



**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
March 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	X
Ms. Jennifer Bauer	
Ms. Pauline Beigel	
Mr. Ron Schreckengost	
Ms. Jennelle Keith	
Ms. Tonya Laney	X

Employee Representatives	
Mr. Tracy DuPree	
Ms. Turessa Russell	X
Ms. Sherri Thompson	X
Ms. Adria White	
Ms. Sonja Whitten	
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 Thompson

SECOND: Member Russell

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

5. Approval of Minutes for January 10, 2019 – Action Item

Chair Puglisi stated he would usually ask to accept the minutes as a package, however, there were some corrections to be made.

Chair Puglisi stated on page 7, above item #6, and on page 17 both motions were made by Member Tonya Laney, not Member Turessa Russell.

Chair Puglisi asked if anyone else noticed any corrections, there were none.

Chair Puglisi requested a motion to approve the minutes with the noted changes.

MOTION: Moved to approve the minutes for January 10, 2019 with the noted changes.

BY: Member Russell

SECOND: Member Thompson

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

6. Approval of Minutes for February 21, 2019 – Action Item

Chair Puglisi asked if the Committee had any corrections for this set of minutes, there were none.

Chair Puglisi requested a motion to approve the minutes.

MOTION: Moved to approve the minutes for February 21, 2019.
BY: Member Russell
SECOND: Member Thompson
VOTE: The vote was unanimous in favor of the motion.

7. Discussion and possible action related to Grievance #5984 of Arturo Buen, Department of Corrections – Action Item

Chair Puglisi asked if there were any motions to consider, there were none.

Chair Puglisi noted there were no witness for the grievant and asked the agency to confirm their witnesses were in attendance.

Christina Leathers (Ms. Leathers), Acting Human Resource Administrator, Department of Corrections (NDOC) stated Teresa Wickham was in Carson City, and the remaining witnesses were at the Las Vegas Location.

The witnesses were sworn in.

Chair Puglisi asked if there were any packet objections from either party, there were none.

Deputy Director of Programs, Kim Thomas (“DD Thomas”) represented NDOC, while Mr. Buen was represented by Jeanine Lake (“Ms. Lake”), AFSCME Local 4041.

Ms. Lake began her opening statement.

Ms. Lake stated Mr. Buen filed his grievance because of his questions regarding favoritism and individual treatment going through this process with regard to the schedules.

Ms. Lake stated the schedule changes that went into effect September of 2018 excluded one employee from the requirement to have a weekend day they were required to work.

Ms. Lake stated Mr. Buen went through the grievance process hoping someone could provide an explanation, other than ‘it’s our prerogative’ and to explain why one employee who seemingly has a number of years of experience, the same as the other Corrections Charge Nurse III’s (“CNIII”) was excluded from having to work weekends, and still to this day was not working weekend shifts.

Ms. Lake stated Mr. Buen wanted to bring his grievance to the Committee because Mr. Buen felt this was unfair treatment and was requesting some resolution today and for the Committee to consider his concerns.

DD Thomas began his opening statement.

DD Thomas stated the agency filed their pre-hearing statement which summarized the issues of law and the agency's arguments with respect to this matter.

DD Thomas stated the agency included a series of exhibits, Exhibits A-F that will be referred to periodically.

DD Thomas stated the agency's opening statement consisted of the fact that a prison infirmary has to have all levels of nursing skills available at various times.

DD Thomas stated because of turnover rates and wanting to cross train all employees, it is not best practice to have all of your experienced people on one shift and have the late shift not have the same level of supervision.

DD Thomas stated there is no established set of requirements under the Nevada Revised Statute ("NRS") or Nevada Administrative Code ("NAC") with respect to the bidding process or the handling of shift assignments for this level of employee.

DD Thomas stated the agency's opinion was the changes were reasonable and in the best interest of the department and the facility and their ability to perform a very difficult task with limited resources and a great deal of teamwork.

DD Thomas stated the change was not made with any preferential treatment or singling out of any individual or creating favoritism.

DD Thomas stated the exhibits will show the knowledge and ability to work on different shifts is an expectation of employment from the beginning, which is clearly documented and which all employees are aware of.

DD Thomas stated the EMC lacks jurisdiction to act and the grievance must be dismissed.

Chair Puglisi stated the Committee had received the packets and read the information provided and asked that both parties refrain from reading directly from the packets but instead direct the Committee to the exhibit, page or paragraph being referenced.

Ms. Lake called her only witness, Mr. Buen.

Ms. Lake asked Mr. Buen to verify he was a CNIII.

Mr. Buen stated he was for approximately 2 years and had been working there for approximately 9 years.

Ms. Lake clarified that Mr. Buen had been working at High Desert State

Prison (“HDSP”) for almost 9 years.

Ms. Lake stated in the grievance Mr. Buen noted when he learned of the proposed changes to the schedule, he attempted to reach out to his supervisor, Scott Mattinson (“Mr. Mattinson”).

Mr. Buen stated he did.

Ms. Lake asked Mr. Buen what his initial reaction to the schedule change was and why did he reach out to Mr. Mattinson.

Mr. Buen stated he wanted to reach out to Mr. Mattinson to make sure the proposed schedule was not about seniority or anything else because one of the charge nurses has the best schedule and there is supposed to be a rotation, but on the schedule, there was no rotation and no switching.

Mr. Buen stated that was why he asked if he could switch with Nonilon Peret (“Nilo”) or (“CNIII Peret”) on the weekends.

Ms. Lake asked if when Mr. Buen was notified of this schedule, he was given a specific schedule where he had to rotate or alternate weekends.

Mr. Buen stated there was no alternation of weekends.

Ms. Lake stated the schedule was a straight schedule such as Wednesday through Saturday and Mr. Buen confirmed it was a straight schedule.

Ms. Lake asked how many employees were given the straight schedule.

Mr. Buen answered “Jamie” had a straight schedule and Nilo was Monday through Thursday with weekends off and he (Mr. Buen) was Wednesday through Saturday 7:00 am to 5:00 pm.

Ms. Lake asked what shift Jamie does.

Mr. Buen answered Jamie has the Sunday through Wednesday.

Ms. Lake clarified the weekend was covered by Mr. Buen and Jamie, Mr. Buen confirmed.

