



**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**  
**December 20, 2018**

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:**

<b>Management Representatives</b>	<b>Present</b>
Mr. Guy Puglisi - Chair	X
Ms. Jennifer Bauer	X
Ms. Pauline Beigel	
Mr. Ron Schreckengost	
Ms. Jennelle Keith	X
Ms. Tonya Laney	

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

**Staff Present:**

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

**1. Call to Order**

Chair Puglisi called the meeting to order at approximately 9:00 am.

**2. Public Comment**

There were no comments from the audience or Committee Members.

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

Chair Puglisi opened the meeting with Committee introductions.

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

Chair Puglisi requested a motion to adopt the agenda.

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

**BY:** Member Whitten

**SECOND:** Member Thompson

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

**5. Discussion and possible action related to Grievance #5704 of Elizabeth Walsh, Department of Corrections – Action Item**

This matter came on for hearing before the Employee-Management Committee<sup>1</sup> (EMC) on December 20, 2018 pursuant to NAC 284.695 and NAC 284.6955, regarding Grievance No. 5704, filed by Elizabeth Walsh (“Grievant” or “A.W. Walsh”). A.W. Walsh was represented by counsel, Casey A. Gillham, Esq. Christina Leathers, Human Resources Manager, represented the agency/employer, the State of Nevada Department of Corrections (“NDOC”), with State of Nevada, Office of the Attorney

A.W. Walsh was represented by counsel, Casey A. Gillham, Esq. Christina Leathers, Human Resources Manager, represented the agency/employer, the State of Nevada Department of Corrections (“NDOC”), with State of Nevada, Office of the Attorney General, Deputy Attorney General Katlyn Brady assisting.

There were no objections to the exhibit packets submitted by the parties. Associate Warden (A.W.) Ron Schreckengost and Grievant were sworn in and testified on behalf of A.W. Walsh. NDOC Personnel Officer I

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<sup>1</sup> The Committee members present representing a quorum were: Guy Puglisi (DHHS), who chaired the meeting; Sherri Thompson (DETR), Jennifer Bauer (SPCSA), Jennelle Keith (DMV), Adria White (UNR) and Sonja Whitten (DHHS). Counsel for the EMC, Deputy Attorney General Robert A. Whitney, EMC Coordinator, Nora Johnson and EMC Hearing Clerk, Ivory Tolentino were also present.

Christina Leathers (“Ms. Leathers”) was sworn in and testified on behalf of NDOC.

### **STATEMENT OF THE CASE**

A.W. Walsh is employed with NDOC as an associate warden. A.W. Walsh in substance argued that NRS 284.010 sets forth the Legislature’s purpose in enacting NRS Chapter 284. NRS Chapter 284 gave the Personnel Commission the ability to propose and adopt the regulations found in NAC Chapter 284.

Furthermore, A.W. Walsh in substance stated that the purpose of NRS Chapter 284 was to provide all citizens a fair and equal opportunity for public service, to establish conditions that would attract officers of character and ability, and to establish uniform job and salary classifications. Thus, according to A.W. Walsh, the system for State employees was designed to try and ensure fairness.

A.W. Walsh further stated in substance that she had been an associate warden with NDOC since December 6, 2010. Prior to A.W. Walsh becoming an associate warden, it was NDOC’s practice, when someone was promoted to the associate warden position, to accelerate the person’s steps to step 10. The alleged reason for this was that NDOC did not think it fair for associate wardens to be supervising employees who made more money than they did. Unfortunately, A.W. Walsh became an associate warden during an economic downturn, and the State was not approving requests to accelerate steps in December 2010.

Moving forward towards the present, A.W. Walsh had been an associate warden for approximately 7.5 years, and was at a grade 43 step 9, and her progression date was in December, so that was when she anticipated moving up a step on the salary/grade scale.

According to A.W. Walsh, in April 2018, another associate warden, A.W. Schreckengost, heard a rumor that associate warden William Gittere (“A.W. Gittere”) had his steps accelerated from step 3 to step 8, effective October 2017. A.W. Schreckengost also heard that A.W. Gittere’s auto-progression date was in November, so that A.W. Gittere had progressed to a step 9 effective November 2017, which was before either A.W. Walsh and A.W. Schreckengost progressed to step 9. When A.W. Schreckengost heard this rumor, he called A.W. Gittere, and A.W. Gittere confirmed his steps had been accelerated from step 3 to step 8 effective in October 2017, and that he went to a step 9 in November 2018.

It was noted that at the time A.W. Gittere’s step increase became effective he had been an associate warden for a little short of two years, while A.W. Walsh had been an associate warden for about 7.5 years, and A.W. Gittere was set to receive his 10<sup>th</sup> step, due to the acceleration, before both A.W. Walsh and A.W. Schreckengost, both of whom had more than 5 years of experience as associate wardens over A.W. Gittere. It was argued in substance that taking an employee with two years of

experience and suddenly paying him more than an employee with more than 7 years of experience in the same job without any kind of justification was unfair.

It was noted in substance that it appeared NDOC had made two arguments with respect to A.W. Walsh's grievance. The first was that the Committee did not have jurisdiction over the grievance because A.W. Walsh never initiated a request to the appointing authority or DHRM (Division of Human Resource Management) for special adjustment of steps. However, it was argued that, looking at 284.204(2), that NAC stated that it must be the appointing authority who submitted the request for step adjustments to DHRM. NDOC's second argument was that it submitted a request to accelerate steps on behalf of A.W. Schreckengost and A.W. Walsh, but that DHRM did not approve the request. However, it was argued that the evidence would show that NDOC brokered a deal to not pursue the requests on behalf of A.W. Schreckengost and A.W. Walsh in exchange for accelerating A.W. Gittere's steps.

NDOC argued in substance that it lacked authority to approve the accelerated rates of pay for A.W. Walsh. NDOC stated in substance that it submitted requests to accelerate steps, but that DHRM denied the requests. Subsequently NDOC made an appeal to the Governor's Office, which resulted in the approval of A.W. Gittere's step increase, and it will be shown that the timing for A.W. Gittere to go to his step 8 increase was just circumstantial and was not something NDOC had planned.

A.W. Schreckengost testified in substance that he worked at Warm Spring Correctional Center ("Warm Springs") 11 months and was on his 5<sup>th</sup> rotation at Warm Springs. A.W. Schreckengost stated in substance that he had been employed by NDOC for over 17 years and was promoted to associate warden in December 2010.

