concern. I just don't see it.

13 PARKER: It's Stephanie Parker for the record.  
14 So I -- I am relating towards not supporting the motion  
15 because I -- I -- I think there has been enough evidence to  
16 show that there's some -- some things that are going on  
17 regarding conflict. And I -- I -- I agree that -- and when I  
18 look at the solution that the employee wants, it's what we're  
19 asking them to do anyway. So I would say that I -- I -- I  
20 would say grant the grievance and ask the agency to do these  
21 things to ensure that they're complying with Administrative  
22 Code in Nevada by statutes rep -- uh, lawfully reporting of  
23 time and things of that nature, and providing, uh, training  
24 and education to not only supervisors and managers, but  
25 employees. So --

1                   BAUER:     Ms. Chair, this is Jennifer. I agree  
2 that if we were to -- um, if we were to caution advise,  
3 direct, whatever, I don't think we can direct, but advise the  
4 agency to, um, follow regulation and law, um, that would be  
5 granting the grievance, but, um, cannot grant the grievance in  
6 terms of directing the agency to rewrite its policies.

7                   PARKER:     So then we grant the part --

8                   WHITTEN:    Sonja Whitten for the record.

9                   PARKER:     Yes.

10                  WHITTEN:    I believe we would have to take a  
11 vote on the motion before we consider a different motion. Um,  
12 but we also haven't heard from, um, other members from here in  
13 the South that they have discussion items.

14                  RUSSELL:    Turessa Russell for the record. Uh,  
15 I think it would be a good idea to possibly rescind the motion  
16 and restate it to be a little more accurate as far as the  
17 intent of our discussions that we've had during our  
18 deliberations.

19                  SCOTT:     Mary Jo Scott, for the record. I  
20 agree with Turessa Russell to rescind the motion and restate  
21 it.

22                  PARKER:     Then it'd have to come from the  
23 person who made it.

24                  GEYER:     Madam Chair, Sandie Geyer for the  
25 record. I do agree with all of my colleagues, uh, that we

1 could certainly amend this motion so that it does state, um,  
2 our collective position with regards to this grievance and any  
3 suggestion that we might have for the agency moving forward.

4 WHITTEN: Sonja Whitten for the record. I'm  
5 fine with that.

6 PARKER: Okay.

7 WHITTEN: What is the proposed, um, new motion?

8 PARKER: I'm working on some verbiage. I'm  
9 sorry, I'm not getting (inaudible). Okay. How does this  
10 sound? I'm throwing this out there. I'll repeat it if I need  
11 to or change any parts of this. Um, I move to grant in part  
12 grievance number 7402 to recommend the agency review the  
13 policy to ensure it is in compliance with NRS and NAC to  
14 include, but not limited to NAC 284.245, NRS 284.065, NRS  
15 284.155, NRS 284.175. Uh, um, I furthermore -- um,  
16 furthermore, deny in part as the Executive -- uh, as the EMC  
17 does not have authority to, uh, rewrite or, uh, force the  
18 agency to rewrite policy.

19 BAUER: Ms. Chair, this is Jennifer. Can you  
20 restate those regulations of laws real quick?

21 PARKER: Okay. Uh, NAC 284.245, NRS 284.065,  
22 NRS 284.155 and, uh, NRS 284.175. And I -- I do wanna change  
23 it a little too. So after we confirm what, uh, the citations  
24 or the -- the -- the NAC and NRS, that -- that portion before  
25 I do the denial, I'm gonna say, and to provide training to



1 supervisors, managers, and employees. You want me to read it  
2 again? Okay. I make a motion to grant in part grievance  
3 number 7402 to re -- uh, recommend the agency review policy to  
4 ensure it's in compliance with NRS and -- and NAC to include,  
5 but not limited to NAC 284.245, NRS 284.065, NRS 284.155,  
6 284.175. And to -- um, and furthermore, to provide training,  
7 uh, on policy to supervisors, managers, and employees. I  
8 also, uh, recommend denying in part 7402 -- grievance number  
9 7402 as the EMC does not have authority to rewrite or to force  
10 the agency to rewrite policy.

11 RUSSELL: Teresa Ru -- Russell, for the record.

12 PARKER: Yes.

13 RUSSELL: I'll second.

14 PARKER: Any discussion.

15 BAUER: Ms. Chair, this is Jennifer.

16 PARKER: Yes.

17 BAUER: So again, for the record, not  
18 shopping on eBay, I -- I'm researching the regulations and  
19 statutes. Um, you said NRS 284.065, right?

20 PARKER: I think so, yes.

21 BAUER: A little hesitant about that one.

22 Well --

23 PARKER: What is that one?

24 BAUER: Applies to the personal permission.

25 PARKER: Okay, let's take that one out.

1 GEYER: 284.065?

2 PARKER: Yeah, .265.

3 GEYER: Um, it actually has -- maybe I  
4 question -- question my colleague. You said that it had -- it  
5 applies to what?

6 BAUER: Jennifer Bauer for the record. NRS  
7 284.065 is personal permission, powers and duties.

8 PARKER: Let's strike that one.

9 BAUER: You see -- do you see something  
10 different?

11 PARKER: Well.

12 BAUER: Member Geyer?

13 GEYER: I know that's what I -- I was just  
14 referring to what was in the employee's packet in reference,  
15 uh, with pulling the NACs under 284, uh, many times it will  
16 reference what corresponding NRS. It also is applicable to,  
17 um, and it indicates -- and throughout this, uh, 284.065 has  
18 been with -- in almost in each one of the references under NAC  
19 284. So, I -- I -- I think I have to question that. Then I -  
20 - I mean, I'm not sure.

