



STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
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Meeting Minutes of the Employee-Management Committee
December 1, 2016

Held at the Blasdel Building, 209 E. Musser St., Room 105, Carson City, Nevada, and the Grant Sawyer Building, 555 E. Washington Ave., Room 1400, Las Vegas, Nevada, via videoconference.

Committee Members:

Management Representatives	Present
Ms. Mandy Hagler–Chair	
Ms. Pauline Beigel	X
Mr. Guy Puglisi	X
Ms. Claudia Stieber	
Ms. Allison Wall–Co-Vice-Chair	X
Ms. Michelle Weyland	
Employee Representatives	
Ms. Stephanie Canter–Co-Vice-Chair	X
Ms. Donya Deleon	
Mr. Tracy DuPree	
Mr. David Flickinger	
Ms. Turessa Russell	X
Ms. Sherri Thompson	X

Staff Present:

Mr. Robert Whitney, EMC Counsel, Deputy Attorney General
Ms. Carrie Lee, EMC Coordinator
Ms. Jocelyn Zepeda, Hearing Clerk

1. **Co-Vice-Chair Stephanie Canter:** Called the meeting to order at approximately 9:00 a.m.

2. **Public Comment**

There were no comments from the audience or Committee Members.

3. Adoption of the Agenda – Action Item

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

MOTION: Moved to approve the adoption of the agenda.
BY: Committee Member Sherri Thompson
SECOND: Committee Member Turessa Russell
VOTE: The vote was unanimous in favor of the motion.

4. Approval of Minutes for October 6, 2016 – Action Item

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

MOTION: Moved to approve the minutes, with a change to Item 4 on Page 3 to clarify that the Motion of Dismiss was denied because the EMC does not have jurisdiction over working conditions.
BY: Committee Member Guy Puglisi
SECOND: Committee Member Turessa Russell
VOTE: The vote was unanimous in favor of the motion.

Committee Member Pauline Beigel requested that the Committee take another look at the requested change to the minutes of October 6, 2016. She explained that the Committee would deny the Motion to Dismiss because jurisdiction does exist to hear the grievance. Deputy Attorney General Robert Whitney agreed that the minutes were correct as written, prior to any change.

MOTION: Moved to reconsider the minutes.
BY: Committee Member Guy Puglisi
SECOND: Committee Member Pauline Beigel
VOTE: The vote was unanimous in favor of the motion.

Co-Vice-Chair Canter explained that the Committee would reconsider the minutes of the October 6, 2016 meeting of the Committee.

MOTION: Moved to reconsider the minutes as written.
BY: Committee Member Guy Puglisi
SECOND: Committee Member Sherri Thompson
VOTE: The vote was unanimous in favor of the motion.

5. Adjustment of Grievance of Russell Garvin, #4383, Department of Corrections – Action Item

Co-Vice-Chair Canter opened the hearing on the adjustment of Grievance #4383 filed by Russell Garvin (“Grievant” or “Mr. Garvin”). Grievant was present and represented himself, and the Nevada Department of Corrections (“NDOC”) was represented by Cameron Vandenberg, Senior Deputy Attorney General.

The Grievant and Warden Isidro Baca (“Warden Baca”) were duly sworn in and appeared at the hearing. The exhibits submitted to the EMC prior to the hearing were admitted without objection.

NDOC argued in substance that Mr. Garvin had no standing to ask the EMC to enforce the *Stickney* Federal Court Order (“*Stickney* Order”) and that the EMC had no authority to enforce the *Stickney* Order. NDOC added in substance the EMC, at a previous motion to dismiss hearing concerning this grievance held on October 6, 2016, felt that there was an officer safety issue involved in the grievance, but Mr. Garvin had not cited an officer safety issue in his grievance. Additionally, NDOC stated in substance that one of the concerns stated in Mr. Garvin’s grievance, the resumption of normal prison operations prior to searches for contraband being completed, was no longer being performed by NDOC.

Mr. Garvin argued in substance he felt NDOC was violating the *Stickney* Order and its own Post Orders. Mr. Garvin said in substance the violation occurred because NDOC was removing a second officer from prison units in non-emergency situations, such as cleaning up the prison, and that the second officer would sometimes be gone for over an hour, leaving him to supervise approximately 160 inmates by himself.

Warden Baca testified that he had been the warden at the Northern Nevada Correctional Center (“NNCC”) since October 2012. He further testified in substance that the searches for contraband which Mr. Garvin based his grievance on in part had ceased in April 2016. Warden Baca stated in substance that inmates had been putting large amounts of contraband in their cells and that this was a safety and a sanitation issue. Therefore, according to Warden Baca, a procedure was developed at NNCC to search for contraband one unit at a time. Warden Baca further testified in substance the contraband searches were not considered regular housekeeping, and that just having a particular unit’s officers search for contraband would take too long and would simply “chase the problem” because the contraband would just move from unit to unit and would not be removed.