A.W. Schreckengost also testified in substance that historically NDOC had accelerated all associate wardens to step 10 upon assuming the position of associate warden, and that this was common knowledge at NDOC.

A.W. Schreckengost stated in substance that since becoming an associate warden he has tried to get his steps accelerated by having multiple conversations with wardens he worked for, including NDOC deputy directors, and by filing an NPD-4. In response, A.W. Schreckengost testified in substance that he was repeatedly told to be patient, and that the administration would do "the right thing," and that later he was told to "let this go."

A.W. Schreckengost also testified in substance that A.W. Gittere was promoted in October or November 2015, and that he was an associate warden for 5 years before A.W. Gittere's promotion to associate warden.

A.W. Schreckengost stated in substance that he learned in April 2018 that A.W. Gittere was accelerated several steps, and actually received his acceleration at his 23<sup>rd</sup> month, so that at A.W. Gittere's 24<sup>th</sup> month he hit step 9 before he and A.W. Walsh did.

A.W. Schreckengost also testified in substance that when he first heard the rumor about A.W. Gittere's acceleration of steps he called A.W. Walsh, and then called A.W. Gittere to confirm the rumors. A.W. Schreckengost stated in substance that he spoke to NDOC HR (Human Resources) about A.W. Gittere's step increase, but not NDOC's Fiscal Division.

A.W. Schreckengost stated in substance that he filed his NPD-4 in 2011 and submitted it to Warden LeGrande, and that it was his understanding that Warden LeGrande had submitted the NPD-4 to NDOC central office for consideration.

A.W. Schreckengost also indicated in substance that he only submitted the one NPD-4 because he did not see the need to submit any further such forms, and that being told to let the matter go played a role in his decision not to submit any further NPD-4 Forms, and that he never received a response to the NPD-4 Form.

A.W. Walsh testified in substance that she had worked for NDOC for about 10 years and was promoted in December 2010 to the associate warden position, and that when she became an associate warden she was at grade 43 step 6, and that she was currently at grade 43 step 10, effective December 6, 2018.

A.W. Walsh also stated in substance that it was her understanding that when a person was promoted to associate warden their steps were accelerated to step 10, and that she learned this information because her husband was a retired warden, and also through her supervisor in 2010, and supervisors since then.

A.W. Walsh stated in substance that her pay was not topped out when she became an associate warden because of the recession pay freeze.

A.W. Walsh testified in substance that she learned about A.W. Gittere accelerated in steps in November 2017, and that A.W. Gittere would reach step 9 before she did.

A.W. Walsh stated in substance that at the time A.W. Gittere's steps were accelerated she had been an associate warden for 7 years. A.W. Walsh's requested resolution to her grievance was to be treated and paid the equivalent to A.W. Gittere, which in substance was that NDOC accelerate her 6 steps going back to 2012, but A.W. Walsh indicated she was open to other possible resolutions.

A.W. Walsh testified in substance that she was aware of NAC 284.206, titled "Special adjustments to pay," and she understood from that regulation that the employee and employer could submit an NPD-4 for an acceleration in pay to be approved by DHRM. A.W. Walsh also stated in substance that she was unaware until this week of the Governor's 2010 Memo directing all State agencies to remove special pay and removing the authority to approve accelerated pay.

A.W. Walsh testified in substance that her understanding of the 2010 Memo was that pay was frozen in 2010.

A.W. Walsh also in substance indicated that she had not spoken to anyone about the request to accelerate pay made by NDOC on behalf of all associate wardens, and had not been aware of the request at the time she filed her grievance, although she had been told that the request was being worked on by Deputy Director Wickham.

A.W. Walsh also stated in substance that she was now aware that DHRM had denied NDOC's request.

A.W. Walsh testified in substance that she had not submitted a request to accelerate her steps on her own behalf at any time.

A.W. Walsh also stated in substance that she supervised employees with pay grades lower than hers, such as lieutenants (pay grade 40) and correctional caseworker specialists, but that this did not mean that the persons she supervised necessarily made less money that she did.

Ms. Leathers testified in substance that NDOC requested accelerated pay increases at the step 10 level for all associate wardens in October 2017, but those initial requests were denied by DHRM (the requests were submitted by NDOC to DHRM on October 26, 2017) at the first level as part of the Governor's Finance Office review.

According to Ms. Leathers, it was not until NDOC appealed the decision that the decision was reversed, and they determined that only A.W. Gittere would receive a step increase for equity purposes, but the step increase was to a step 8, not a step 10 as originally requested.

Ms. Leathers testified in substance that because the original request was made in October 2017, the Governor's Office and DHRM agreed to backdate the request to that time frame (the final appeal determination date was February 6, 2018), and it so happened that the pay progression date for A.W. Gittere happened to fall a month later.

Ms. Leathers stated in substance that the reason NDOC made the request for the step increase for the associate wardens was that the Governor's Budget Office had requested a salary study of compression impact by agreeing to increase the salaries for NDOC's custody positions, which consisted of correctional officer, senior correctional officers, sergeants

and lieutenants, and whether that increase would cause further compression between the supervision and line level staff. According to Ms. Leathers, it was NDOC's opinion that it made a good faith request on behalf of all associate wardens, but that ultimately the Governor's Office and DHRM granted approval to increase A.W. Gittere's steps. Ms. Leather also testified in substance that industry standards were that supervisors made anywhere from 5-8 % more than their subordinates.

Ms. Leathers stated in substance that the Governor's Budget Office reviewed NDOC's request because there would be a fiscal impact to NDOC'S budget if the change in salary was approved. With respect to the NPD-4 Form, Ms. Leathers stated in substance that the agency submitted its request and required internal agency approval, and then the Form went to DHRM for approval, then the Governor's Finance Office for approval or denial, and then ultimately the Governor's Office for approval or denial.

Ms. Leathers testified in substance that she did not believe there was a correlation between A.W. Gittere's pay progression date and the approval of the accelerated step increase, and that A.W. Gittere's pay progression date would have come before A.W. Walsh's.

Upon questioning, Ms. Leathers stated in substance that the original request to accelerate associate warden pay was denied, but that there was an agreement reached to accelerate A.W. Gittere's steps to step 8, and that she would assume from the information provided that the agreement had been made by NDOC Deputy Director John Borrowman, along with NDIC Director Dzurenda, and the Governor's Office.