Ms. Lake stated the response from reaching out to Mr. Mattinson included the comments that referred to the conditions of employment such as overtime, call backs, stand by pay, working weekends and asked Mr. Buen if he understood that was a condition of his employment.

Mr. Buen stated he did.

Ms. Lake stated once the schedule change went into effect, Mr., Buen emailed Mr. Mattinson and that was when Mr. Buen learned there was an exception to the requirement that all the charge nurses were required

to work weekends.

Mr. Buen stated it was under the job element for charge nurses.

Ms. Lake asked if Mr. Buen emailed Mr. Mattinson again on the 14th and referenced the employee's packet; exhibit 1, page 3.

Mr. Buen answered yes.

Ms. Lake stated at the top was Mr. Mattinson's response.

Ms. Lake asked what Mr. Buen thought the term 'best fit' meant in regard to Mr. Mattinson's response.

Mr. Buen answered he understood what 'best fit' meant under that criteria.

Ms. Lake stated in the response, there were comments made and asked Mr. Buen how he felt about the response on September 14th from Mr. Mattinson.

Mr. Buen answered he thought the comments were unprofessional and demeaning.

Ms. Lake asked why he felt that way.

Mr. Buen answered they seemed like unnecessary comments that should not have been in the email.

Mr. Buen stated instead of being direct and to the point in explaining 'best fit', Mr. Mattinson made unnecessary comments.

Ms. Lake asked Mr. Buen to refer to the comments he was talking about.

Mr. Buen read from the first paragraph and the comment stated, 'Our job is exactly that, to make decisions. Do you explain all of your parenting decisions to your son?'

Mr. Buen read from the fourth paragraph and the comment stated, 'If you want that good schedule, it took me 20 years to get there.'

Mr. Buen read from the fifth paragraph and the comment stated, 'I am not sure what your future ambitions are but growing as a supervisor should be one of them. This is challenging for you and this represents your moment to figure out what it really means to be the boss. You certainly can't expect others to do it when you haven't done it yourself.'

Ms. Lake asked Mr. Buen if he had worked weekends before this schedule went into effect.

Mr. Buen stated before, there were no options because they were so short staffed so before this schedule he was not working on the weekends.

Ms. Lake asked Mr. Buen if had ever been required to work weekends before.

Mr. Buen answered yes.

Ms. Lake asked Mr. Buen if he did understand what his role as supervisor was.

Mr. Buen answered yes.

Ms. Lake stated Mr. Buen filed his grievance at the next level and received a response from Ms. Wickham.

Ms. Lake stated Ms. Wickham's response stated statutes don't require the use of seniority.

Ms. Lake asked Mr. Buen if at that time he was asking for seniority to be considered.

Mr. Buen stated he was just considering the rotation on the weekends.

Ms. Lake in the grievance, the resolution is for rotations on weekends, day shift with CNIII Peret every month.

Ms. Lake asked if anyone, through this process, offered to meet with Mr. Buen to discuss his grievance or try to work out a resolution.

Mr. Buen answered there was no meeting with the department heads, so he escalated his grievance to the third level.

Ms. Lake asked if Mr. Buen had ever requested a meeting.

Mr. Buen stated he did.

Ms. Lake asked if Mr. Buen received a response.

Mr. Buen stated he did not.

Ms. Lake asked Mr. Buen if other charge nurses at HDSP had concerns with the new schedule.

Mr. Buen stated at one point one other nurse did have concerns but did not go through the process of grieving the revisions.

Ms. Lake asked Mr. Buen what schedule he was on at this time.

Mr. Buen stated he is scheduled Wednesday through Saturday.

Ms. Lake asked Mr. Buen how long he has been on that straight schedule.

Ms. Lake then stated in September, Mr. Buen was placed on a straight schedule but that there was some flexibility on that schedule.

Mr. Buen stated he was on that schedule, with some flexibility for approximately one month.

Ms. Lake asked Mr. Buen if, during that month, he had the ability to alternate some weekends.

Mr. Buen stated he did.

Ms. Lake asked Mr. Buen who he alternated with.

Mr. Buen stated he didn't alternate with anyone, he was scheduled off.

Ms. Lake asked Mr. Buen when that changed back to the straight schedule.

Mr. Buen stated it was from January to February.

Ms. Lake asked Mr. Buen what prompted that change.

Mr. Buen stated it was a directive from Mr. Mattinson to have Mr. Buen alternate his days off on the weekends.

Ms. Lake asked if everyone had to cover weekends again once Mr. Buen went back to the straight schedule.

Mr. Buen stated yes, everyone went back to the original schedule.

Ms. Lake asked Mr. Buen if that went back into effect in March.

Mr. Buen stated yes.

Ms. Lake asked Mr. Buen if that applied to the other employee that was the exception.

Mr. Buen stated except for Nonilon Peret, he did not have to do rotation.

Ms. Lakes asked Mr. Buen if CNIII Peret was supposed to rotate based on what Mr. Buen was notified of.

Mr. Buen stated there was another email that stated because CNIII Peret went back to night shift, he did no have to rotate the weekend or day shift.

Ms. Lake asked Mr. Buen if there was something that stated CNIII Peret

was supposed to work weekends.

Mr. Buen stated there was an email, but it was not in the exhibits.

Mr. Buen stated the email stated CNIII Peret was supposed to cover night shift and weekends as the night shift supervisor and it was email March 4th by Mr. Mattinson.

Ms. Lake asked Mr. Buen if that had happened yet.

Mr. Buen stated no.

Ms. Lake asked Mr. Buen who did the scheduling.

Mr. Buen stated Nilo does the scheduling for the week for the night shift and Mr. Buen does the scheduling for the day shift.

Ms. Lake asked Mr. Buen if there were still exceptions to the weekend schedule as that was the justification for the changes was the coverage on weekends.

Mr. Buen answered yes.

Ms. Lake asked Mr. Buen what he wanted as a resolution to his grievance.

Mr. Buen stated he wanted to be treated fairly as far as rotating the schedule every week with Nilo.

Mr. Buen stated he didn't want to go through the grievance process, but it got to the point where Mr. Buen felt he was not being treated fairly.

Ms. Lake asked Mr. Buen if there was anything else Mr. Buen would like to add.

Mr. Buen stated he thinks that Mr. Mattinson's email to Mr. Buen was disrespectful due to the unnecessary comments and that he just wants to be treated fairly.