21 PARKER: So I'm gonna amend -- amend my own  
22 motion -- amend my own motion to say I make a motion to grant  
23 in part grievance number 7402 to recommend the agency review  
24 policy to ensure in compliance with Nevada Revised Statute in  
25 -- in Nevada Administrative Code for all sections related to

1 the calculation of time worked and leave time, and to provide  
2 training to supervisors, managers, and employees and  
3 furthermore, um, make a motion or add to the motion to deny,  
4 in part, as the EMC does not have the authority to require the  
5 agency to change, rewrite their policy, or to direct under --  
6 rewrite their policy.

7           RUSSELL: Turessa Russell, for the record.  
8 I'll agree to the amendment.

9           PARKER: Any other discussion?

10          BAUER: Ms. Chair, this is Jennifer. Um, I  
11 appreciate that. I appreciate your own friendly memo -- your  
12 own motion. I think it's better to state applicable Law and  
13 policy or law Reagan policy, um, because the one cited were  
14 not applicable. So I think that's helpful. Thank -- thank  
15 you.

16          PARKER: Any other discussion? All those in  
17 favor?

18          MULTIPLE: Aye -- aye -- aye -- aye -- aye.

19          PARKER: Opposed? So moved. So um, you'll  
20 receive -- Mr. Stokes you'll receive a decision and the agency  
21 will also receive a decision within 45 days. Okay. In  
22 writing. Do you have any questions before we release you?

23          STOKES: No question.

24          PARKER: Awesome. Thanks. Okay, let's move  
25 on to item number seven. Do we have Morrissey, the parties

1 for Morrissey?

2 MORRISSEY: This is, uh, Timothy Morrissey  
3 for the record. State of Nevada Employment Security Division  
4 Appeals Office.

5 PARKER: Okay. Hold on. Step. And do you  
6 have any -- do you have any witnesses?

7 MORRISSEY: Yes, I -- I do.

8 PARKER: Are they present?

9 MORRISSEY: They're pre -- they're present.  
10 I have, uh, Kelly Nguyen, senior Appeals Referee, Connie  
11 Grimble Appeals Referee, and Thomas Hartman Appeals Referee.

12 PARKER: Okay. I'm gonna go ahead and swear  
13 you all in. Do you promise to tell the truth and nothing but  
14 the truth? And --

15 MORRISSEY: I do.

16 PARKER: You do. And your name for the  
17 record?

18 MORRISSEY: Timothy -- Timothy Morrissey.

19 PARKER: And then your next --

20 GRIMBLE: Connie Grimble for the record.

21 NGUYEN: Kelly Nguyen. I do.

22 HARTMAN: Thomas Hartman. I do.

23 PARKER: Okay. Thank you -- thank you --  
24 thank you (inaudible) for keeping me honest. It's in there.  
25 Oh, no, that's, um, I need a copy of that. Uh-huh

1 (inaudible). Uh, I -- I got it. It was stuck. Thank you.  
2 Sorry. First we're gonna deal with the motion to dismiss and,  
3 um, uh, 7745 for Morrissey. So the -- uh, Mr. Boughter --  
4 Boughter, right? I did it again.

5 BOUGHTER: Brian Boughter.

6 PARKER: Boughter -- Boughter. I'm sorry, Mr.  
7 Boughter.

8 BOUGHTER: I'm sorry. Did you want me to go?

9 PARKER: Yes, you go first 'cause you  
10 presented the -- you're doing the requesting on this one with  
11 the motion to dismiss. Then we'll move on to if we need to do  
12 the case, so --

13 BOUGHTER: Okay. All right. Thank you -- thank  
14 you -- thank you. Um, good morning again. Uh, with respect  
15 to grievance 7745 by Mr. Morrissey, uh, the agency has put  
16 together a motion to dismiss because we believe, uh, both --  
17 both cases cited in our motion to dismiss those cases for Ms.  
18 Grimble and Ms. Enriquez are -- are go -- Governor, uh, we're  
19 previously, um, adjudicated by the EMC by you all. Uh, the  
20 grievances were answered at step one, addressing all the  
21 concerns that were brought forward. Um, the grievance listed  
22 additional concerns at steps two and three, which essentially  
23 according to the, um, committee's own -- the deliberations  
24 essentially nullifies the grievance process for those steps.  
25 We believe the grievance can be answered without a hearing by

1 recommending suggestions for other venues for the additional  
2 concerns listed in the grievance. Thank you. That's our  
3 motion to dismiss.

4 PARKER: Thank you. And Mr. Morrissey, did  
5 you wanna respond?

6 MORRISSEY: Yes. Uh, I'm gonna make my  
7 response. Timothy Morrissey. Um, I do not know what Connie  
8 Grimbel and Erwin Enriquez (inaudible) to the grievances were  
9 about, or what they were pertaining. So I can't really make a  
10 comment on their grievances if they were relevant to my  
11 agreements or not. Apparently the EMC has already decided  
12 that my grievance was not separate to Connie Grimble and Erwin  
13 Enriquez (inaudible) to the grievance because they have  
14 decided to schedule a hearing to hear my case. All I know is  
15 that in step -- in the step three of the grievance, the  
16 administrator had indicated that the Appeals O -- Office  
17 referees were to have their federal evaluations performed by  
18 the DETR senior Appeals Referee or senior Legal Counsel. Her  
19 response was in quotes, "All federal evaluations are conducted  
20 by the Senior Appeals Referee or Senior Legal Counsel. The  
21 division has met the advisement for evaluators in the ET  
22 handbook." However, it was made clear to me that the  
23 administrator was going -- uh, was going to not follow through  
24 with this. So I decided to file step four grievance to the  
25 EMC. So it could be, uh, clarified that -- that was their

1 true action as far as having the Senior Appeals Referee or  
2 Senior Legal Counsel doing the federal evaluations. Now, it  
3 appears that the administrator had no intentions of honoring  
4 her original statement of all federal --

5 PARKER: Hold on -- hold on a second Mr.  
6 Morrissey. Not -- don't go into your case specifically.

7 MORRISSEY: Okay -- okay.

8 PARKER: Just want you to address why -- why  
9 you believe that the grievance should not be dismissed.

10 MORRISSEY: Well, ba -- basically it  
11 shouldn't be dismissed -- uh, dismissed because there still is  
12 an issue out there that's not resolved and the committee has  
13 already decided to listen to the case.