Ms. Leathers testified in substance that she was unaware of whether other associate wardens were consulted prior to this agreement being made.

Ms. Leathers added in substance that the request for A.W. Gittere was made to bring his steps in line with the other associate wardens, who were already at least at a step 8, and that if his steps would not have been adjusted A.W. Gittere would currently be at a step 4.

Ms. Leathers also stated in substance that she was unclear whether an agreement was reached between NDOC and the Governor's Office that resulted in A.W. Gittere's step increase or whether the increase resulted from a determination on the appeal.

The Committee deliberated on Grievance No. 5704. Member Bauer stated in substance that her initial thoughts were that although there was not substantial evidence to demonstrate submission of NPD-4 Forms to DHRM or a subsequent denial by the Governor's Office, the Committee did have sworn witness testimony that it could accept as truthful. Member Bauer further stated in substance that she had the impression that the Governor's Office denied NDOC's request to accelerate steps

for its associate wardens to step 10, but then subsequently approved them across the board, but that act essentially amounted to one associate warden, A.W. Gittere, moving to a step 8.

Member Bauer added in substance that according to the compensation schedule for 2018 for police/fire, a grade 43 step 8 was one step above what testimony provided would be the top pay grade of a pay grade 40, step 10 for Corrections, so that she could believe that could be why the Governor's Office reached an agreement at step 8.

Member Bauer noted in substance that with the testimony that it was a common practice that NDOC would accelerate associate warden steps upon promotion prior to the economic downturn, she believed that the pay was restored and the allowance for steps was granted back effective July 1, 2015, and if that was the case, she was thinking the Committee might have a potential back pay issue, where Grievant could be entitled to back pay from July 1, 2015, to the date she would have reached a step 8, which she believed was December 6, 2017.

Chair Puglisi stated in substance that NDOC made a request in October 2017 on behalf of all associate wardens, so he did not understand the back pay to 2015 concern.

Member Bauer responded in substance that she was looking at the issue that way not based on what the Grievant would have been entitled to if steps had never been frozen, rather she was just going backwards, considering Grievant was currently a 43 step 10, to what she believed Grievant would have been in May 2015, and that she believed Grievant would have been at a step 6 in 2015.

Member Bauer commented in substance that what she was proposing was to adjust Grievant's steps from the date the agencies were allowed to again adjust steps until the date Grievant would have reached a step 8. Member Bauer stated in substance that she did not believe the Committee had the authority to override the decision from the Governor's Office but was instead trying to find a remedy to compensate Grievant for the period when there was inequitable treatment.

Chair Puglisi stated in substance that the statute in question said the agency may request an acceleration in steps, so it was not a mandate for the agencies to make such requests, so it was troubling to him to go backwards.

Chair Puglisi also stated that it had been a common practice at NDOC to get everyone who became an associate warden accelerated to a step 10, and then the increases and adjustments were frozen in 2010 for several years, and so that practice at NDOC apparently diminished.



Chair Puglisi further stated in substance that when the practice began again the standard had been abolished, and instead the decision was made that all associate wardens should be at least a step 8.

Chair Puglisi voiced in substance that the whole process to him was troublesome, in that there were people at a grade 43 supervising people who were no higher than a grade 40, and that was supposed to account for the inequity, which was why there were classifications.

Chair Puglisi stated in substance that the agency began making special provisions and adjustments, and that evolved, leading to the present situation, because an employee was saying “you did not do for me what you did for them.”

Member Thompson stated in substance that she was troubled because there was no actual decision on the matter, and instead there was more of an agreement that said that NDOC would go with A.W. Gittere, and not fight for the other associate wardens, otherwise there would be a written decision on the request.

Chair Puglisi stated in substance that his understanding of the dispute was that A.W. Gittere accelerated his steps before the associate wardens who were already at higher steps, but if his math was correct the Committee was only looking at a difference of 13 days, because the pay progression date for A.W. Gittere was November 23<sup>rd</sup>, and A.W. Walsh’s was December 6, so in that time period there was a disparity, but then things were equal after that.

Member Whitten stated in substance that she thought the issue was that both A.W. Walsh and A.W. Schreckengost had years of experience vs. A.W. Gittere, and that was where the issue was regarding equity.

Chair Puglisi stated in substance that the way classification system worked was that an agency could hire five managers, and one could have 5 years of experience, another 10 years, but that they all would come in at the same step, normally.

Chair Puglisi noted in substance that the Governor’s Office had made a determination that all associate wardens would now be at a step 8 if they were below that step previously.

Member Bauer added in substance that the matter essentially came down to NDOC previously having a practice to accelerate steps for associate wardens to step 10, and that it appeared NDOC again had a practice of accelerating associate warden steps to step 8, so that the issue was during the time when merit salary increases were restored, and the time Grievant would have reached a step 8, should NDOC have continued the automatic accelerating of steps, consistent with its past practice?

Member Keith stated in substance that she was on the fence about granting compensation for the time period suggested, as other State employees did not receive compensation as a result of the economic downturn.

Member Bauer noted in substance that the Committee should be looking at equitable treatment within NDOC, and Member Whitten agreed with that view, and also looking at the matter from when merit and step increases were reinstated, looking at the grievance from that period going forward, and not during the recession/freeze.

Member Whitten also stated in substance that there appeared to be disparity from NDOC's past practices because the only reason NDOC stopped accelerating associate warden pay was due to the moratorium/freeze, and when merit pay was allowed again it was unclear why NDOC did not follow its previous practice of accelerating steps.

Chair Puglisi stated in substance that it seemed like the crux of the grievance was that one person was accelerated beyond the Grievant, and that the Committee was getting out of scope looking at 2015.

Chair Puglisi cited NAC 284.204(1)(b), and when an adjustment of steps within the same grade may be approved.

Member Bauer stated in substance that NAC 284.025 defined base rate of pay to mean the dollar value of an employee's grade and step.

Ms. Leathers indicated in substance she was unaware if the associate warden positions fell under Police and Fire, although in reality their pay was no different than Corrections.

Member Bauer stated in substance that the reason she was using the Police and Fire compensation schedule was the assumption that most associate wardens would use that compensation schedule.

Member Bauer noted in substance that a 40 step 10 was one step below a 43 step 8.

Chair Puglisi stated in substance that the regulation [NAC 284.204] said to maintain an appropriate differential not *to exceed* two steps, so it did not have to be two steps, there just had to be a differential, was his understanding, and that with a step 8, this requirement was satisfied.

