



**STATE OF NEVADA**  
**EMPLOYEE-MANAGEMENT COMMITTEE**  
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**Meeting Minutes of the Employee-Management Committee**  
**February 26, 2015**

Held at the Grant Sawyer Building, 555 E. Washington Ave., Room 1100, Las Vegas, Nevada, and the Blasdel Building, 209 E. Musser St., Room 105, Carson City, Nevada, via videoconference.

**Committee Members:**

<b>Management Representatives</b>	<b>Present</b>
Mr. Mark Evans–Chair	X
Ms. Mandy Payette–Co-Vice-Chair	X
Ms. Bonnie Long	
Ms. Claudia Stieber	
Ms. Allison Wall	X
Ms. Michelle Weyland	
<b>Employee Representatives</b>	
Ms. Stephanie Canter–Co-Vice-Chair	X
Ms. Donya Deleon	X
Mr. Tracy DuPree	
Mr. David Flickinger	
Ms. Turessa Russell	
Ms. Sherri Thompson	X

**Staff Present:**

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

- 1. Chair Mark Evans:** Called the meeting to order at approximately 9:00 a.m.

**2. Public Comment**

There were no comments from the audience or from the Committee Members.

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

Chair Evans requested a motion to adopt the agenda.

**MOTION:** Moved to approve the adoption of the agenda.  
**BY:** Co-Vice-Chair Stephanie Canter  
**SECOND:** Committee Member Allison Wall  
**VOTE:** The vote was unanimous in favor of the motion.

**4. Adjustment of Grievances of William Reubart, #3155 & 3301, Department of Corrections – Action Item**

Chair Evans stated that agenda item 8, adjustment of grievances of William Reubart, had been continued due to an emergency.

**5. Approval of Minutes for November 20, 2014 – Action Item**

Chair Evans requested a motion to approve the minutes.

**MOTION:** Moved to approve the minutes.  
**BY:** Committee Member Donya Deleon  
**SECOND:** Committee Member Sherri Thompson  
**VOTE:** The vote was unanimous in favor of the motion.

**6. Approval of Minutes for December 4, 2014 – Action Item**

Chair Evans requested a motion to approve the minutes.

**MOTION:** Moved to approve the minutes.  
**BY:** Co-Vice-Chair Mandy Payette  
**SECOND:** Co-Vice-Chair Stephanie Canter  
**VOTE:** The vote was unanimous in favor of the motion.

**7. Approval of Minutes for December 11, 2014 – Action Item**

Chair Evans requested a motion to approve the minutes.

**MOTION:** Moved to approve the minutes.  
**BY:** Committee Member Allison Wall  
**SECOND:** Co-Vice-Chair Stephanie Canter  
**VOTE:** The vote was unanimous in favor of the motion.

**8. Adjustment of Grievance of Christine Moninghoff, #3141, Department of Corrections – Action Item**

The agency employer Department of Corrections (“NDOC”) was represented by Deputy Attorney General Charles Mackey. Christine Moninghoff (“Grievant”) was present in proper person.

The exhibits submitted to the EMC prior to the hearing were marked. NDOC objected to Grievant’s Exhibits 1, 2, 10, 11, 12, 13, 14, 16, 17, and 18 and claimed that those exhibits were beyond the scope of grievance and thus were not relevant. Chair Evans denied NDOC’s objections and allowed all exhibits into the record. Grievant, Deputy Administrator for the Division of Human Resource Management Peter Long, Colleen Murphy, Sharlet Gabriel, Sheryl Foster, Brian Boughter, Betty Farris and Roy Hookham were duly sworn and appeared at the hearing.

Grievant claimed that other NDOC employees with her same job title had received more pay, and requested through her grievance a review of her current pay step in order to obtain equity in pay. Grievant relied on NAC 284.204 to support her position that NDOC was required to request increases in pay to alleviate disparities.

NDOC claimed that the request allowed by NAC 284.204 was entirely within the discretion of NDOC and that NDOC was not mandated by the regulation to request a rate increase and therefore, the grievance should be denied.

Chair Evans questioned Peter Long (“Mr. Long”), Deputy Administrator for the Division of Human Resource Management (“DHRM”) regarding the process for the review and approval of an agency’s request to hire an employee at an accelerated rate. Mr. Long testified that if an inequity would be caused by the requested hire, the agency must show that it had the funds available to bring other similarly situated employees up to the level of the new hire and that the regulation had been interpreted to only apply to employees in the same region because of varying costs of living and demand.