Warden Baca further testified that the *Stickney* Order allowed officers to be pulled during inmate feeding time. Warden Baca pointed out in substance that, unlike during the time period in which the *Stickney* Order was issued, there was no longer a lunch period at NNCC, but the institution would still pull officers during that time period, and that the *Stickney* Order allowed for the pulling of officers for certain non-emergency purposes.

Warden Baca in substance acknowledged that Mr. Garvin had been correct about NNCC resuming normal operations before the contraband searches were finished, but that there had been no intent to do this, and that the units were supposed to be shut down while the searches were being conducted. Warden Baca indicated that when he learned of this practice (the resumption of normal operations prior to the conclusion of the searches) he stopped it. Warden Baca also indicated in substance that there were no incidents involving officer safety during any of the contraband searches, and that when one officer from Mr. Garvin’s unit was taking part in the contraband searches, one officer was left to

supervise approximately 170 inmates. Warden Baca also indicated in substance there is a policy in place for officers to perform searches, but the institution had to perform housecleaning every now and then. Finally, Warden Baca stated in substance NDOC used the lunch period when the inmates were on lockdown for other matters, such as officer meetings.

The EMC, after having read and considered all the documents filed in this matter and having heard oral arguments, discussed and deliberated on Mr. Garvin's grievance. Member Guy Puglisi opined in substance that the practice which Mr. Garvin was grieving stopped in April 2016, and in looking from that period of time forward he saw no injustice to Mr. Garvin. Member Pauline Beigel stated in substance that she disagreed with Member Puglisi, and there was nothing to prevent NDOC from conducting the same searches about which Mr. Garvin was grieving in the future. Member Turessa Russell stated in substance the EMC had the ability to bring the situation about which Mr. Garvin was grieving to the attention of the Governor and the Legislature, and that Warden Baca may not have had a choice in pulling officers when making contraband searches.

Co-Vice-Chair Allison Wall noted in substance Mr. Garvin's grievance served a purpose in that Warden Baca stopped the practice of resuming normal operations at NNCC while the contraband searches were actually taking place. Co-Vice-Chair Wall added in substance the EMC could not rule on events that might occur in the future, and that she agreed with Member Puglisi's opinion that the grievance had been resolved. Co-Vice-Chair Canter stated in substance that although she agreed the searches in question were important for sanitation and safety, it was clear to her that the Post Orders did not allow NDOC the latitude to pull officers from their assigned duties in the manner in which NDOC had done for the contraband, non-emergency searches.

A motion was made to uphold Mr. Garvin's grievance because NDOC violated Post Order 18 when it pulled an officer from his or her unit to perform scheduled shakedowns. The motion also included the recommendations that NDOC review its policy in order to see if it needed to change its policy to allow that agency the latitude to conduct scheduled shakedowns in the future, and to notify the Governor and the Legislature of this issue (pulling of officers and resulting staff shortages in units during scheduled shakedowns).

MOTION: Moved to uphold the grievance because NDOC violated Post Order 18 when it pulled an officer from his or her unit to perform scheduled shakedowns, and recommended that NDOC review its policy, and to notify the Governor and the Legislature of this issue.

BY: Committee Member Pauline Beigel

SECOND: Committee Member Sherri Thompson

VOTE: The motion passed with a 5:1 vote with Guy Puglisi voting in the negative.

6. Discussion and possible action related to Grievance #4495 of Shari Kassebaum, Department of Corrections – Action Item

Co-Vice-Chair Canter opened the discussion on Grievance #4495.

Co-Vice-Chair Canter summarized that Shari Kassebaum (“Grievant” or “Ms. Kassebaum”) met the minimum qualifications on an unranked list for an open position, however she was not granted an interview.

Committee Member Guy Puglisi stated that he did not believe the Grievant’s claims of a personnel conflict and working conditions were founded, so the Committee would be strictly looking at the claim of recruitment dispute.

Co-Vice-Chair Canter explained that the Committee does have jurisdiction over recruitment dispute claims, and suggested the grievance may be something the Committee had decided on in the past. Co-Vice-Chair Canter also explained that the Committee must look to see if the Grievant substantiated that the agency violated any rules or procedures during the recruitment process.

Co-Vice-Chair Canter explained the difference between a ranked list and an unranked list, and the procedure for selecting individuals to whom to grant an interview.

Co-Vice-Chair Canter stated that he did not believe that Ms. Kassebaum substantiated that any rule or policy was violated during the recruitment process.

Committee Member Allison Wall stated that she found several similar grievances in the decision database, in which it wasn’t proven that the agency broke any policies or rules related to the recruitment process. Therefore, the Committee could dismiss this grievance without a hearing based on a previous decision by the Committee.

MOTION: Moved to deny the request due to no rule or policy violation, and the grievance is based on a previous decision of the Committee.
BY: Committee Member Sherri Thompson
SECOND: Committee Turessa Russell
VOTE: The vote was unanimous in favor of the motion.

8. Public Comment

There were no comments from the audience or Committee Members.

9. Adjournment