Ms. Lake stated that was all.

Chair Puglisi opened for agency cross examination.

DD Thomas asked Mr. Buen if he was employed as a CNIII.

Mr. Buen answered yes.

DD Thomas asked if Mr. Buen began his employment with NDOC as a CNIII.

Mr. Buen stated he started as a CNII, staff nurse.

DD Thomas stated with respect to the requirement, condition of appointment and continued employment, which was specified within exhibit C, the clause that talks about positions are subject to call back, overtime and short notice etc., and asked Mr. Buen if those same conditions were applicable to him as a CNII.

Mr. Buen stated he believed so.

DD Thomas asked Mr. Buen if he would disagree those conditions do apply to Mr. Buen as a CNIII.

Mr. Buen stated he would agree.

DD Thomas asked Mr. Buen if he has been working at HDSP for eight years.

Mr. Buen stated yes going on nine.

DD Thomas asked Mr. Buen if he agreed or disagreed with the following statement; 'The most logical decision would be to have an experienced charge nurse on night shift and weekends to appropriately orientate the newest nurses at NDOC on the correct way to accomplish the goals.'

Mr. Buen stated he agreed.

DD Thomas asked Mr. Buen if there was anything in that statement Mr. Buen disagreed with.

Mr. Buen stated CNIII Peret has more experience than him and was not sure if that statement referred to CNIII Peret or Mr. Buen as far as experience.

DD Thomas asked Mr. Buen if he was saying nobody there has more experience than Mr. Buen.

Mr. Buen stated no, Nilo has more experience than Mr. Buen and Nilo has been a charge nurse longer.

DD Thomas stated with respect to the statement he just read, it is unequivocally true in that practice.

Mr. Buen stated in his practice, yes.

DD Thomas asked Mr. Buen if his only claim is that he was unfairly treated and that Mr. Buen desired as a result, to rotate every other weekend.

Mr. Buen stated that was correct.

DD Thomas asked Mr. Buen if he had any objection to the days during

the week he is required to work.

Mr. Buen stated no, he follows the direction of Mr. Mattinson as far as the scheduling goes.

DD Thomas stated except for the fact that Mr. Buen wanted to have a special exception to alternate weekends, every other weekend.

Mr. Buen stated just to be equal with the other charge nurses which have weekends off most of the time.

DD Thomas stated in the September 14th email from Mr. Mattinson Mr. Buen referenced in his direct examination, Mr. Buen felt like portions of that email were unprofessional and demeaning.

Mr. Buen stated that was his opinion.

DD Thomas read the phrase from the first paragraph; 'Do you explain all your parenting decision to you son?' and asked Mr. Buen if he took that in a negative light.

Mr. Buen stated a little bit, yes.

DD Thomas asked if there could be other interpretations of that sentence and asked if it was possible that was a metaphor as opposed to have been written intentionally to demean or make Mr. Buen feel bad.

Mr. Buen stated it was possible.

DD Thomas asked Mr. Buen if he knew what a metaphor was.

Mr. Buen stated yes.

DD Thomas asked Mr. Buen if he took offense to the statement in the fourth paragraph that read; 'If you want that good schedule, well it took me 20 years to get there.'

Mr. Buen stated yes because that seemed like unnecessary comments rather than just explaining departmental needs.

DD Thomas asked if the statement could have been intended a different way and if it could have been intended to encourage Mr. Buen to stay within the profession and therefore, gain more experience and have better benefits, better pay, better levels of experience and possibly promotion.

Mr. Buen stated he did not know.

DD Thomas asked Mr. Buen if it could be possible.

Mr. Buen stated it could be.

DD Thomas asked if the statement could be capable of more than one meaning.

Mr. Buen stated it could be.

DD Thomas read the last sentence; 'I am not sure what your future ambition are but growing as a supervisor should be one of them. This is challenging for you and as such, this represents your moment to figure out what it really means to be a boss.'

DD Thomas asked Mr. Buen if he took offense to that statement.

Mr. Buen stated a little bit, yes.

DD Thomas asked Mr. Buen to describe what 'little bit' he took offense to.

Mr. Buen stated it was saying he did not have enough experience and that he was going to have to grow up.

DD Thomas asked Mr. Buen if he as a CNIII supervise others.

Mr. Buen stated yes, four others and they were the ones doing the case management.

DD Thomas asked if his experience in his eight years, has he supervised other individuals in different positions.

Mr. Buen stated not for the full eight years, only for two years.

DD Thomas asked if Mr. Buen ever told one of his subordinates about their weaknesses and to encourage them to grow as a supervisor, or as an employee.

Mr. Buen stated yes, that was part of his job.

DD Thomas re-read the statement; 'This is challenging for you and as such, this is your moment to figure out what it really means to be a boss. 'and asked Mr. Buen if he took offense to that as well.

DD Thomas asked if that sentence was capable of more than one meaning.

Mr. Buen stated yes, it could be.

DD Thomas asked if it could have possible meant this was Mr. Buen's moment to figure out and to think about how he could be a better boss, not just currently but into the future.

Mr. Buen stated it could.

DD Thomas asked Mr. Buen if he thought that could be a reasonable interpretation of that sentence despite the fact that Mr. Buen felt a 'little' bothered by it.

Mr. Buen stated it could.

DD Thomas asked Mr. Buen after he received the notice for the official change, what his schedule changed to.

Mr. Buen stated his schedule changed to Wednesday to Saturday.

DD Thomas asked about the weekends.

Mr. Buen stated he was working Saturdays and the other charge nurse covers those days.

DD Thomas stated that was the shift change and reassignment that Mr. Buen did not like that sparked this grievance.

Mr. Buen stated yes because he asked why Nilo had the weekends off and the rest of the charge nurses have to work.

DD Thomas asked Mr. Buen how long that assignment lasted.

Mr. Buen stated it lasted October to January and then he was allowed to switch every other weekend off from January to February and it went back again in March to have weekends on.

DD Thomas clarified originally Mr. Buen worked Wednesday to Saturday from October through January, that caused the filing of the grievance, the in January or February, there was a change.

DD Thomas asked Mr. Buen what his schedule was then.

Mr. Buen stated it was every other Saturday off.

DD Thomas asked if that was the type of schedule Mr. Buen originally requested.