14 PARKER: Okay.

15 MORRISSEY: It -- it would -- it would be a  
16 travesty of justice if the EMC dismissed my case, allowing the  
17 administrator to run over her employees without any fear,  
18 thought or concern about the grievances process. Knowing that  
19 the EMC will simply dismiss cases and everything is swept  
20 under the rug. This is a problem that has not been resolved  
21 and apparently will not be resolved by the administrator.  
22 They can make up any story and do whatever they want, even if  
23 it destroys the integrity of the Appeals Office.

24 PARKER: Did anybody see the employee's  
25 response to the -- yeah. I -- okay.

1                   WRIGHT:    Is that what you need?

2                   PARKER:    That's -- this is what I needed.

3                   Okay.

4                   WRIGHT:    That it was an email late yesterday  
5                   afternoon.  And I have just the three pages.

6                   PARKER:    Okay.  Does the agency wanna say  
7                   anything other before we deliberate or --

8                   BOUGHTER:  Uh, Brian Boughter for the record,  
9                   um, appreciate everything that Mr. Morrissey says.  However,  
10                  the agency still believes that these grievances were similar  
11                  to grievances that were already adjudicated.  And again,  
12                  adding something at a later step, uh, essentially nullifies  
13                  the grievance because the agency responded, uh, appropriately  
14                  at step one with, um, all concerns addressed.  So we believe  
15                  there isn't really a reason to go forward and that our motion  
16                  to dismiss should be granted.

17                  MORRISSEY:    May -- may I respond?

18                  PARKER:    Yes, please.

19                  MORRISSEY:    Okay.  This is Timothy  
20                  Morrissey.  For the record.  Uh, not everything has been  
21                  addressed.  Um, that's why we're at this, uh, final, uh,  
22                  request was to have all federal evaluations performed by the  
23                  Senior Appeals Referee or Senior Legal Counsel, taking away  
24                  from UISS, who has nothing to do with the Appeals Office, has  
25                  no training in appeals, has never been an Appeals Referee, has



1 never been a senior Appeals Referee, has never been a Chief of  
2 Appeal. In addition, it does not follow the ET handbook.

3 PARKER: Okay -- okay. Anything further  
4 before we, um, deliberate on the motion to dismiss from either  
5 party? We will go ahead and move into deliberation.

6 BAUER: Ms. Chair. This is Jennifer.

7 PARKER: Proceed.

8 BAUER: Um, I -- I don't see that the EMC has  
9 the ability to provide the resolutions requested. Um, I mean,  
10 one, the resolution requested at step one has already been  
11 granted by the agency. Um, but then two, the resolutions  
12 asked for later in the grievance process, um, aren't anything  
13 that I believe the EMC would have jurisdiction over anyways.  
14 It says one going forward, all final scores are directed by,  
15 reviewed by my supervisor. Well that conflicts with NRS  
16 284.020 subsection 2, um, which states that nothing in that  
17 chapter shall preclude the agency's ability to run its affairs  
18 as it sees fit. Um, two, in the request of resolution at step  
19 three, um, future rater provides a necessary, or provides a  
20 necessary training on how to correct any and all deficiencies.  
21 I -- I mean, well, that's a good idea and should be done. Um,  
22 not anything that we would have jurisdiction over. Going  
23 forward all evaluations are conducted by Senior Appeals Refere  
24 -- Referee, same thing. Um, and then four, going forward, any  
25 cases that did not pass quality review were not covered by the

1 score. Um, also something we don't have jurisdiction over.  
2 And then five, hostility and unfair labor practices in the  
3 workplace by upper management, cease and desist. Um, that's a  
4 serious allegation, although not something we have  
5 jurisdiction over either. So I don't know that we would have  
6 the ability -- if we were to hear this case, I don't know that  
7 we'd have the ability to provide the proposed resolutions that  
8 any of the steps one, 'cause one's already been provided and  
9 the others aren't something we would -- would've jurisdiction  
10 over.

11 PARKER: Any other comments?

12 RUSSELL: Turessa Russell, for the record. I'm  
13 in agreement with, um, the fact that the hostile work  
14 environment does not fall under our jurisdiction. There are  
15 other venues that -- that must be, uh, pursued through.  
16 However, I do not agree that we are limited to just the  
17 grievance proposed resolutions. I will admit there have been  
18 previous cases where we've done something differently, but I  
19 am not -- without hearing testimony, I am not sure what those  
20 resolutions would be.

21 PARKER: And Stephanie Parker, for the record.  
22 I -- I'm gonna have to agree with you. I don't know -- I -- I  
23 -- I -- I agree with you that we don't have jurisdiction for  
24 the one issue raised in the -- in the grievance. Um, but I  
25 also don't know at this time, uh, based on Grimble and

1 Enriquez (inaudible) grievances yet they were in fact the same  
2 -- had the same merit. So -- and I -- I don't know that we  
3 can do anything, but I'm leaning towards wanting additional  
4 information. Oh, I -- I'm leaning towards wa -- sorry,  
5 wanting additional information and -- um, because I don't know  
6 how -- uh, if they're the exact same circumstances, I know  
7 that we don't have ju -- I know we don't have jurisdiction  
8 over the claims of the hostile work environment and harassment  
9 that would have to go another venue. Uh, the -- the greater  
10 would have to take to, but -- um, look at something else.  
11 Sorry. Yeah, I still don't see where everything's been  
12 answered from step one. I think it was stated in a different  
13 way. So but that's my perception. Any other discussion or do  
14 you want me just to -- that thought for a minute?

15 FLORES: Reece Flores for the record.

16 PARKER: Yes.

17 FLORES: Chair, would it help any to get the  
18 decisions, um, I noticed that the agency did not include those  
19 decisions. Would it help to read those decisions?