Chair Puglisi further stated in substance that, looking at NAC 284.204(1)(b), an adjustment would not be granted pursuant to that section if the disparity in steps was the result of the length of service of the employees, and that he felt NDOC did what it was supposed to do pursuant to this regulation, in that there was an appropriate differential between the supervisor and the subordinates.

Chair Puglisi added in substance that he did not think that the regulation was intended to say that because my peer was making more money than me, I am entitled to make more money than they are.

Chair Puglisi noted in substance that the Governor's Finance Office had approved any associate warden under a step 8 being brought up to a step 8, and that this was done, and that the pay progression date arrived a few days later for A.W. Gittere, which brought him up to a step 9, which was equal to some other associate wardens.

Chair Puglisi also stated that on October 26, 2017, A.W. Walsh, A.W. Schreckengost and A.W. Gittere would have been at a step 8, and then pay progression happened, in November for one, and December for the other two associate wardens.

Member White stated in substance that she was reading NAC 284.206 and NAC 284.204, and she felt that NDOC met both standards in the regulations, because the associate wardens were at a higher grade than the employees they were supervising, and in looking at NAC 284.204, the length of service was not to be an issue in determining whether to grant accelerated pay.

Member White added in substance that due to unfortunate circumstances in 2010 with the freeze, it was difficult to go back to that point and time, but she saw there was a disparity after the freeze was lifted, and NDOC did not right away renew its past practices, but then all of a sudden began engaging in the practice again. However, Member White added in substance, it appeared that the NAC [284.204] had been followed.

Member Thompson stated in substance she was stuck on the fact that length of service applied in some situations, but not in others, and that there was definitely a disparity in the grievance but was unsure of how to address it.

Member Bauer asked if the Committee was looking at a disparity in pay of 9 days based on service, which the NAC would disallow, or was the Committee looking at an issue where Grievant may or may not have suffered an injustice because there was an accepted practice that went away with the Governor's moratorium, and then was not resumed until three years after the moratorium was lifted by the Legislature?

Chair Puglisi stated in substance that a practice that was usual and customary 8 years ago that later disappeared because of the merit increase freeze and administrative changes would not necessarily result in a grievance.

Member Bauer stated in substance that it had been determined that A.W. Gittere received a step 9 increase prior to A.W. Walsh receiving her increase to step 9, and noted that even if A.W. Walsh and A.W. Gittere were not compensated equitably for 9 or 13 days, granting the grievance

here would create a situation where all those employees at a step 10, and any employees who were at a step 8 or step 9 would not be compensated equitably.

Member Bauer also stated in substance that the issue to her boiled down to what the Committee would do for that gap in time that NDOC did or did not act on accelerating steps across a classification series like it had previously done, and like it appeared to have resumed.

Chair Puglisi stated in substance that the Governor's Office saying every associate warden was to be at a step 8 was going to result in different nuances, because people would have different pay progression dates, and that the Committee could not control all of that.

Member Bauer added in substance that managing expectations over progression dates would be an impossible task.

Member Bauer made a motion to deny Grievance No. 5704 based on evidence that the employer acted within its authority pursuant to NAC 284.204, which was seconded by Member White. The Committee voted to deny Grievance No. 5704.<sup>2</sup>

### **FINDINGS OF FACT**

Based upon the testimony of the witnesses, the arguments made by the parties, the briefs, evidence, and documents on file in this matter, the EMC makes the following findings of fact. All findings made are based upon a preponderance of the evidence.

1. Grievant was a non-exempt State of Nevada employee.
2. Grievant is an associate warden employed by NDOC.
3. Grievant became an associate warden with NDOC December 6, 2010.
4. Before Grievant became an associate warden, it had been NDOC's practice to accelerate associate wardens to a grade 43, step 10.
5. There was a moratorium on accelerating steps at the time Grievant was promoted to associate warden in 2010.
6. Due to the moratorium, NDOC did not follow its prior practice of accelerating steps of employees promoted to associate warden to a step 10.
7. The moratorium that froze State employee pay and prohibited step increases was lifted on July 1, 2015.
8. NDOC did not immediately resume its practice of accelerating newly promoted wardens to a step 10 once the moratorium was lifted.

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<sup>2</sup> Four Committee members voted for Member Bauer's motion to deny Grievance No. 5704: Member Bauer, Member White, Chair Puglisi and Member Keith. Member Thompson and Member Whitten voted against the motion to deny Grievance No. 5752.

9. In October 2017, as the result of a salary study, NDOC requested a pay increase for all associate wardens to a step 10.
10. Grievant was unaware of this NDOC request until after filing her grievance.
11. NDOC's initial request to accelerate pay for its associate wardens was denied.
12. Eventually, either as the result of an appeal or an agreement, a result was reached where A.W. Gittere's steps would increase to a step 8, while no action was taken with respect to the steps of other associate wardens.
13. Because NDOC's original request to accelerate the steps of associate wardens was made in October 2017, it was agreed to back date the result of the appeal or agreement to that time period.
14. Coincidentally, A.W. Gittere's pay progression date was in November, so that when November 2018 was reached he progressed to a step 9 before Grievant, whose progression date was in December.

### **CONCLUSIONS OF LAW**

1. For this grievance, it was Grievant's burden to establish her allegations that NDOC violated NAC 284.204 by unfairly and unlawfully accelerating the steps of one associate warden who had years less experience as an associate warden than she did, so that the associate warden would actually reach a step 9 before Grievant.
2. A grievance is any act, omission or occurrence which an employee who has attained permanent status feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee. NRS 284.384(6).
3. A.W. Walsh's grievance falls within the jurisdiction of the EMC under NRS 284.073(1)(e).
4. The Committee discussed and substantially relied on NAC 284.204 in its decision.
5. In particular, the Committee concluded that pursuant to NAC 284.204 (1)(b), there was an appropriate base rate of pay differential between Grievant and her subordinates.
6. The Committee determined that NAC 284.204(1)(b)(2) said that an adjustment of pay was not to be granted if the disparity in steps was the result of the length of service of the employees in question, and so the fact that A.W. Walsh had more than 5 years more experience as an associate warden than A.W. Gittere when A.W. Gittere was progressed to a step 8 was not a violation of NAC 284.204(1)(b)(2).
7. Grievant was unable to prove by a preponderance of the evidence that NDOC had violated NAC 284.204.