Mr. Buen stated no, it was from Mr. Mattinson who approved him to have every other weekend off.

DD Thomas clarified that Mr. Buen did not have that from January to February.

Mr. Buen stated he *did* have that from January to February.

DD Thomas stated that's what he was saying, that Mr. Buen had the schedule he didn't like from October to January and that was what

prompted the grievance, then it changed from January to February and that Mr. Buen got the schedule he wanted.

Mr. Buen stated there was no rotation between him and Nilo, that Nilo had gone to night shift at that time so there was no way to rotate.

DD Thomas stated Mr. Buen got what he wanted.

Mr. Buen stated, the rotation, yes.

DD Thomas asked if that was after filing the grievance.

Member Thompson asked if when Mr. Buen if when he started having Saturdays off, if he had another day off during the week or if he had Saturday, Sunday, Monday and Tuesday off.

It was clarified he worked 10-hour shifts.

Mr. Buen stated if he was off on Saturday, he would be working Tuesday through Friday.

Member Thompson clarified it was Wednesday through Saturday one week and Tuesday through Friday the following week.

DD Thomas asked when Mr. Buen or others are in charge of changing the schedules, would he agree sometimes those changes are not planned, those changes are in response to something else that has arisen, causing a need for the change in schedules.

Mr. Buen stated that was true.

DD Thomas asked if that happened during the period of time Mr. Buen was dissatisfied.

Mr. Buen stated before the change of the schedule to alternate, something happened regarding call offs, so Mr. Mattinson changed his schedule back to Saturdays.

DD Thomas stated there was a time around March where the flexibility was granted for Mr. Buen or others to have a weekend off.

DD Thomas stated there was a period of time where Mr. Buen and two other employees called early in the morning and stated you were not going to be in and that caused the schedule to go back to where it was because they did not have coverage when they needed coverage and asked Mr. Buen if that sounded familiar.

Mr. Buen asked DD Thomas to specify what days that was.

DD Thomas stated it was around March 2nd or March 3rd.

Mr. Buen stated he was off that day because part of switching every other weekend, which was that day and he did not call in.

DD Thomas asked Mr. Buen if there were any other occasions where he called in at 4:30 am, or others called in to tell their supervisor they would not be reporting as required.

Mr. Buen stated he did not recall receiving those phone calls, but he did understand that Bob Faulkner (“Mr. Faulkner”) was called that time, as a supervisor on call.

DD Thomas asked Mr. Buen what he recalled.

Mr. Buen stated he thought the employees were trying to call him (Mr. Faulkner) but nobody called Mr. Buen.

DD Thomas asked Mr. Buen if he was in their position, and he had employees calling in at the last minute, and that was occurring frequently, would that cause him to question whether a schedule change was needed.

Mr. Buen stated that was true, but his argument was only to rotate the weekends of the charge nurses.

DD Thomas stated Mr. Buen mentioned the name ‘Nilo’ Peret and that was the person who had weekends off.

DD Thomas asked Mr. Buen if their duties were different than the duties he performed, not the position but the specific assignment within the role of providing infirmary care and hospital care at HDSP.

Mr. Buen stated that’s true, they have a flow sheet, exhibit 3, stating their duties and it was done by Mr. Mattinson.

Mr. Buen stated he believed that was required for weekends off then Nilo could work on the weekends without affecting his duties.

DD Thomas stated with respect to the position, they were both CNIII’s, and asked Mr. Buen if Nilo had more experience than him.

Mr. Buen stated that was correct.

DD Thomas asked Mr. Buen if Nilo’s assigned duties were identical to his.

Mr. Buen stated no.

DD Thomas stated in exhibit 3, the flow sheet shows the difference between his assigned duties and Nilo’s.

DD Thomas stated one of the things he has is scheduling and scheduling takes time.

DD Thomas stated the scheduling is different than orientation and staff meetings.

Mr. Buen agreed and stated scheduling and orientating staff meetings are two different duties.

DD Thomas asked if it was unreasonable to assign the same level of nurse to a different schedule or different off days if their specific duties are different in significant ways.

Mr. Buen stated in his opinion, Nilo's duties and his duties do not have to be on the weekends or weekends off, that it did not require to have the weekends off.

DD Thomas stated that was his opinion and why he felt he was treated unfairly.

Mr. Buen stated yes, those duties can be done on the weekends.

DD Thomas asked if Nilo supervised the clinic.

Mr. Buen stated they both did, and his assignment stated that.

Mr. Buen stated he manned the clinic when they are both there and Mr. Mattinson could attest to that.

DD Thomas asked if the clinic operated on the weekends.

Mr. Buen stated if he is on Saturdays, he does his duties as far as the responsibilities for a charge nurse.

DD Thomas stated his question was, the clinic does not operate during the weekend.

Mr. Buen stated that was correct.

DD Thomas asked Mr. Buen if the other three that he spoke of confirmed agreement with the schedule change.

Mr. Buen stated that would be between them and Mr. Mattinson.

DD Thomas asked Mr. Buen to verify if he has correctly summarized Mr. Buen's testimony.

DD Thomas stated Mr. Buen was aware and has always been aware that as a nurse, his schedule was subject to change, and that Mr. Buen would

agree there is a logical reason for making sure there is a blend of experienced staff and unexperienced staff, particularly on the night shift but also on day shift.

DD Thomas stated Mr. Buen would agree there are no NRS's or NAC's that dictate or require his request or the assignment of nurses that specify how that should be governed.

Mr. Buen stated he did not know anything about that.

DD Thomas stated Mr. Buen's only claim is that he felt he was treated unfairly, and the remedy is to be able to rotate every other weekend.

Mr. Buen stated it was more the difference in the schedule between him and the other charge nurses and it has to do with favoritism.

DD Thomas asked if it was favoritism with respect to this one individual whose duties were different than his and who was more senior than him

Mr. Buen stated that was correct.

DD Thomas asked if there were other employees, other than that one individual that he feels is getting different treatment.

Mr. Buen answered no.

Chair Puglisi asked Ms. Lake to redirect.

Ms. Lake asked Mr. Buen if he had done scheduling.

Mr. Buen stated yes.

Ms. Lake asked Mr. Buen if he does scheduling now.

Mr. Buen stated yes.

Ms. Lake asked Mr. Buen if scheduling was part of his regular duties.

Mr. Buen stated that was true and he also did the assignments for the day shift.