20 PARKER: Would you wanna get them? Is that  
21 what you'd like? Okay. Yes.

22 FLORES: Can give us five minutes.

23 PARKER: Our members are speaking. Yep. Well  
24 go ahead and take a break for ten minutes. Ten minutes or  
25 less. All right. They're getting -- Mr. Morrissey, they're

1 getting you a copy. We're in deliberation right now, so if  
2 any committee members questions on comments related to the  
3 additional documentation provided as the resources. I am just  
4 gonna say -- this is Stephanie Parker for the record. They  
5 don't reflect the same request, although it may have had to do  
6 with the same issue, but, um, I -- I don't believe this just -  
7 - just, uh, an automatic dismissal.

8 MORRISSEY: Thank you.

9 PARKER: Can see that we didn't have  
10 jurisdiction in (inaudible). Oh, can you guys hear me?  
11 Because I -- I didn't talk up.

12 MULTIPLE: Yeah. Ow woow. Uh-huh. Got it

13 PARKER: Okay. Ms. Bauer Jennifer proceed.

14 BAUER: Thank you to staff for providing  
15 these decisions. Um, I -- I see that they are a little  
16 similar, but not entirely similar actually. They're a lot  
17 similar, but not entirely similar. So I wouldn't feel  
18 comfortable basing a decision on these prior decisions.  
19 However, my original viewpoint stands that I don't know that  
20 hearing this grievance would do any good. Um, we don't have  
21 jurisdiction over the proposed resolutions. Um, any of them  
22 brought forth that any of the steps. So I would be leaning  
23 toward that, granting the motion to dismiss.

24 PARKER: Anybody else?

25 WHITTEN: Sonja Whitten for the record. Um,

1 was that a motion that you were making, Jennifer?

2 BAUER: Ms. Jennifer, for the record. It was  
3 not, but I'm happy to make one if the Chair pleases.

4 PARKER: If you'd like go ahead.

5 BAUER: Ms. Chair, this is Jennifer.

6 PARKER: Yes.

7 BAUER: I move to grant the motion to dismiss  
8 for grievance number 7745. Um, based on the fact that the EMC  
9 has determined it lacks jurisdiction over this matter.  
10 Additionally, regarding allegations of hostility and unfair  
11 labor practices, there are other avenues, um, which may allow  
12 for relief.

13 PARKER: We have a motion. A second?

14 GEYER: Madam Chair, Sandie Geyer for -- for,  
15 uh, Sandie Geyer seconding the motion made by, uh, my  
16 colleague, Jennifer.

17 PARKER: Any discussion?

18 WHITTEN: Sonja Whitten for the record. Um, it  
19 does appear, uh, there are some similarities. Um, however,  
20 um, the request that the grievant requested, um, was answered  
21 by the agency. Um, and if the agency fails to, um, follow  
22 what the -- the, um, the outcome wa -- was stated in the  
23 grievance, the -- the -- the grievant would have to start the  
24 process again. So that -- that would be, um, the best  
25 recourse. We -- we don't have the jurisdiction to determine

1 hostile work environment or any other issues. This is not the  
2 venue for that at all. The EEOC --

3 MORRISSEY: And -- and I think my main  
4 concern was going forward --

5 PARKER: Who is this? Wait a minute.

6 MORRISSEY: I'm sorry.

7 PARKER: We're -- we're in deliberation. You  
8 cannot talk unless you're qualified.

9 MORRISSEY: Yes. Sorry about that. Okay.

10 PARKER: Thank you. You good? So, I -- and I  
11 agree with my colleagues. This is Stephanie Parker for the  
12 record. However, the motion to dismiss was not for the lack  
13 of jurisdiction. I agree with the other, and I think that  
14 that could be addressed in the case for -- I would be leaning  
15 towards that voting appropriately to grant the motion to  
16 dismiss itself, although I think still don't have  
17 jurisdiction. But for just to be clear, the motion to dismiss  
18 is based on two cases, and not that it's not in the juris --  
19 jurisdiction.

20 WHITTEN: My supportive, a motion to dismiss  
21 is, um, based on the -- the agency is answered and removed the  
22 -- the requested, um, items from the, um, grievance record.  
23 And they've -- they've stated in the grievance response  
24 several times that they're going to take additional steps.  
25 Um, and so these -- these items won't come up again until the

1 next time that things are reviewed. So that, for my -- that's  
2 my reason for supporting a dismissal, because until the agency  
3 acts up and does something improper, the agreement doesn't  
4 have an issue in my opinion. if the -- if the agency does not  
5 act up, this is resolved. So I would -- I would hope that the  
6 agency is going to go forth with upholding what they've put in  
7 the -- in their response. But if not, we'll see you again.

8 PARKER: A -- any other discussion?

9 RUSSELL: Turessa Russell, for the record.

10 PARKER: Proceed.

11 RUSSELL: I'm gonna -- in agreement that, um,  
12 the motion was made motion to dismiss was made in reference to  
13 the two previous decisions, and that's not what we're basing  
14 our decision on. Or it appears that's not what a decision is  
15 being based on at the moment. So I cannot support the motion.

16 PARKER: Anybody else?

17 BAUER: Ms. Chair?

18 PARKER: Yes.

19 BAUER: Jennifer, may I ask a question of the  
20 DAG?

21 WEISS: Of course.

22 BAUER: Does the committee need to, um, base  
23 its decision to grant a motion to dismiss on the substance of  
24 the -- the request for the motion to dismiss? Or can we grant  
25 it based on other relevant matter -- matters?

1 WEISS: I mean, ideally it should be based on  
2 the content of the motion to dismiss. In all fairness. Um,  
3 other -- other considerations for the motion should be  
4 discussed when the, uh, grievance is being heard on the  
5 merits. If it's not -- if it's not, uh, specifically cited in  
6 the motion to dismiss.