**MOTION:** Moved to deny Grievance No. 5704 based on evidence that the employer acted within its authority pursuant to NAC 284.204.  
**BY:** Member Bauer  
**SECOND:** Member White  
**VOTE:** The vote was 4 to 2 with Member Thompson and Member Whitten voting “nay”.

**6. Discussion and possible action related to Grievance #5705 of Ron Schreckengost, Department of Corrections – Action Item**

Grievant was represented by Casey Gillham, Esq. Christina Leathers, Human Resources Manager, represented the agency/employer, the State of Nevada Department of Corrections (“NDOC”).

There were no objections to the exhibit packets submitted by the parties. Former NDOC Deputy Director of Operations Quentin Byrne (“Mr. Byrne”) and Grievant were sworn in and testified on behalf of Grievant. NDOC Personnel Officer I Christina Leathers (“Ms. Leathers”) was sworn in and testified on behalf of NDOC.

**STATEMENT OF THE CASE**

Grievant has been an associate warden for NDOC since December 2010. Associate Warden William Gittere (“A.W. Gittere”) was made an associate warden in November 2015, so that at the time of A.W. Gittere’s promotion Grievant had 5 years more experience as an associate warden than A.W. Gittere. Grievant learned in April 2018 that A.W. Gittere had his steps accelerated to a step 8, and would, at his 24th month as an associate warden, reach step 9 a month ahead of Grievant.

Grievant had come into the associate warden position at a grade 43 step 6, but historically NDOC had accelerated all associate wardens to step 10 upon being promoted to associate warden, and that this was common knowledge at NDOC. Since becoming an associate warden Grievant had tried to get his steps accelerated by having multiple conversations with wardens he has worked for and NDOC Deputy Directors, and by filing an NPD-4.

Grievant was told to be patient, and that the administration would do “the right thing,” and then later was told to “let this go.” Grievant also argued in substance that NDOC could have chosen to accelerate his steps if it had wanted to, but chose not to do so.

Grievant asked that his steps be adjusted at the 23<sup>rd</sup> month from his promotion to associate warden in December 2010 (which would have

been November 2012) by the same amount as A.W. Gittere's steps had been adjusted at his 23<sup>rd</sup> month.

NDOC argued in substance that it requested accelerated steps for all associate wardens in 2017 based on an inequity in steps of the associate wardens and the wardens, as the result of a 2017 Legislative request to increase the pay/steps of custody positions of lieutenant, sergeant, senior correctional officer, correctional officer and correctional officer trainees. NDOC initially made the request for accelerated steps at the time it became apparent the Legislature was going to offer an increase to the classification of the NDOC line level staff. The results of a salary study that had been performed showed that there was a compression issue between the most senior correctional position of lieutenant and the associate warden position, which initiated NDOC's request for an equity adjustment to increase steps for its associate wardens.

NDOC stated in substance that, unfortunately, DHRM (Division of Human Resource Management) and the Governors' Budget Office did not agree with NDOC's request, and that subsequently NDOC appealed the request to the Governor's Office, and that the agreement and/or approval eventually reached accelerating A.W. Gittere's steps was based on the fact that the other associate wardens, regardless of length of service in their positions, had already achieved a step above, or were at, the step that was being requested by NDOC for equity purposes.

Mr. Byrne testified in substance that he had retired 8 months before from NDOC, and was Deputy Director of Operations when he retired. Additionally, Mr. Byrne testified in substance that he had worked for NDOC for approximately 23 years, and that he had never heard of an associate warden with two years of experience having his or her steps accelerated beyond an associate warden with seven years of experience, and that in the past it was always heard that when someone was promoted to associate warden they were moved to a step 10.

Mr. Byrne testified in substance that when he became warden in September 2015 he received a step increase and back pay to the date of his promotion.

Mr. Byrne also testified in substance that if NDOC had put in a request to have all associate wardens accelerated he was not aware of it, but he admitted that many things had happened that he was not directly part of.

A.W. Schreckengost testified in substance that he was an associate warden at Warm Springs Correctional Facility ("Warm Springs") in Carson City, and that he had been an associate warden for 8 years, being promoted in December 13, 2010. When he became an associate warden, A.W. Schreckengost stated in substance that he moved to a grade 43 step 6, and that it was common knowledge that when a person was promoted to an associate warden they moved to a step 10.

A.W. Schreckengost said in substance that when he became an associate warden he was not topped out at a step 10, and was told some time after his promotion that his steps were not increased because of the financial crisis the State was in at the time of his promotion.

A.W. Schreckengost stated in substance that he frequently supervised personnel who earned more money than he did, and that he approached NDOC administration many times to try and have his steps accelerated and also had conversations with NDOC administration, including former Warden LeGrande, and was in substance told to be patient, that the administration would do the “right thing.”

A.W. Schreckengost testified that he was asked to submit an NPD-4, and did so, but was eventually told to let the matter go, and he did so.

A.W. Schreckengost stated in substance that in conversation with A.W. Walsh he heard that Deputy Director Harold Wickham (“Deputy Director Wickham”) was bringing up the issue of associate warden pay, and also heard in substance the same thing in conversations with Deputy Director Wickham in 2016, and that no one had told him that NDOC had actually made a request to accelerate associate warden pay, or that a deal had been reached concerning accelerating associate warden pay.

A.W. Schreckengost further testified in substance that he found out that A.W. Gittere’s pay had been accelerated, and confirmed this fact in a telephone call that he had with A.W. Gittere, and that he realized A.W. Gittere would make step 10 before he and A.W. Walsh.

A.W. Schreckengost also noted in substance that at the time A.W. Gittere was accelerated, he had been an associate warden about 23 months, while Grievant had been an associate warden for about 7 years.

Grievant testified in substance that his requested resolution was that precedent be followed and have his steps accelerated, and to go back and adjust his steps at the time he reached 23 months as associate warden.

Grievant also stated in substance that he wanted to be made whole based on his first request, and that his back wages be paid in accordance with his first request, and that his final request was that PERS be informed that his account had been retroactively fixed, and that his overtime and standby should be compensated in accordance with his first request, but that he was open to other resolutions.

Grievant testified in substance that he filed his grievance because it appeared to him that special consideration was given to one associate warden, and that this was hidden from him and the other associate wardens.

Grievant stated in substance that he had not spoken with Deputy Director Wickham about A.W. Gittere’s acceleration in steps, but that he did



Speak with DHRM, and they said it was a matter for NDOC, but that NDOC pointed things back at DHRM.