Ms. Lake asked Mr. Buen if he had ever done the duties that Nilo does.

Mr. Buen stated that was correct.

Ms. Lake asked Mr. Buen if he ever covered the clinic in Nilo's absence.

Mr. Buen stated that was true.

Ms. Lake asked Mr. Buen if there was ever a schedule where he was

alternating weekends, the clinic would still be covered.

Mr. Buen stated yes.

Ms. Lake asked Mr. Buen, his issue was not seniority in this grievance.

Mr. Buen stated no, he was just asking for rotation on the weekends.

Ms. Lake stated with regard to the email from Mr. Mattinson, Mr. Buen expressed concern with how that email was demeaning.

Ms. Lake stated she wanted to clarify in that email, Mr. Buen asked Mr. Mattinson one question.

Mr. Buen stated yes, that was correct.

Ms. Lake stated that question was; 'Can I ask what criteria did you guys base your decision when you said it was based on departmental needs and who was the best fit since the schedule change is not based on seniority.'

Ms. Lake stated to clarify Mr. Buen's position, he still felt this was somewhat disrespectful.

Mr. Buen stated in his opinion, yes.

Ms. Lake asked Mr. Buen when he talked to his subordinates or when he emails subordinates about concerns he may have with their work performance; did he ever compare himself to them.

Mr. Buen stated he did not.

Ms. Lake asked Mr. Buen if he ever talked to his subordinates in a demeaning tone.

Mr. Buen stated he did not.

Mr. Buen stated after the schedule was changed, an email for Mr. Mattinson that was not in the packet, requested that CNIII on the night shift had to start covering every weekend every other week and he was not sure if this was another issue he needed to cover because of possible favoritism.

Mr. Buen stated he wanted to bring it up because the schedule hasn't changed.

Member Thompson asked if Mr. Buen was grieving because it was Nilo specifically or because of the situation, it did not matter who it involved.

Mr. Buen stated he was grieving for rotation on the weekends and just

for fairness, it did not matter the person.

DD Thomas stated Mr. Buen's representative asked him if he had done scheduling before and if he had made assignments within his shift and if he had covered the clinic before, all to which he had said 'yes'.

DD Thomas asked Mr. Buen isn't that evidence the statement he previously agreed to that said the most logical decision would be to have an experienced charge nurse on the night shift and weekends to appropriately orientate the newest nurses to the NDOC on the correct way to accomplish the goal.

Mr. Buen stated yes.

DD Thomas stated by his cross training in alignment with that sentence, Mr. Buen has learned those things and was able to do those things when it was asked that he do those things; those things were not the assignment or the scheduling, they were not a permanent duty as described in exhibit 3.

Mr. Buen stated yes, it could change.

DD Thomas called Theresa Wickham, ("Ms. Wickham").

DD Thomas asked Ms. Wickham to briefly outline her duties and experience within NDOC.

Ms. Wickham stated her current title is Chief of Nursing Services.

Ms. Wickham stated she was responsible for all the nursing services and care throughout the entire NDOC and that included the supervision of the Directors of Nursing ("DON") and the overall operations to maintain good order, safety and security while maintaining community standards that are in line with the community, the State of Nevada and throughout the United States.

Ms. Wickham stated before being the Chief of Nursing Services, she was a Director of Nursing Services at Lovelock Correctional Center, Northern Nevada Correctional Center and at Medical Administration.

Ms. Wickham stated she was also the Acting Director of Nursing at HDSP in 2015.

Ms. Wickham stated before that, she was a CNIII at HDSP.

DD Thomas asked Ms. Wickham what the total years of service with NDOC has been and secondly, how many years she has been a nurse.

Ms. Wickham stated her total years with NDOC has been 5 ½ years, 10 years as a registered nurse plus an additional 2 years as a student nurse.

DD Thomas asked Ms. Wickham if she has had nursing licenses in more than one state during her career.

Ms. Wickham stated yes, she had been licensed in Mississippi as well as in Nevada because she was active duty military and as long as she was on Federal torte land, she only had to maintain a nursing license in any of the 50 states or territories.

DD Thomas asked if prior to her testimony today, had she been given the opportunity to review the exhibits of the NDCO respondent and the grievant.

Ms. Wickham stated she had not had a chance to review the exhibits 1-3 from Mr. Buen but she did have exhibits A-F.

DD Thomas asked Ms. Wickham through her experience at NDOC, she was very familiar with the operation of HDSP with respect to nursing needs, scheduling, the overall operation of the clinic, the infirmary and medical services.

Ms. Wickham stated that was true.

DD Thomas asked Ms. Wickham to briefly describe how she has gained the deep knowledge that she has with respect to that facility and its operation.

Ms. Wickham stated she began work with NDOC as a CNIII at HDSP and the role of the CNIII was to supervise and run the shift that you are assigned to with the caveat that your schedule can change at a moment's notice and that is true within the NDOC no matter what your rank or position is.

Ms. Wickham stated during her time at HDSP, she ran the clinic, she ran the infirmary, she responded to emergencies such as shots fired, fights, man downs.

Ms. Wickham stated anything that needed to be done as a registered nurse, the charge nurse must be able to accomplish, whether it's intake or anything else, because the charge nurse has to know how to do every single job in that institution.

DD Thomas asked Ms. Wickham if she had seen the flow chart in exhibit 3 of the grievance packet.

DD Thomas asked Ms. Wickham if she was familiar with the staff identified in that flow chart.

Ms. Wickham stated she was.

DD Thomas asked Ms. Wickham if she had ever work with any of them

at HDSP.

Ms. Wickham stated she had worked with Art, George, Nilo extensively and she believed Maurice was a per deim nurse when she was there, and Jamie Cabrera came onto staff with NDOC after she had left HDSP, but she was familiar with who Ms. Cabrera was.

DD Thomas asked Ms. Wickham if she was knowledgeable of the duties described within the flow chart.

Ms. Wickham stated she was.

DD Thomas stated he was sure Ms. Wickham had scheduled, rearranged schedules and had been responsible for making sure all the nursing needs had been met on a particular shift or at a specific facility.

Ms. Wickham stated that was correct and she was in charge of the scheduling when she was the charge nurse at HDSP.