7 BAUER: Sir, this is Jennifer. I -- so I  
8 think that's really helpful that the DAG's advice. Thank you.  
9 I think where I was coming from is the -- the decision  
10 specifically, um, in Enriquez Argonza (phonetic) and, um, uh,  
11 oh, Grimble. Thank you. Um, it does mention in the letter  
12 that the EMC determined, um, that it lacked jurisdiction over  
13 the matter. So I think that's kind of where I was coming  
14 from, but I don't know if that's enough.

15 PARKER: Sandie, did you wanna --

16 GEYER: Madam Chair. For the record, Sandie  
17 Geyer. I would -- I would entertain a -- an amended motion  
18 that is a little bit more in line with what the, um, actual  
19 motion to dismiss stated. Again, I -- I -- I happen to -- I --  
20 - I agree that while well in front of us, you know, we have --  
21 we have an opportunity to hear this. However, um, I -- I just  
22 don't see where we're going to have the ability to provide,  
23 um, any type of recommendation or decision that is going to be  
24 -- or we -- we -- we -- we lack jurisdiction on some of the --  
25 on -- on what the actual request for -- uh, from the grievance



1 is. And I -- I just -- I kind of think that we -- our hands  
2 are a little bit tied on that.

3 PARKER: Okay. Yeah, I have -- yeah, we have  
4 it taken. I'll go ahead and take a vote. If there's no other  
5 comments.

6 RUSSELL: I'm not --

7 PARKER: Go ahead.

8 RUSSELL: Will you restate the motion so I'm  
9 clear on what I'm voting on, please?

10 BAUER: Sure. This is Jennifer Bauer. For  
11 the record. I move to grant the motion to dismiss on, um,  
12 grievance number 7745, based on the fact that EMC determined  
13 it lacked jurisdiction over the matter. Additionally,  
14 regarding the allegations of hostility and unfair labor  
15 practices, there are other avenues that, um, may allow for  
16 relief.

17 RUSSELL: Thank you.

18 PARKER: Okay. All right. So we'll move for  
19 a vote. Um, all those in favor?

20 MULTIPLE: Aye -- aye -- aye -- aye.

21 PARKER: Any opposed?

22 RUSSELL: Nay

23 PARKER: And one nay. So that was five and  
24 one, right? So the motion to dismiss is granted. So what  
25 that means, Mr. Morrissey, is that we will not be able to move

1 forward on the case itself, and you'll receive a decision in  
2 45 days in writing advising you have the other avenues.  
3 'Cause what we've uh, been talking about is the claim, the  
4 outstanding claim that you have, we don't have jurisdiction  
5 over. So um, yeah, did you have anything in closing just to  
6 say?

7 MORRISSEY: Um, yeah, I -- I'm not really  
8 sure what you were looking at. Um, I know in my closing  
9 statement, I would like to say that on my grievance, I had  
10 asked that the cat be removed from my personal file, which it  
11 was. And that, going forward, any final scores are reviewed  
12 by my direct supervisor, Kelly Nguyen, senior Appeals Referee,  
13 who has, uh, been a proven professional judgment and  
14 experience to make these determinations. Whether my hearings  
15 meet DOL criteria or that that's not happening.

16 PARKER: No. And we don't have jurisdiction.  
17 When I say we don't have jurisdiction on the remainder of your  
18 claim, that means that we don't have jurisdiction, we don't  
19 give power to do anything about --

20 MORRISSEY: Let me get -- let me give my  
21 closing statement.

22 PARKER: Okay.

23 MORRISSEY: Okay, then. And that the future  
24 rater provides a necessary training on how to correct any and  
25 all the distance, but that's not happening.

1 PARKER: So we're done with -- with that  
2 portion of it. Once we do the deliberation, there is no  
3 closing statement. That's why I kept asking. Is there  
4 anything else? Is there anything else? Is there anything  
5 else? Before we go to deliberation?

6 MORRISSEY: Okay. No.

7 PARKER: So what we have determined is that we  
8 don't have jurisdiction on your remaining items. You'll  
9 receive a letter that provides you with a -- additional, um,  
10 information on how to move forward. On that, what your agency  
11 does for -- for that, we don't have jurisdiction on that. We  
12 can't force them to send anything to anybody.

13 MORRISSEY: Okay.

14 PARKER: Okay.

15 MORRISSEY: Okay.

16 PARKER: All right. Thank you so much. Okay.  
17 And you're excused for-- and -- and Mr. Sto -- uh, I'm sorry,  
18 Mr. Boughter, did you have anything closing?

19 BOUGHTER: Uh, I do not.

20 PARKER: Okay. Thank you. So we are gonna  
21 move on to the next item, which is number nine, which is a  
22 motion to dismiss. And Hartman is Har -- uh, Thomas Hartman  
23 available?

24 HARTMAN: Yes, I'm here.

25 PARKER: Okay, Mr. Hartman. Okay. This is on

1 motion to dismiss. So Mr. Um, Boughter, you're gonna begin on  
2 this one. And let me -- and I -- I know I didn't swear you in  
3 yet, um, Mr. Hartman, do you swear to tell the truth but the  
4 truth?

5 HARTMAN: I do.

6 PARKER: Thank you, sir.

7 BOUGHTER: All right. Thank you. Um, in the  
8 grievance number 7751, filed by Mr. Hartman, uh, the  
9 Department of Employment Training and Rehabilitation submitted  
10 a motion to dismiss, again, citing this case like the previous  
11 case, and the two cases that were cited as being similar. Um,  
12 I did hear the deliberations, I, you know, was here for that.  
13 So um, if you are not going to decide the case based on the  
14 previous cases that were cited, um, the agency would again,  
15 ask you to, uh, reiterate the decision from the previous  
16 grievance in which the termination was that there wasn't  
17 jurisdiction over this one. And we would ask you to do the  
18 same thing here.