Grievant also testified in substance that he was not made aware until this week that NDOC had submitted an equity request to DHRM to accelerate the steps of all associate wardens, and that no one had approached him about possibly appealing a denial of step increase from DHRM.

Ms. Leathers testified in substance that NDOC submitted a request on behalf of all the then current associate wardens for an accelerated step increase, but that there was a decision by DHRM initially to deny the request, and that either through an appeal to the Governor's Office or an agreement it was determined that A.W. Gittere would be the only associate warden who received an adjustment in steps based on the fact that the other associate wardens were already at a step at or above the requested step 8.

Ms. Leathers stated in substance that based on that information NDOC did its due diligence in making the request to accelerate, and that it was unfair to argue that, in dealing with a moratorium on step increases, and with the individuals in authority at NDOC with authority to initiate step increase requests at the relevant time period now gone, because NDOC knew a common practice was occurring and did not resume that practice NDOC had acted improperly in this situation.

The Committee deliberated on Grievance No. 5705.

Member Bauer stated in substance that she saw little difference between Grievance No. 5705 and Grievance No. 5704 (Elizabeth Walsh's Grievance), and that the only new evidence was Mr. Byrne testifying that when he was promoted to warden he received accelerated steps, but that she also saw at step two of the Grievance where Deputy Director Wickham had the same unfortunate incident happen to him as Grievant, as he submitted an NPD-4 that was denied.

Therefore, Member Bauer continued, it appeared that denials to accelerate steps had happened to a few people, and that the timing was unfortunate when the decision was made.

Member Bauer also stated in substance that it seemed that there was an inequity for Grievant, but that the issue again was unfortunate timing as to when NDOC decided to try to rectify the issue.

Member Keith stated that she agreed with Member Bauer, and could not understand, if there was a difference between a warden and associate warden, why the warden would receive his pay acceleration, but the associate wardens would not, and that seemed to be unfair treatment. Member Thompson stated her agreement with Member Keith.

Member Bauer suggested the recommendation of creating an AR (Administrative Regulation) to NDOC to help ensure that all pay classes

were treated equitably with respect to accelerated steps, as the circumstances in the present grievance, no matter what led to them, created an inequity in pay.

Member Bauer moved to deny Grievance No. 5705 based on evidence that NDOC acted within its authority based on NAC 284.204, but added that the Committee recommended NDOC review existing practices and develop an AR to address requests for accelerated steps. The motion was seconded by Member Keith. The Committee voted to deny Grievance No. 5705.<sup>3</sup>

### **FINDINGS OF FACT**

Based upon the testimony of the witnesses, the arguments made by the parties, the briefs, evidence, and documents on file in this matter, the EMC makes the following findings of fact. All findings made are based upon a preponderance of the evidence.

1. Grievant was a non-exempt State of Nevada employee.
2. Grievant is an associate warden employed by NDOC.
3. Grievant became an associate warden with NDOC in December 2010.
4. When Grievant became an associate warden, he came in at a grade 43 step 6.
5. Before Grievant became an associate warden, it had been NDOC's practice to accelerate associate wardens to a grade 43, step 10v upon promotion to the position.
6. There was a moratorium on accelerating steps at the time Grievant was promoted to associate warden in 2010.
7. Due to the moratorium in effect in 2010, NDOC did not follow its prior practice of accelerating steps of employees promoted to associate warden to step 10.
8. The moratorium that froze State employee pay and prohibited step increases was lifted on July 1, 2015.
9. NDOC did not immediately resume its practice of accelerating newly promoted wardens to a step 10 once the moratorium was lifted.
10. Grievant made various attempts to have his steps increased after being promoted to associate warden, including having discussions with NDOC personnel and submitting and NPD-4 Form to NDOC.
11. In October 2017, as the result of a salary study, NDOC requested a pay increase for all associate wardens to a step 10.
12. NDOC's initial request to accelerate pay for its associate wardens was initially denied.
13. Eventually, either as the result of an appeal or an agreement, a result was reached where A.W. Gittere's steps would be

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<sup>3</sup> Four Committee members voted for Member Bauer's motion to deny Grievance No. 5705: Member Bauer, Member White, Chair Puglisi and Member Keith. Member Thompson and Member Whitten voted against the motion to deny Grievance No. 5705.

increased to a step 8, while no action was taken with respect to the steps of other associate wardens.

14. Because NDOC's original request to accelerate the steps of associate wardens was made in October 2017, it was agreed to back date the result of the appeal or agreement to that time frame.
15. Coincidentally, A.W. Gittere's pay progression date was in November, so that when November 2018 was reached he progressed to a step 9 before Grievant, whose progression date was in December.

### **CONCLUSIONS OF LAW**

1. For this grievance, it was Grievant's burden to establish his allegations that NDOC violated NAC 284.204 by unfairly and unlawfully accelerating the steps of one associate warden who had years less experience as an associate warden than he did, so that the associate warden actually reached a step 9 before Grievant.
2. The EMC has the final authority to "adjust grievances." NRS 284.073(1)(e).
3. A grievance is any act, omission or occurrence which an employee who has attained permanent status feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee. NRS 284.384(6).
4. A.W. Schreckengost's grievance falls within the jurisdiction of the EMC under NRS 284.073(1)(e).
5. The Committee discussed and substantially relied on NAC 284.204.
6. In particular, the Committee concluded that pursuant to NAC 284.204 (1)(b), there was an appropriate base rate of pay differential between Grievant and his subordinates.
7. The Committee determined that NAC 284.204(1)(b)(2) said that an adjustment of pay was not to be granted if the disparity in steps was the result of the length of service of the employees in question, and so the fact that Grievant had more than 5 years more experience as an associate warden than A.W. Gittere when A.W. Gittere was progressed to a step 8 was not a violation of NAC 284.204(1)(b)(2).

Grievant was unable to prove by a preponderance of the evidence that NDOC had violated NAC 284.204.

**MOTION:** Moved to deny Grievance No. 5705 based on evidence that NDOC acted within its authority based on NAC 284.204, but added that the Committee recommended NDOC review existing practices and develop an AR to address requests for accelerated steps.