Colleen Murphy (“Ms. Murphy”) of the Budget Division of the Department of Administration testified that her division reviewed requests and ensured that a department had enough money to ensure that any adjustments were able to be paid for. Ms. Murphy further testified that NDOC did not currently have funds to make any equity adjustments as it was experiencing a shortfall in salaries.

Mr. Mackey moved to dismiss the grievance on the basis that Ms. Murphy had testified that NDOC did not have sufficient funding to make any step adjustments and additionally, NDOC asserted that Mr. Long had testified that step increases were discretionary and that there was no requirement to give a rate increase for an existing employee under NAC 284.204.

**MOTION:** Moved to deny the motion to dismiss.  
**BY:** Co-Vice-Chair Stephanie Canter  
**SECOND:** Committee Member Sherri Thompson  
**VOTE:** The motion passed with a 5:1 majority vote. Chair Mark Evans, Co-Vice-Chair Stephanie Canter, and Committee Members

Allison Wall, Donya Deleon, and Sherri Thompson voted in favor and Co-Vice-Chair Mandy Payette voted against.

Grievant asked Sharlet Gabriel (“Ms. Gabriel”), Human Resource Administrator for NDOC, how she had known whether or not Grievant had been treated unfairly without having done a comparative analysis between herself and the other employees who had been hired at an accelerated rate. NDOC objected to the question on the basis that there was no evidence that there was a disparity. Chair Evans asked Ms. Gabriel what steps she had taken to determine her answer to the grievance. Ms. Gabriel stated that her answer had been based on: the work experience Grievant had in corrections at the time she was hired; the fact that in 2009, former Governor Gibbons had declared that merit salary increases would no longer be approved; after that time, NPD-4s were only submitted at the request of the appointing authority; when a NPD-4 was received, NDOC determined whether or not the applicant should receive a merit step increase based on the individual’s knowledge, skills, abilities, education, and experience; they then process paperwork and send it to DHRM; and ultimately, DHRM had the final decision. Chair Evans stated he was trying to understand if the step increase had not been granted for fiscal reasons or if the reason was that Grievant’s education and experience were not equivalent to the people who had been hired at a step 10. Chair Evans asked Ms. Gabriel, based on the analysis she had done, was Grievant’s education and experience equivalent to the people who had been hired at a step 10. NDOC objected to the question on the basis that the regulation was discretionary and NDOC had exercised its discretion by not requesting a rate adjustment. Chair Evans overruled the objection stating that the objection assumed that the EMC believed that was what the regulation stated. Ms. Gabriel responded that Grievant was not similarly situated to other applicants in question. Grievant asked Ms. Gabriel why it was the case that in the response to her grievance on June 11, 2014, it was explained to her that funds were not available to provide for a step increase however, on June 23, 2014, twelve days later, Exhibit 14 certified that funds were available to provide for a step increase. NDOC objected to Grievant’s question on the basis that there was no inequity between Grievant and the employee in Exhibit 14. The objection was overruled. Ms. Gabriel responded that it was a question that would need to be asked of fiscal.

Sheryl Foster (“Ms. Foster”), Deputy Director for NDOC, testified that she was not involved with the NPD-4 forms. Ms. Foster further testified that there had not been any reason to request a step increase for Grievant on the basis that Grievant had been hired in accordance with NAC at the proper step; and since that time no one at NDOC had received a step increase.

Brian Boughter, Personnel Officer II for NDOC, testified that in his opinion, there was not an inequity with other employees hired subsequent to Grievant because those other employees had more experience working within the field of corrections.

Betty Farris, Chief of Fiscal Services for NDOC, testified that NDOC had no funds to provide for step increases.

Dr. Roy Hookham (“Dr. Hookham”), Psychologist IV for NDOC, testified that he was the supervisor of Grievant’s supervisor and was familiar with Grievant’s experience, as well as that of the people who were described in Exhibits 10, 11, 12, 13, and 14, and did not find any of their experience and qualifications to be inferior to those of the Grievant.

Mr. Long was asked to return for questioning. Chair Evans asked Mr. Long, if inequities among an agency’s newly hired employee and other similarly situated employees had been created as the result of the new hire being hired at an accelerated rate, was the agency required to correct those inequities. Mr. Long testified it was his belief that the intent of the regulation was to ensure those inequities were corrected, however, some agencies interpreted the regulation to mean an agency was required to show that funds to correct those inequities were available but that there was no requirement to correct such inequities.

Grievant argued that her education and experience qualified her as being similarly situated to employees receiving more pay. Additionally, Grievant argued that NDOC had funds to provide for step increases on the basis that NDOC had certified that there were funds to provide for step increases to similarly situated employees each time that they had hired an employee at an accelerated rate.