DD Thomas asked Ms. Wickham, regarding the words DD Thomas keeps referring to, regarding the most logical decision, those words were actually the response Ms. Wickham gave at step 2 in the grievance.

Ms. Wickham stated that was correct and she stands by that statement.

Ms. Wickham stated she would like the opportunity to dispute what Mr. Buen stated.

Ms. Wickham stated Mr. Buen stated seniority was never brought up in his grievance, that she was the one who mentioned it.

Ms. Wickham stated in his grievance, exhibit B, paragraph 2 on page 1 of 6, quote; "When I email Scott Mattinson on 9/12/2018 at 2:43 pm asking if the schedule change was based on seniority."

Ms. Wickham stated that was why, when Mr. Buen introduced seniority into the grievance she responded regarding the use of seniority and there is nothing in the NRS that requires supervisors.

Ms. Wickham stated they were making determinations based on who would be the best fit to supervise a particular shift or a particular rotation.

Ms. Wickham stated we chose that person based on not only their skills but also an opportunity to mentor them, so they can grow as supervisors.

DD Thomas asked if Ms. Wickham had an opinion as to whether the grievant's responsibilities are significant or different and unique from Nilo Peret.

Ms. Wickham stated each charge nurses' individual duties are going to

be unique, for instance, George Taino, who is a CNIII, but he is the case management RN, his individual duties are going to be unique to that position because he is primarily concerned with utilization review and making hospital rotations to check on inmate needs and status.

Ms. Wickham stated one of the individual duties for Jamie Cabrera is pharmacy operations which is going to be very labor intensive and that is going to be ensuring that all of the medications is ordered, maintained and stocked so the institution doesn't run out.

Ms. Wickham stated the duties for the individual positions seem to be evenly arranged and allocated, where Jamie and George have two labor intensive duties, the one major one would qualify for two major duties as compared to other people.

DD Thomas stated in discussing George's first responsibility, the utilization management, that would require George to be in the office and working, calling those hospitals during business hours.

Ms. Wickham stated that was correct.

DD Thomas stated that task was unique in a way to a specific time of the day and even day of the week that task can be performed.

Ms. Wickham stated that was correct because George would be speaking with case managers and discharge planners at hospitals and they primarily work Monday through Friday, 8:00 am to 5:00 pm, they do not work on weekends.

DD Thomas asked with relation to other people, were there specific tasks that make the ability to perform than task more effective and more likely to reach the ultimate goal in that task if they are assigned to a certain day of the week or hours of a day.

Ms. Wickham stated yes, and stated if you looked at Nilo Peret's schedule, his last two; dental and lab support, those are duties that are not carried out on the weekends.

Ms. Wickham stated mental health support and outpatient mental health are not done on the weekends with the exception of an emergency and that would be considered a man down situation.

Ms. Wickham stated some of Nilo's duties would not be able to be accomplished on the weekends because there would be no one working in those areas for Nilo to oversee or support.

DD Thomas asked Ms. Wickham if she would find it unreasonable or unfair for the person responsible for scheduling to not work on the weekend.

Ms. Wickham stated she would not find that unusual.

Ms. Wickham stated when she first started at HDSP, she worked Sunday through Tuesday and every other Wednesday but when she took over the scheduling, her schedule changed to Monday through Thursday, 10-hour shifts with the caveat on any given day, she could be working a 16-hour shift if someone called off.

Ms. Wickham stated she was the only person that didn't have a car pool so the only way to cover a shift if someone called off, in lieu of having 4 or 5 people, she would cover it and would also cover on the back end of the week on Friday, Saturday or Sunday.

DD Thomas asked Ms. Wickham if she was familiar with the grievant.

Ms. Wickham stated she did, and that Mr. Buen was on her team when she was a charge nurse at HDSP.

DD Thomas asked Ms. Wickham, if she felt Mr. Buen was a competent nurse.

Ms. Wickham stated she felt Mr. Buen was a competent registered nurse and that in an emergency situation, Mr. Buen did really well.

Ms. Wickham stated Mr. Buen did really well assisting the doctors' and has very good critical thinking skills.

DD Thomas referred to the testimony regarding the phrases included in the September 14th, 2018 email from Mr. Mattinson.

DD Thomas stated the first statement the grievant found quote 'a little' offensive was in the first paragraph; 'Our job is exactly that, to make these decisions. Do you explain all your parenting decisions to your son?'

DD Thomas asked Ms. Wickham if she reviewed this exhibit while she was reviewing the grievance.

Ms. Wickham stated this was the first time she had seen the email and did not believe she had reviewed it.

Ms. Wickham stated when she answered the grievance, she was reviewing the original grievance and Mr. Mattinson's reply.

Ms. Wickham stated her job as the next level grievance response is to look for something in the NRS or the NAC that could back up either the grievant's statement or the agency's.

DD Thomas asked Ms. Wickham if this document had been before her when she reviewed the grievance, would she have taken the statement DD Thomas read to be offensive or demeaning.

Chair Puglisi stated if the agency kept on this path, the hearing would go past the allowed timeframe.

Chair Puglisi stated the line of questioning was merely asking for an opinion and the Committee had already heard the discussion and received all they needed from that discussion.

DD Thomas asked Ms. Wickham in examining the grievance if she had any indication that Mr. Buen was being treated unfairly and should be given the relief he was requesting.

Ms. Wickham stated she did not think Mr. Buen was being treated unfairly nor did she think there was any favoritism.

Mw. Wickham stated the schedules that were being assigned were based on the duties.

Ms. Wickham stated regarding the original complaint about rotation, they do not rotate supervisors to different teams as that is not in the best interest of order, safety and security, and NDOC will not compromise the safety and security of any correctional facility to facilitate the personal wants and desires of employees.

Chair Puglisi opened for grievant cross examination.

Ms. Lake stated Ms. Wickham's response stated; "The most logical decision would be to have an experienced charge nurse on night shift and weekends to appropriately orient new nurses to the NDOC."

Ms. Lake stated the testimony from the department and from Mr. Buen that the most experienced is the employee that is not required to work weekends.

Ms. Lake asked Ms. Wickham if there was a reason she responded the way she did when the person with the most experience is not required to work the weekends.

Ms. Wickham stated she didn't say the most logical decision would be to have the *most* experienced charge nurse but what she said was the most logical decision would be to have *an* experienced charge nurse and Mr. Buen is an experienced charge nurse and she would want to ensure the nurses on night shift who are the newest nurses to the correctional system are oriented appropriately.