19 PARKER: Okay, Mr. Hartman, do you wanna  
20 respond?

21 HARTMAN: Yeah, there were other, uh -- uh,  
22 issues brought up. Uh, it's true. You've -- uh, the  
23 committee's already indicated that it's not interested in  
24 delving into the issues of hostile work environment. Of  
25 course, uh, you know, all, uh, grievances occur in a context.

1 And, uh, while, uh, uh, hostile work environment is not the,  
2 uh, official, uh, issue that we bring before you to -- uh, for  
3 resolution, it does occur in a context where all these other  
4 procedural issues are hard fought. And so in this case, uh,  
5 as in, uh, the previous case, uh, there was a decision made by  
6 the, um, um, division, uh -- uh, upper management, uh, to, uh,  
7 consider those other issues that were raised. And in fact,  
8 they did consider them and they offered resolutions to them.  
9 And -- and so, well, we might all be entirely, uh, satisfied  
10 with the idea that this committee is not gonna take up the  
11 issue, the loss of work environment. It should, however, look  
12 at the, uh, cases and, uh, where they did consider there was  
13 other issues. And so the argument that Mr. Boughter makes  
14 that the, uh -- uh, grievance should be dismissed, is  
15 invalidated by the fact that they in fact, took up those other  
16 issues and offered resolutions to them. And so I think that  
17 the -- the decision, uh -- uh, to dismiss is -- uh, is  
18 inappropriate. And, uh, and -- and the argument that, uh, Mr.  
19 Boughter makes is not valid. And so uh, I would wish that you  
20 would consider that going forward -- in fact, most importantly  
21 is that the division of the upper management of the -- of the  
22 Employment Security Division, they ventured their own -- on  
23 their own initiative resolutions to these matters. And they  
24 proposed them. They, uh, in effect agreed to them in this  
25 appeals pro -- in this grievance process, and they have chosen

1 not to follow them. I know the record in a previous case is  
2 silent on that because it didn't come up, is -- didn't get a  
3 chance to, uh, address the merits. But I mean, that, it's one  
4 thing to say that, well, we're -- we're not gonna let you go  
5 forward because, uh, we've already -- e -- e -- everything's  
6 all said and done. There's nothing to see here. But in fact,  
7 there is something to see here, because the division has  
8 ventured themselves and they've made their decisions, and they  
9 have responded to this grievance in an affirmative way. And  
10 they have chosen not to go forward and honor those commitments  
11 to Mr. Morrissey and his, uh, grievance and in mine. Where,  
12 in fact, in the response on step, uh, three, where the  
13 administrator says that -- that these, uh -- uh, federal  
14 reviews are gonna be conducted by Kelly Nguyen, Kelly Nguyen's  
15 not conducting them never has, and -- and, uh -- uh, panel  
16 member raised earlier that, uh, well, you -- we'll just have  
17 to wait and see what happens. Well, the wait and see what  
18 happens has already happened. The next round of quarterly  
19 reviews were done. And in fact, they didn't honor those  
20 agreements, and they're still conducted, uh, by an unqualified  
21 person. So I mean, there's -- there's plenty here to do. And  
22 -- and -- and I understand the fact that the committee is not  
23 comfortable about the fact that they don't wanna wade into a  
24 hostile work environment. Okay? I don't blame you, but that  
25 hostile -- but the -- but the thing that we hope for, and that

1 I hope for in this process is that by taking up that issue  
2 there -- by taking up the issue, I'm gonna get a chance to --  
3 uh, to have that whole matter of where the federal reviews are  
4 done, settled, and -- and to be settled by the agency's own  
5 agreement. We're satisfied with their own agreement. They  
6 basically agreed with us, those who filed these grievances.  
7 This wasn't just a couple of people either out of the ten, uh,  
8 Appeals Referees and -- uh, and the Appeals Office, seven of  
9 them filed grievances, uh, to -- to the way this was handled.  
10 And seven people, uh, very much disagreed with that I -- I  
11 suggest. So I think that there's more than ample reason to go  
12 forward and hear the case on merits.

13 PARKER: Okay. Mr. Stokes, did you run -- uh,  
14 respond?

15 MULTIPLE: Mr. -- Mr. Boughter.

16 PARKER: Oh, I'm sorry, Mr. Boughter, what did  
17 I call out?

18 MULTIPLE: Stokes

19 PARKER: I'm so sorry, Mr. Boughter, finally -  
20 - I finally get the pronunciation correct, right? And, uh,  
21 they should -- my -- uh, my --

22 BOUGHTER: Luckily I'll answer to anything.  
23 Yeah. Um, just a couple of words. You know, uh, we  
24 appreciate Mr. Hartman's position. We really do. Uh, I  
25 understand that he has some issues that he would really like

1 to bring before the committee, but as the committee has  
2 previously determined, this is not the venue for certain  
3 things that he would like to have heard. And the commitment  
4 that he seems to think was made at step three, again, was well  
5 beyond step one and what was proposed at step one to be the  
6 essentials of the grievance. So again, we believe that the  
7 committee's on firm ground when they -- uh, we hope will  
8 choose to deny this grievance as well.

9 HARTMAN: Can I respond?

10 PARKER: Yes, you may.

11 HARTMAN: I think he's wrong about that. I --  
12 you know, because we raised it, that that issue has been  
13 brought up, and it was in a -- and in my grievance, uh, I  
14 asked that those federal evaluations be returned to the unit  
15 that was part of my grievance, and they -- and the division --  
16 and answered that, uh -- uh, part of that grievance -- and  
17 they -- and they stipulated that they were gonna return them  
18 to the unit. So, and just because it's -- uh, I mean, I don't  
19 get that part where they say, well, uh, you know, it -- it's  
20 another venue. Okay, fine. Uh -- uh, but it -- they -- they  
21 took up the issue and they addressed it. And -- and -- and I  
22 think that, you know, they -- they have to be held accountable  
23 to their own commitment. And I don't think it's outside the  
24 scope of the committee to do that. And respectfully given the  
25 fact, I know this is a hard job, but I think that the decision



1 made to dismiss the merits of the previous case were an error.