**BY:** Member Bauer

**SECOND:** Member Keith

**VOTE:** The vote was 4 to 2 with Member Thompson and Member Whitten voting “nay”.

**7. Discussion and possible action related to Grievance #5834 of Elizabeth Walsh, Department of Corrections – Action Item**

A.W. Walsh was represented by counsel, Casey A. Gillham, Esq. Christina Leathers, Human Resources Manager, represented the agency/employer, the State of Nevada Department of Corrections (“NDOC”).

There were no objections to the exhibit packets submitted by the parties. Grievant was sworn in and testified. Christina Leathers (“Ms. Leathers”) was sworn in and testified on behalf of NDOC.

**STATEMENT OF THE CASE**

A.W. Walsh is employed with NDOC as an associate warden, a position she has held since 2010. Grievant in substance argued that NAC 284.206(1)(a) stated that an employee may receive a special adjustment of pay equivalent to 5% of the employee’s base rate of pay during any period in which the employee works out of his or her class on a continuing basis and performed essentially all the duties and responsibilities of a position classified at a higher grade. From May 2017 to November 2017 Grievant served as the acting warden at Warm Springs Correctional Center (“Warm Springs”).

Grievant asked NDOC’s personnel officer at the time about her 5% increase and she was repeatedly told in response it would be looked into. That personnel officer then apparently left State service and was replaced by another personnel officer who never responded to Grievant’s inquiries, which resulted in the instant grievance being filed.

Grievant stated that NDOC submitted an NPD-5 in September 2018 in order to request her special adjustment to pay, so one issue was why it took so long to submit the NPD-5, which was a one-page request.

NDOC argued in substance that it recognized Grievant was not given clear information on how to request a temporary adjustment to her salary, but Grievant was told by Ms. Leathers that she could, on her own, prepare and submit an NPD-5, which Grievant did, and which was submitted on behalf of Grievant by NDOC to DHRM (Division of

Human Resource Management) employee Ms. Rachel Baker. NDOC stated that although it approved Grievant's request from September 2018 it was subsequently denied by DHRM based on regulation because it was submitted outside of 6 months from the time she was in an acting period to qualify for such acting pay.

Grievant testified in substance that she was asked to be acting warden at Warm Springs by Deputy Director Wickham, and that she served as acting warden at that facility from May 2017 until November 2017. During this time, according to Grievant, she performed all the duties of a warden.

Grievant stated in substance that she was aware that employees working out of their class were eligible for a 5% pay increase because she had previously received such an increase for serving as an acting warden. While acting as warden at Warm Springs, Grievant made no effort to try and put in for her 5% increase, as she assumed it would be put in for by her supervisor, as had happened previously.

Grievant testified in substance that she contacted David Wright ("Mr. Wright"), head of Human Resources at the time for NDOC in January 2018 when she was transferred to another correctional center.

Grievant testified in substance that Mr. Wright said that he would look into the matter.

Grievant stated in substance that she subsequently followed up with Mr. Wright, and also, she believed, with Mr. Kevin Ware at NDOC, and she received no response from either person, and so filed the instant grievance. At no time did anyone tell Grievant she was outside the time frame to request the 5% adjustment, and no one had told her that her request had been denied.

Grievant stated in substance that when she filed her grievance, NDOC's response was that since 2010 there had been no 5% increase in pay for acting out of class.

Grievant testified in substance that she had found out that this was not true, and that if one looked at the NPD-5 it was revised on 2012.

Ms. Leathers testified in substance that NDOC recognized the failure by its Human Resources to adequately provide Grievant with information on the process for requesting her 5% adjustment, and that NDOC subsequently advised Grievant to prepare an NPD-5, which NDOC approved, and then NDOC submitted it to DHRM for final approval. Based on those facts, Ms. Leathers stated in substance that the grievance should be denied, as NDOC believed that it followed correct procedure.

Ms. Leathers stated in substance that she was unaware if it was communicated to DHRM that there was a situation where “the ball was kind of dropped.”

Ms. Leathers stated in substance that the time line for making a request for the 5% adjustment was 6 months after the acting period, and that when Grievant contacted Mr. Wright in January 2018 she was inside this 6-month period.

Ms. Leathers also testified in substance that, pursuant to NAC 284.206, an agency can make the request for the 5% pay adjustment on behalf of its employees.

Ms. Leathers stated in substance that she would assume an appeal process for an NPD-5 was the same as an NPD 4, so that it would go to the Governor’s Finance Office, and that she thought the employee could initiate such an appeal. In response to questioning, Ms. Leathers pointed out that the last sentence of Section 5 of NAC 284.206 said an active adjustment to pay must not exceed 6 months from the date on which DHRM received the written request.

Ms. Leathers also stated in substance that it was her understanding that the denial of the 5% adjustment was based on the request being outside of 6 months after the acting period.

Ms. Leathers, in response to questioning, stated that it would be fair to say that the issue was whether the NPD-5 request was submitted untimely due to NDOC’s error.

The Committee deliberated on Grievance No. 5834. Chair Puglisi determined, after reviewing a State of Nevada, Department of Administration, Division of Human Resources Management Memorandum dated July 21, 2017, that special adjustments to pay were reinstated on August 14, 2017.

Member White stated in substance that when looking at NAC 284.206, nothing was specifically said about the dates for which the employee was actually working out of class, but that the regulation drew specific attention as to when the request was received by DHRM, and the request was received in October 2018, well within the 6-month period.

Member Whitten made a motion that the Committee grant Grievance No 5834, for the period of time Grievant was acting as warden at Warm Springs, from August 14, 2017 through November 17, 2017, pursuant to NAC 284.206, and the Memorandum dated July 21, 2017 reinstating the special adjustment to pay. Member Bauer seconded the motion.

It was clarified by Grievant that the last day she worked as acting warden prior to the new warden being promoted at Warm Springs was November 7, 2017.

Member Whitten amended her motion to state August 14, 2017, through November 5, 2017, to cover the time that A.W. Walsh was acting as warden at Warm Springs, based on information provided by Ms. Leathers.

Chair Puglisi directed the Committee's attention to NAC 284.206 and pointed out the second sentence in Subsection 1 said a request for special adjustment to pay may be initiated by an employee, the appointing authority or the DHRM, and stated that it appeared Grievant did not initiate the paperwork for her special adjustment, and also that, in Subsection (2), item (a), the last two sentences, the adjustment of pay pursuant to this paragraph was effective retroactively, commencing on the date on which the employee assumed the additional duties and responsibilities, and that the adjustment to pay must not continue for more than 6 months in any 12 month period, so that made things unclear to him.

