



**STATE OF NEVADA  
EMPLOYEE-MANAGEMENT COMMITTEE**  
100 N. Stewart Street, Suite 200 | Carson City, Nevada 89701  
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**Meeting Minutes of the Employee-Management Committee  
November 21, 2019**

Held at the Nevada State Library and Archives Building, 100 N. Stewart St., Conference Room 110, Carson City, Nevada, and the Grant Sawyer Building, 555 E. Washington Ave., Room 1400, Las Vegas, Nevada, via videoconference.

**Committee Members:**

**Management Representatives Present**

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

**Employee Representatives**

Mr. Tracy DuPree  
Ms. Turessa Russell  
Ms. Sherri Thompson  
Ms. Sonja Whitten X  
Ms. Dana Novotny X

**Staff Present:**

Mr. Robert Whitney, EMC Counsel, Deputy Attorney General  
Ms. Breece Flores, EMC Coordinator  
Ms. Ivory Wright-Tolentino, EMC Hearing Clerk

**1. Call to Order**

Co-Vice-Chair Beigel called the meeting to order at approximately 9:00 am.

**2. Public Comment**

There was public comment in the North.

Grievant Robert Stepien stated with his many years as a manager with the Nevada Highway Patrol (NHP), he has participated in numerous grievances and all aspects that go into them, however, in his 28-year career, he had never filed one.

Mr. Stepien stated he supported and appreciated the agencies do have the ability to operate their department as they see fit, however we all know the actions and decisions can override established employee rights and certainly should not transcend personnel rules and laws.

Mr. Stepien stated a grievance as defined by NRS 284.384 with this issue clearly related to an act or injustice arising out of the relationship between him and his employer and this included but was not limited to his working conditions, his membership in an organization of employees and the interpretation of law, regulation or disagreement.

Mr. Stepien stated in the command that he leads, a climate survey was ordered by the Director and then conducted by NHP Colonel Solo.

Mr. Stepien stated this climate survey was conducted with complete disregard for NRS 284.0735 that governs how climate surveys are to be conducted.

Mr. Stepien stated one example was they are supposed to be conducted by DHRM, not by line level departmental employees.

Mr. Stepien stated on the morning of August 9, 2019 he was called by Colonel Solo who stated he met with the Director's office about the survey results and during the 15-minute documented conversation, told him the results of the climate survey were negative towards the command.

Mr. Stepien stated he was summarily dispatched from his role as NHP Major, was told to pack his office that day, return his equipment and was removed from all NHP computer access and was told to report to the Investigations Division and Chief Conmay for reassignment.

Mr. Stepien stated this was a lower paygrade.

Mr. Stepien stated three days later, Colonel Solo confirmed the phone call in writing and copied Director Togliatti, Deputy Director Brueggemann and wrote the reassignment was “official and permanent.”

Mr. Stepien stated for three weeks nothing changed, there was no clarifications or adjustments and no justifications were ever made by Colonel Solo, the Directors or his immediate supervisor.

Mr. Stepien stated after 20 days and after he had filed his grievance, after the chance DPS had to review the grievance and after Chief Conmay was supposedly preparing a response, he received an email from Deputy Director Brueggemann, that stated Colonel Solo had “misspoke” and she deemed his assignment “temporary”, however, the length of the assignment had not been determined and was due to his abilities to perform projects.

Mr. Stepien stated this was completely changing the facts and the narrative of his reassignment and did not seem like normal operations from an appointing authority.

Mr. Stepien stated the DPS response completely ignored what had been communicated to him by Colonel Solo and did not reference the climate survey.

Mr. Stepien stated it only addressed the email sent to him three weeks after the reassignment and after he filed a grievance.

Mr. Stepien stated when he asked Chief Conmay if he had contacted Colonel Solo regarding the response, he said he had not.

Mr. Stepien stated temporary reassignment was only covered in personnel law as it relates to an employee that may be unfit to perform their job functions, such as ADA issues.

Mr. Stepien stated it was a term designed for agencies to move someone’s job assignment arbitrarily, however, the EMC staff provided him three EMC rulings related to assignment changes.

Mr. Stepien stated these were from 2005, 2008 and 2013.

Mr. Stepien stated since that time, numerous policy and personnel law changes have occurred that have substantially changed how the department can, and under what circumstances they may decide to alter an employees assignment, or how temporary duty assignment is defined and used.

Mr. Stepien stated the three EMC rulings were outdated and unusable for the purposes of deciding if this issue can be asked and answered.

Mr. Stepien stated the prior decisions had widely different circumstances that his grievance, none were removed from their division, forced to change location and then given two completely different explanations for the department's actions.

Mr. Stepien stated under NRS 284.073, the EMC has jurisdiction over this matter because it involves significant changes to his working conditions and the employee/employer relationship regardless of the alleged motive.

Mr. Stepien stated an employee is legally entitled to pursue claims through remedial routes and no rules or laws exist that force an employee to vacate their rights to a grievance or a hearing, nor did any exist that allow the EMC to vacate their jurisdiction because sections of the issue may be reviewed by different methods.

Mr. Stepien stated employee grievances and matters therein are not exclusive and may have concurrent jurisdictions.