The EMC reviewed the evidence, considered the statements of the witnesses and the arguments of counsel and the parties and deliberated on the record. Committee Member Donya Deleon stated that had an inequity been proven, NDOC would be in violation of statute by accelerating steps of new hires and not having funds to accelerate the steps of current similarly situated employees; however, in her review of the NPD-4s, she did not find that the disparity in steps between Grievant and the other employees was proven to be an inequity among similarly situated employees. Chair Evans stated he wanted to clarify the fact that if an agency wished to hire a person at an accelerated rate of pay, and if that was going to cause an inequity with current employees, the agency was required to correct those inequities or in the case that funds were not available to correct those inequities, the agency could not hire that person at that accelerated rate. Chair Evans further stated that in that circumstance where an agency could not hire the person at an accelerated rate it was unfortunate, however, current employees who had worked with the agency longer should not be penalized by not receiving the same rate. Chair Evans stated that the testimony he heard had clarified that if an agency was going to hire someone at a higher rate and that would create an inequity, the agency was required to follow through with the requirement of requesting an equity adjustment to correct those inequities. Chair Evans stated that he agreed with Committee Member Deleon that based on what had been heard, Grievant had not proven that there was an inequity. Co-Vice-Chair Mandy Payette stated that she agreed. Co-Vice-Chair Stephanie Canter stated that she agreed that there was no current inequity, however, that was only the case because the individual who had been hired pursuant to Exhibit 11 had resigned before the grievance was filed and had that individual still been employed with NDOC, she believed that a pay inequity would have existed. Co-Vice-Chair Canter stated that she was concerned regarding NDOC’s position that it was not obligated to correct any discrepancies in pay that it may have

created by its hiring practices. Chair Evans discussed the difficulty that many employees would have in obtaining the documents necessary to establish that an inequity existed. Co-Vice-Chair Payette stated that she did not think Grievant had proven that there was an inequity on the basis that each person who was hired at a higher step had more experience in a correctional facility than Grievant. Co-Vice-Chair Canter stated that based on statute, she thought it was discretionary for an agency to elect to accelerate a rate but that she did not think it was discretionary for an agency to create an inequity. Additionally, Co-Vice-Chair Canter noted that there was an employee which she believed was similarly situated to Grievant because that employee had a little over a year of experience and was accelerated to a step 10. Co-Vice-Chair Payette noted that Dr. Hookham had testified that the basis of that employee receiving an accelerated rate was that the employee had prior experience in a facility in California which was a difficult one to work in and was, therefore, more qualified at the time of hire. Co-Vice-Chair Canter stated that NDOC needed to put a policy in place to ensure that they were doing appropriate comparisons. Co-Vice-Chair Canter further stated that she did think that NDOC had violated statute in not correcting the inequity with the similarly situated employee in Exhibit 11 who had been accelerated to a step 10, however, due to the fiscal circumstances, she did not think there was anything the Committee could do. Committee Member Sherri Thompson agreed that NDOC needed to have a policy in place to ensure a proper analysis was always done. Committee Member Thompson additionally stated that she wasn't sure that Grievant's resolution could be granted. Chair Evans stated that he didn't know if the agency not having funds to correct an inequity would excuse the fact. Committee Member Allison Wall stated she didn't see that an inequity had been proven.

Chair Evans requested a motion.

**MOTION:** Moved to deny the grievance.  
**BY:** Committee Member Donya Deleon  
**SECOND:** Committee Member Allison Wall  
**VOTE:** The motion passed with a 5:1 majority vote. Chair Mark Evans, Co-Vice-Chair Mandy Payette, and Committee Members Allison Wall, Donya Deleon, and Sherri Thompson voted in favor and Co-Vice-Chair Stephanie Canter voted against.

Chair Evans stated that Grievant had helped clarify the regulations and thanked her for her work. Chair Evans stated that an agency not having funds to correct an inequity was not justification for creating an inequity and that it was his hope that NDOC understood how those regulations were supposed to work. Chair Evans additionally stated that it was his hope that the matter would be in the back of Member's minds for any future grievances regarding inequities created. Chair Evans stated that he did strongly suggest that NDOC do something to make the process seem less unorganized.

## 9. Public Comment

There were no comments from the audience or Committee members.

**10. Adjournment**

**MOTION:** Moved to adjourn.

**BY:** Co-Vice-Chair Stephanie Canter

**SECOND:** Co-Vice-Chair Mandy Payette

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