2 BOUGHTER: Um, again, if I --

3 PARKER: Okay, this is -- wait, okay, this is  
4 gonna consist of closing statements. Okay. So go ahead, Mr.  
5 Boughter.

6 BOUGHTER: Uh, I just wanted to say that, you  
7 know, again, um, the agency believes that we -- we've answered  
8 the grievance that we've given, um, the, um, time to the  
9 grievance and all the seven grievances that were submitted,  
10 all the corrective action plans were removed as agreed. Uh,  
11 there is no evidence of those in files anymore. That's all  
12 completely removed. And in terms of, you know, directing the  
13 agency to have a particular person review things is in  
14 violation of, I believe, the NRS 284.020, where the  
15 administrator gets to direct the, um, agency activities. So,  
16 um, as unfortunate as it sounds, I would have to disagree with  
17 Mr. Hartman. And again, you know, respectfully --  
18 respectfully, request that you deny the grievance or, um,  
19 grant the motion to dismiss. Beg your pardon.

20 PARKER: Okay, Mr. Hartman, your closing  
21 statement.

22 HARTMAN: Well, I -- I -- you know, I mean, I -  
23 - I understand that once you've already dismissed, uh -- uh --  
24 uh, a very similar grievance, uh -- uh, on the -- on the basis  
25 that the, uh -- uh, that Mr. Boughter's, uh -- uh, outlined.

1 I understand that, uh, the -- the appetite, uh, and the very  
2 uncomfortable position you're in if you chose to do otherwise  
3 in this grievance. However, uh, I -- I mean, uh, it's not a  
4 matter of preference. So who does a federal eval -- it really  
5 isn't. Somebody has to -- their criteria has to be met and  
6 they have to be qualified and -- and a variety of things like  
7 that, uh -- uh, are not met by the actions that have been  
8 taken by the division. They just haven't. Okay. Uh, I don't  
9 believe that, uh, I'm gonna, uh, get anywhere with that, you  
10 know, 'cause I -- I know that I'd be hard pressed to reverse  
11 myself in the very next hearing after having dismissed  
12 somebody else's motion, uh -- uh, to continue on the merit.  
13 So with that, I'll close.

14 PARKER: Okay. We'll go ahead and (inaudible)  
15 deliberation.

16 BAUER: Ms. Chair, this is Jennifer.

17 PARKER: Proceed.

18 BAUER: I -- I think the grievant has  
19 acknowledged that this case is similar to the one we just, um,  
20 decided on in terms of the motion to dismiss. Um, I take  
21 offense to the statements that were made that this committee  
22 is choosing not to take up allegations of hostile work  
23 environment because that's not accurate. Allegations of  
24 hostile work environment are very, very serious. And I don't  
25 wanna speak, um, on behalf of my other committee members, but

1 I myself take those allegations very, very seriously. So I  
2 take offense to the idea that this committee's not interested  
3 in that. However, this committee does not have the authority  
4 to take up those matters, and this committee does not exist to  
5 investigate and to resolve, uh, hostile work environment  
6 claims so that -- that belongs in a different venue with a  
7 different group of people put in place for their different  
8 skill sets than ours. Um, so notwithstanding that I -- I do  
9 think this is a similar case. I do think that the resolution  
10 was provided at step one. Uh, I don't think that we have  
11 jurisdiction over this matter. Um, I understand the  
12 grievant's concerns about the way the agency is doing  
13 business, but this committee does not have jurisdiction to  
14 delve into agency affairs and tell them how to run their  
15 operations. So with that, I would be leaning again towards  
16 granting the motion to dismiss.

17 PARKER: Thank you. Any other comments?

18 WHITTEN: Sonja Whitten for the record. Um, I  
19 -- I have a question. Um, Mr. Hartman, you stated that, um,  
20 well from the looks of -- it looks like the original, uh,  
21 grievance event occurred in February -- February 17, 2021.

22 HARTMAN: Correct.

23 WHITTEN: And you're stating that you have  
24 experienced another event where the -- the, um, request that  
25 you made to resolve the grievance in this -- in grievance

1 number 7751, you're stating that the agency is not following  
2 them?

3 HARTMAN: Well, the -- and -- and in fact they  
4 -- uh, I raised the issue of where the federal reviews ought  
5 to be conducted. And then --

6 WHITTEN: Yes or no, are they --

7 HARTMAN: I'm sorry.

8 WHITTEN: Yes or no, you're stating that the  
9 agency -- you stated that the agency is not following it. So  
10 have -- have you had another review done? And if so --

11 HARTMAN: Re -- reviews are done on a quarterly  
12 basis.

13 WHITTEN: So have they been done?

14 HARTMAN: Yes.

15 WHITTEN: Did -- did they follow what was  
16 requested and -- and stated and agreed upon according to  
17 grievance number 7751?

18 HARTMAN: Absolutely not.

19 WHITTEN: Did you file another grievance?

20 HARTMAN: No.

21 PARKER: Stephanie Parker, for the record, I -  
22 - I want to -- um, I wanna emphasize the -- gosh, the disdain  
23 on the comments made about this committee not -- not  
24 interested in hearing about hostile work environments. Like  
25 yeah, as my colleague stated, it's not within our jurisdiction

1 and I don't think anything can be further from the truth. We  
2 -- we will be providing information on where you go for the  
3 hostile work environment. 'Cause that's not us. We would do  
4 a disservice if we tried to, even if we attempted to in  
5 violation of what our own abilities are. 'Cause it would do  
6 you no good. So, um, I also thank you, uh, member Whitten  
7 because I had the same question about whether or not if there  
8 was an agree -- uh, an agreement, um, and then that was  
9 violated if there was another grievance that was filed on  
10 that. And so I was, uh, disappointed to hear that there was  
11 not another grievance. If that is in case -- if it's indeed  
12 in violation of what was agreed to previously and now it's  
13 missed the deadline for that one. But, um, yeah, and I have  
14 to lean towards, this is actually towards the previous  
15 decision on whether or not we have jurisdiction so that we  
16 don't have jurisdiction. Thank you

17 GEYER: Madam Chair. Sandie Geyer for the  
18 record. I do have a question for Mr. Hartman. Um, Mr.  
19 Hartman was the agreement in writing?