Mr. Stepien stated his forced reassignment could be easily parced for the contention of motive for the actions by the appointing authority.

Mr. Stepien stated in closing, he would urge the EMC to move this grievance to hearing as the agency had significantly changed the narrative from after the grievance was filed and chose to avoid addressing the stated concerns.

Mr. Stepien stated the department violated laws regulations and policies during this process and DPS had no supportive laws, rules or policies to change his assignment in this manner and the EMC has jurisdiction to hear the matter and there is no supportive rule or law to separate the EMC jurisdiction in this matter or his right to a hearing.

Mr. Stepien stated there were no previous rulings or precedence that would alleviate the need for a hearing on this matter.

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

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

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

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

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

**MOTION:** Moved to approve the agenda.

**BY:** Member Whitten

**SECOND:** Member Laney

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

**5. Discussion and possible action related to Grievance #6668 of Robert Stepien, Department of Public Safety – Action Item**

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

Member Laney stated she searched the database for previous decisions, and it did not seem the ones that were similar in nature were relevant to this current grievance.

Member Laney stated the question she had was if it would be within the Committee's jurisdiction, not in regards to the comments of the reassignment because of sex and the replacement with a less qualified female, but because of the NRS 284.376 for involuntary transfer, that the grievant has the opportunity for a hearing via that route.

Member Laney stated that may make the grievance fall outside of the Committee's jurisdiction.

Member Laney stated the Hearing Officer's Division seemed like a more appropriate venue for this grievance.

Co-Vice-Chair Beigel stated she had seen this before, and it was not in the grievance that the employee filed per NRS 284.376 the request for hearing.

Co-Vice-Chair Beigel stated she understood NRS 284.376 stated that but if you looked at NRS 284.375 where it states within the same grade, where the duties are similar and when such action is specific.

Co-Vice-Chair Beigel stated based on the facts in the grievance and the grievant did not have duties assigned to him when he moved, she could not say they were similar duties.

Co-Vice-Chair Beigel stated she was inclined to see if the grievance was something the Committee could hear due to not having enough facts.

Member Laney stated she agreed and was also looking at NAC 284.695 subsection 2, the Committee could hold a hearing to determine the proper disposition of the request and understood that to mean the Committee could get more information by requesting a hearing.

Member Laney stated if that was the case, she would motion to move the grievance to hearing to determine the proper venue.

Member Novotny stated she felt the Committee did not have enough facts to determine what the cause was.

Member Whitten stated she felt the information presented did show the grievance should be moved to hearing and the Committee could gather the needed facts at that time and determine if the agency was correct in their actions or if the employee has a valid grievance.

Member Laney motioned to move grievance #6668 to hearing as the Committee would like additional facts regarding the circumstances around the situation.

Member Whitten seconded the motion.

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

**MOTION:** Moved to answer grievance #6668 with a hearing to determine the proper disposition of the request.  
**BY:** Member Laney  
**SECOND:** Member Whitten  
**VOTE:** The vote was unanimous in favor of the motion.

**6. Discussion and possible action related to Grievance #6607 of Timothy Jones, Grievance #6612 of Michael Stolk, Grievance #6620 of Debra Boone-Sharp and Grievance #6627 of Alice Jacoby, Department of Corrections – Action Item**

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

Member Laney requested grievance #'s 6607, 6612, 6620 and 6627 be discussed together as they were identical issues.

Mr. Whitney stated they could be combined.

Member Laney motioned to hear the grievances together and apply the decision to move to hearing or not to all four grievances.

Member Whitten seconded the motion.

Co-Vice-Chair Beigel asked if there was any discussion, there was none and the vote was unanimous to discuss the four grievances together.

Member Laney stated she did not feel the Committee had enough information or documentation to show the grievants' were excluded from the 5% increase.

Member Laney stated she understood the responses from the agency and that the increase was not intended to include them but in reviewing the Governor's budget and not including the response, it was not clear the Governor intended to exclude anyone that already had the 5% increase.

Co-Vice-Chair Beigel stated the Committee concern was whether the

Committee could hear the grievances and if there were no prior decisions, the Committee should focus on whether to move forward with a hearing.

Member Laney stated she agreed and could not find a prior decision and that the Committee could move the grievances forward.

Member Whitten stated she did not see anything that explicitly stated they would be excluded and should move them to hearing.

Member Novotny stated she agreed there were not enough facts and would like to get all the available information.

Member Whitten motioned to move grievance #'s 6607, 6612, 6620 and 6627 to hearing and be scheduled together.

Member Laney seconded the motion.

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

**MOTION:** Moved to answer grievance #'s 6607, 6612, 6620 and 6627 to hearing.

**BY:** Member Whitten

**SECOND:** Member Laney

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

## **7. Public Comment**

There was public comment in the North.

Mr. Stepien thanked the Committee for considering the hearing and wanted to say to Member Laney she had an astute observation relating to the involuntary transfer.

Mr. Stepien stated he looked into that avenue as well and the department specifically changed the reassignment to "temporary" duty assignment therefore, he did not see that venue being an option.

## **8. Adjournment**

Co-Vice-Chair Beigel adjourned the meeting at approximately 9:27 am.