Ms. Lake asked Ms. Wickham if all the charge nurses at HDSP experienced nurses.

Ms. Wickham stated yes but some have more experience than others.
Ms. Lake asked Ms. Wickham if she was aware that as far as the

grievance goes, Mr. Buen was just asking for fair rotation or alternate weekends for *all* charge nurses.

Ms. Wickham stated the grievance was related to unfair work shift/hours changed along the charge nurses and that was what the grievance started off with.

Ms. Lake stated she was referring to the proposed resolution to the grievance and that was 'rotation on weekends off day shift with Mr. Peret, charge nurse.'

Ms. Lake stated the parties were here today, this grievance went through the entire grievance process and there has been *all* the reasons why there was an exception to this schedule being made but throughout the entire grievance process, the only thing Mr. Buen was asking for was 'why was this done, why has there been this favoritism.'

Ms. Lake stated today there are all the explanations and asked was there at any time, any possibility that Ms. Wickham, or someone within the chain of command could have responded to Mr. Buen how you have responded today.

Ms. Lake stated perhaps, the parties would not have been here today.

Ms. Wickham stated what Mr. Buen was requesting was rotating with another charge nurse which would mean that you would have a team that would have a rotation of charge nurses with no true team leadership, no true team supervision which would not be keeping in good order, safety and security of an institution.

Ms. Lake asked Ms. Wickham if it was true that all charge nurses can switch out if somebody calls in sick, if another charge nurse gets called in they can pick up where another charge nurse left off, if they are out.

Ms. Wickham stated that was correct but that was not the norm, it was an exception.

Ms. Lake stated the duties, according to exhibit 3 of the employee's packet showed the HDSP flow chart and if one looks at Mr. Buen's then at Mr. Peret's, the provider support under Mr. Buen's column stated 'provider support, CNA supervisor, HIC support, orientation/staff meeting' those are duties that are required during the week.

Ms. Wickham stated there would be some and orientation would happen 24/7.

Ms. Lake asked Ms. Wickham if the CNA worked the weekdays.

Ms. Wickham stated to some extent yes, but some exceptions have been made based on the acuity of the patients in the infirmary where CNA's

were working weekends and nights.

Ms. Lake asked Ms. Wickham if provider support worked weekdays.

Ms. Wickham stated yes.

Ms. Lake asked Ms. Wickham if HIC support worked weekdays as well.

Ms. Wickham stated yes.

Ms. Lake asked Ms. Wickham if any of Mr. Peret's duties such as scheduling could not be done on a weekend.

Ms. Wickham stated to some extent yes.

Ms. Lake stated from Mr. Buen's testimony, he still believed there was some unfairness and that even with the recent directive from Mr. Mattinson in an email dated March 3rd that stated 'in an effort to provide better leadership on weekends, we are halting every other weekend. Please return to Sunday through Wednesday, Wednesday through Saturday beginning March 10th. The night shift CNIII needs to start covering weekends every other week.

Ms. Lake asked Ms. Wickham if that had happened.

Ms. Wickham stated she would have to have the most current schedule from HDSP in front of her in order to know if that had taken place.

Member Thompson asked who sent the email.

Ms. Lake stated it was Scott Mattinson.

Chair Puglisi asked Ms. Wickham where it stated Mr. Peret was responsible for scheduling, was Mr. Peret responsible for the scheduling of his peers.

Ms. Wickham stated that was correct, Mr. Peret would be responsible for scheduling all of the nursing staff whether it's a CNA or staff nurse.

Chair Puglisi clarified and asked if Mr. Peret was in the position to write his own schedule and the schedules of his peers.

Chair Puglisi stated the Committee felt there may have been a possibility the person writing the schedules was giving himself the best schedule.

Chair Puglisi stated there was never really a question of NDOC being able to schedule their employees' where the business needs are.

Ms. Wickham stated charge nurses are supervised by the DON and the charge nurse schedules would be coordinated among the DON who are

supervising those nurses, so no, Nilo would not be making the schedules for the other charge nurses.

Chair Puglisi asked if Mr. Mattinson wrote the schedule for the CNIIs'.

Member Thompson asked for clarification who schedules the CNIIs'.

Ms. Wickham stated the DON.

Chair Puglisi asked if the Committee had any other questions for Ms. Wickham.

There was none, Ms. Wickham was excused.

Chair Puglisi called a 10-minute break and the meeting went off the record.

Chair Puglisi called the meeting to order at 10:35 am.

DD Thomas called Scott Mattinson as his next witness.

DD Thomas asked Mr. Mattinson how long he had been employed at HDSP.

Mr. Mattinson stated he had been employed at NDOC for 8 years and had been at HDSP since July of 2018.

Mr. Mattinson stated he had been at the Ely State Prison facility as a charge nurse for over 3 years.

Mr. Mattinson stated he worked all days and all hours, was a fill in and was the only one on call for holidays and that was part of what was expected.

DD Thomas asked Mr. Mattinson if Nilo scheduled the days off or did the work schedule for the CNIIs'.

Mr. Mattinson stated no, that it was him and Mr. Faulkner.

DD Thomas asked Mr. Mattinson what the impact would be if he were to grant the request for rotation from the grievant.

Mr. Mattinson stated rotation does not line up with nursing and that nurses operate 24/7 365 days a year.

Mr. Mattinson stated HDSP was the largest facility that received approximately 80 plus intakes a day.

Mr. Mattinson stated we need leadership but HDSP has one of the largest staff on night shift and weekends.

Mr. Mattinson stated HDSP needed to have strong charge nurses that are experienced because resources are limited on the weekends.

Mr. Mattinson stated one thing that was explained to him when he accepted the position of DON II at HDSP was the main complaint of the administrative physician was there was no supervision on nightshift or weekends, so the administrative physician would get cold calls from RN's calling in.

Mr. Mattinson stated the administrative physician would ask the RN's if they contacted their charge nurses and they would answer there really was no charge nurse, or they were unsure who the supervisor was.

Mr. Mattinson stated on the night shift, he would have the warden come through and the warden found a huge sense of dissatisfaction from the nurses on night shift.

Mr. Mattinson stated rotation was not practical in a nursing environment.