20 HARTMAN: It's in the grievance. It's in a  
21 response by the --

22 GEYER: So okay, but nothing else. There was  
23 no memorandum, there was nothing else, correct?

24 HARTMAN: No -- no, of course not. And I  
25 commend your attention to Mr. Morrissey's agreement where

1 they, uh -- uh, advised Mr. Morrissey as stipulated in the,  
2 uh, response to his grievance that it was gonna be done in the  
3 unit, uh, by Kelly Nguyen or the, uh, senior Legal Counsel.  
4 They didn't do that. In fact, when I responded to that, I  
5 said it remains to be seen whether they will, because I  
6 anticipated that they wouldn't do it. And in fact, the last  
7 quarterly review was done and they didn't do it. They did --  
8 that's still done by the same person.

9 BOUGHTER: Uh, may I speak --

10 PARKER: Any other committee members? I don't  
11 -- hey, Mr. Boughter?

12 BOUGHTER: Uh, I just wanted to point out with  
13 respect to the, um, expectation that the reviews were gonna be  
14 done specifically only by the person in Mr. Hartman's unit. I  
15 don't believe that's exactly what the administrator, um, said  
16 in the grievance. I believe what she said was that it could  
17 be done by either that person, by or a board member. And  
18 again, I would suggest that the administrator gets to make  
19 that decision as to whether or not, yeah, the -- the division  
20 has met the advisement for evaluators and the ET handbook.  
21 That was what the administrator was just advising me. You  
22 know, again, that, you know, um, we as the agency have done  
23 what we agreed we were gonna do. I don't believe that Mr.  
24 Hartman would say that the administrator agreed that only  
25 Kelly Nguyen would do the reviews. And I guess I don't

1 believe the committee can actually, um, direct that to be  
2 done.

3 PARKER: Okay. So um, any other comments for  
4 the committee?

5 RUSSELL: Turessa Russell for the record.

6 PARKER: Proceed.

7 RUSSELL: Although I was not in agreement with  
8 the previous decision that we made on grievance 7745, I don't  
9 know that there's -- I'm gonna back up a little bit. I am  
10 concerned about the contents and the merits of the grievance.  
11 However, I think that we would have to deny this grievance on  
12 the previous decision we just made on grievance 7745.

13 PARKER: And so do we have, uh, motion?

14 PARKER: Chair? This is Jennifer. I move to  
15 grant the motion to dismiss for grievance number 7751 based on  
16 the fact that the EMC determined that lacks jurisdiction over  
17 this matter. Additionally, regarding allegations of hostile  
18 work environment, there are other avenues that may allow for  
19 relief including, but not limited to the equal Employment  
20 Office of the Division of Human Resource Management.

21 PARKER: We have a motion. Do we have a  
22 second?

23 RUSSELL: Turessa Russell will second.

24 PARKER: Discussion? Um, so I'm just gonna  
25 throw out there that, uh, I agree for the same reasons. And,

1 um, with this motion, I would think that if, um, somebody has  
2 agreed to something through the grievance process and it's not  
3 met that another grievance would've been filed. So um,  
4 without that, there's really nothing that we can do. So, um,  
5 leaning towards voting in the affirmative for this motion.  
6 Any other discussion? We call for a vote. All those in  
7 favor?

8 MULTIPLE: Aye -- aye -- aye.

9 PARKER: Any opposed? The motion to dismiss  
10 has been granted. So Mr. Hartman, you'll receive an -- uh, a  
11 decision in writing within 45 days, and it will actually  
12 provide you with the other things that you can take, uh, for  
13 the -- uh, for the hostile work environment, the appropriate  
14 venue. And, um, I encourage you, if somebody reads something  
15 and they don't follow through with it in the future, you need  
16 to file a new grievance based on that. That starts with other  
17 issue.

18 HARTMAN: Thank you. Thank you for that  
19 advice. Uh, if you would permit me, may I, I -- I want to  
20 make a very brief comment that I didn't -- wasn't questioning  
21 the committee's lack of seriousness or sympathy for hostile  
22 work environment. I was just agreeing with you that, uh, it  
23 was, uh, probably something that you weren't able to take up  
24 with disagreements. I wasn't suggesting that you had any lack  
25 of sympathy for the issue.



1 PARKER: Thank you, Mr. Hartman. I appreciate  
2 that.

3 HARTMAN: Thank you.

4 PARKER: Thank you. Mr. Boughter, did you  
5 have anything in closing?

6 BOUGHTER: No. Thank you very much. Nice to  
7 see everyone. Be safe. Be healthy.

8 PARKER: Thank you. Okay, go ahead. Okay, so  
9 we'll move -- move on to public comment. Um, no vote or  
10 action may be taken upon a matter raised during public comment  
11 until the matter itself has been specifically included on an  
12 agenda as an item upon which action stated comments will be  
13 limited to five minutes per person and persons making comments  
14 will be asked to begin by stating their name for the record.  
15 Is there any public comment in Southern Nevada and Las Vegas?

16 MULTIPLE: Thank you. See none.

17 PARKER: Thank you. Any public comment in  
18 Carson City? Seeing none, move for adjournment. It is. What  
19 time you say this? 12:50, 48?

20 MULTIPLE: 12:48.

21 PARKER: 12:48, okay. Thank you everybody.

22 Thank you.

23 \*\*\* END OF MEETING \*\*\*

24

25