Chair Puglisi noted in substance that at the beginning of the period Grievant's duties as acting warden began the special adjustments were suspended, and that the Grievant must have been performing her duties for 16 consecutive working days prior to the special adjustment commencing.

Chair Puglisi stated in substance that there was a suspension of the special adjustment, and then the suspension was lifted on August 14, 2017, so Chair Puglisi indicated that he was not sure that the Memorandum cited to earlier in the proceedings contradicted NAC 284.206, and thought that the Memorandum just started "the clock."

Chair Puglisi further stated in substance that he thought the relevant time frame should have started when the first 16 consecutive working days passed with Grievant working out of class, in May 2017, and then 6 months from that was November 2017.

Member Bauer stated in substance she thought that whether Grievant submitted the NPD-5 or whether she relied upon NDOC Human Resources (HR) to submit it for her was not the point, because Grievant had "substantial reason" to rely on NDOC HR, and HR existed to also provide services to employees, so penalizing an employee for HR's failure was not equitable or fair.

Member Bauer further indicated in substance that she read NAC 284.206 as saying the special adjustment to pay must not continue for more than 6 months in any 12-month period unless certain qualifying conditions were met, and that the Committee was only looking at approving a retroactive adjustment to pay from August 14, 2017 through November

5, 2017, so that was less than 6 months. The Committee voted to grant Grievance No. 5834.<sup>4</sup>

### **FINDINGS OF FACT**

Based upon the testimony of the witnesses, the arguments made by the parties, the briefs, evidence, and documents on file in this matter, the EMC makes the following findings of fact. All findings made are based upon a preponderance of the evidence.

1. Grievant was a non-exempt State of Nevada employee.
2. Grievant is an associate warden employed by NDOC.
3. Grievant became an associate warden with NDOC in December 2010.
4. Grievant served as acting warden at Warm Springs from May 2017 through November 5, 2017.
5. During that time period, Grievant performed the essential duties and responsibilities of an NDOC warden.
6. Grievant carried out the duties and responsibilities of a warden for at least 16 consecutive working days.
7. There was a moratorium on special adjustments to pay in effect in May 2017 that was lifted on August 14, 2017.
8. Grievant had previously received a special adjustment to pay for performing duties outside of her class.
9. When Grievant had previously received a special adjustment in pay, her supervisor at NDOC had initiated the process for obtaining the special adjustment in pay.
10. When Grievant was transferred to another correctional facility in January 2018 she contacted NDOC Human Resources to inquire about her special adjustment to pay, but never received an answer. As a result, Grievant filed her grievance.
11. After Grievant filed her grievance NDOC initially told her that since 2010 there had been no special adjustments to pay for working outside of an employee's class.
12. NDOC subsequently advised Grievant to prepare an NPD-5 Form.
13. Grievant prepared an NPD-5 Form, which NDOC submitted to Human Resources.
14. Human Resources denied Grievant's NPD-5 Form on the basis that the request was made outside of the six-month acting period set forth in NAC 284.206(5).
15. The Committee determined that Grievant had initially inquired with NDOC about the special adjustment to pay in January 2018.
16. NDOC HR initially did not respond to Grievant's inquiries about her special adjustment to pay, resulting in Grievant filing Grievance No. 5834 on June 29, 2018.

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<sup>4</sup> Five Committee members voted for Member Whitten's motion to grant Grievance No. 5834: Member Bauer, Member White, Member Thompson, Member Whitten and Member Keith. Chair Puglisi voted against the motion to grant Grievance No. 5834.



17. Subsequent to Grievant filing Grievance No. 5834, NDOC advised Grievant to file an NPD-5.
18. Grievant submitted her NPD-5 to NDOC in September 2018. NDOC subsequently submitted the NPD-5 to DHRM in October 2018.

### **CONCLUSIONS OF LAW**

1. For this grievance, it was Grievant's burden to establish her allegations that NDOC had failed to comply with NAC 284.206(2)(a) by failing to grant Grievant's special adjustment to pay for working outside of her class. It was also Grievant's burden to show that, pursuant to NAC 284.206(5), her grievance was submitted to DHRM within the appropriate time frame.
2. The EMC has the final authority to "adjust grievances." NRS 284.073(1)(e).
3. A grievance is any act, omission or occurrence which an employee who has attained permanent status feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee. NRS 284.384(6).
4. Pursuant to NAC 284.206(2)(a), a State employee may receive a special adjustment to his or her pay during any period in which:

The employee works out of his or her class on a continuing basis and performs essentially all the duties and responsibilities of a position classified at a higher grade. To receive the increase, the employee must be assigned duties and responsibilities of the higher grade which are clearly demonstrated in the class specification and carry out the duties and responsibilities for at least 16 consecutive workdays before the increase becomes effective. The adjustment to pay pursuant to this paragraph is effective retroactively, commencing on the date on which the employee assumed the additional duties and responsibilities.

5. Grievant performed the essential duties and responsibilities of warden at Warm Springs for at least 16 consecutive working days in the time period of May 2017 until November 5, 2017, and so was entitled to the special adjustment of pay pursuant to NAC 284.206(2)(a).
6. Due to the moratorium on special adjustments to pay in effect until August 14, 2017, Grievant could not be

awarded special pay adjustment for working out of her class for the time period of May 2017 until August 14, 2017.

7. Pursuant to NAC 284.206(5), the Committee determined that a retroactive adjustment to Grievant's pay on the date of the grievance hearing (December 20, 2018) would be within 6 months of the date on which DHRM received Grievant's NPD-5 in October 2018, and so would be permissible pursuant to that regulation.

Grievance No. 5834 is hereby GRANTED. Grievant is awarded special adjustment pay for acting as warden at Warm Spring from August 14, 2107 through November 5, 2017, due to the moratorium in effect on special adjustments to pay in effect until August 14, 2017.

**MOTION:** Moved grant Grievance No 5834, for the period of time Grievant was acting as warden at Warm Springs, from August 14, 2017 through November 5, 2017, pursuant to NAC 284.206, and the Memorandum dated July 21, 2017 reinstating the special adjustment to pay.

**BY:** Member Whitten

**SECOND:** Member Bauer

**VOTE:** The vote was 5 to 1 with Chair Puglisi voting "nay".

#### **8. Public Comment**

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

#### **9. Adjournment**

Chair Puglisi adjourned the meeting at approximately 2:47 p.m.