Mr. Mattinson stated he tries to keep scheduling as simple as possible, but it is a challenge because he is trying to juggle annual leave, training and coverage and he cannot, not have an RN and he cannot not have enough nurses to handle pill call and he cannot not have enough people to assess inmates and injuries.

Mr. Mattinson stated he has to have someone a competent charge nurse who can handle those issues and direct the charge nurses.

Mr. Mattinson stated what ends up happening is a rotating on call schedule.

Mr. Mattinson stated one of the DON's is always available 24/7.

Mr. Mattinson stated because there was no supervision on the weekends and on nights, all the charge nurses were scheduled Monday through Thursday and because of that, Mr. Buen never worked weekends as a charge nurse.

Mr. Mattinson stated the reason he thought though this was a growth for Mr. Buen was that was part of what made Mr. Mattinson ultimately become a DON.

Mr. Mattinson stated he has to recognize what the challenges of his subordinates are and asked rhetorically, how could he be a good DON if he cannot recognize those challenges.

Mr. Mattinson stated the reason why rotation wouldn't work is because he positions his people at the front end and the back end of the week and the want some continuity between the supervisors.

Mr. Mattinson stated if he assigned Mr. Buen at the back end of the week, he would be working with the same staff and that staff would understand how Mr. Buen operates and what his expectations are.

Mr. Mattinson stated if they implement the rotation, it creates dissatisfaction with the other staff because they would not know what to expect.

Mr. Mattinson stated it was not just the tasks that were assigned, it was about being able to create some continuity with the staff.

Mr. Mattinson stated the challenge of rotation is that it would create uncertainty, adds additional complexity to the scheduling system and if they had to worry about everyone being on rotation, that would take away from the care and concern for the patients.

Mr. Mattinson stated when he signed up for nursing, he knew it was 24/7 365 days a year and if others weren't happy with that, they should change their career and potentially find one where they can work Monday through Friday.

DD Thomas stated that rotation of the charge nurses is not in the best interest of providing the multi range of services that must be provided at HDSP.

Mr. Mattinson stated when he first got to HDSP he did the rotation for a month and it didn't last for the reasons he previously mentioned.

DD Thomas asked Mr. Mattinson as a supervisor does he or does he not have an open-door policy.

Mr. Mattinson stated yes, he does.

DD Thomas asked Mr. Mattinson if Mr. Buen ever sent an email or did anything to indicate he would like to sit down and talk about why he could not be rotated.

Mr. Mattinson stated Mr. Buen did send an email asking if that was a possibility and my response was no, it just would not be conducive to our operations and after that, Mr. Buen did not pursue the issue.

Ms. Lake asked, for clarification, that Mr. Mattinson and Mr. Faulkner are the ones that do the scheduling and Nilo has no responsibility for scheduling the charge nurses.

Mr. Mattinson stated no.

Ms. Lake stated what she had been hearing from Mr. Buen was that Nilo did the charge nurse schedules.

Ms. Lake asked if it was possible to have Mr. Buen explain what that role was, what they do.

Mr. Buen stated he was doing the scheduling and he has the passwords for the schedule and that both him and Nilo have been doing the schedule since he started.

Mr. Buen stated the DON does not change the schedules, that it was him and Nilo.

Ms. Lake asked Mr. Buen if it was a password system they used to do the scheduling.

Mr. Buen stated yes.

Chair Puglisi asked Mr. Buen if he was inputting what he was told to input for the CNIII's and then the subordinate staff in this system.

Mr. Buen stated him and Nilo were doing the input for the staff nurses.

Chair Puglisi asked who determines his schedule and the other CNIII's.

Mr. Buen stated the DON's but him and Nilo were doing the schedule.

Ms. Lake stated Mr. Mattinson stated they needed charge nurses on evenings and weekend because there was no supervision, but there was no supervision now and asked why there was that disparity.

Mr. Mattinson stated they have Nilo on the night shift and to clarify, Nilo had volunteered to work night shift because the charge nurse on night shift stepped down.

Mr. Mattinson stated Mr. Buen could have volunteered to work night shift but chose not to do so.

Mr. Mattinson and Mr. Faulkner agreed that since Nilo volunteered for the shift and since it was temporary coverage till a new charge nurse was hired, they would be more flexible with Nilo's schedule.

Member Thompson asked Mr. Mattinson if he sent an email asking to change the scheduling.

Mr. Mattinson stated he was trying to make some accommodations to both Jamie and Mr. Buen since the clinic was down with Nilo going to night shift.

Mr. Mattinson stated he wanted them to cross over because that was what Nilo's responsibility was, was to provide that third person provider in the clinic.

Mr. Mattinson stated he still wanted direction on front end and back end on the weekends and he still wanted to provide an additional staff member and he offered they could work every other weekend in order to cross over more.

Mr. Mattinson stated subsequently he had call off's and it created three weekends off in a row where he had contact administrator on call who didn't have anyone to fill the gaps and put us in a dangerous staffing situation.

Mr. Mattinson stated that was why he halted that because they could not place the facility in a dangerous staffing situation.

Chair Puglisi asked Mr. Mattinson if the cross over scheduling was the schedule that was done for the two months the Committee heard about earlier.

Mr. Mattinson stated yes, that was when Nilo went to the night shift and they did not want the clinic not covered but it resulted in problems on the weekend and that was why he changed it back.

Chair Puglisi stated it sounded like Mr. Buen, whether or not it happened, wanted to have a meeting and asked if anyone, at any point in this process attempted to have a resolution conference.

Chair Puglisi stated that where this was headed was that the Committee would not be able to make everybody happy.

Chair Puglisi stated he wondered if anybody on either side had looked at any type of compromise such as one weekend off per month.

Ms. Leathers stated this could be her error as she was under the impression that once a grievance had been scheduled for EMC, the opportunity for a resolution conference had become null and void.

Ms. Leathers stated if that was still an option and if Mr. Buen agreed, that would be an opportunity to sit down and discuss the issue.

Ms. Lake stated she had requested a resolution conference, but it was too late per regulation, but she was open to the idea of discussion.

Ms. Lake stated that was why she was pointing out that if anyone had tried to sit down and discuss this, the grievance would not have gotten to this point.

Chair Puglisi stated he would be agreeable to a 20-minute recess, so the parties could discuss the issue, make some progress and the grievance possibly get withdrawn.

DD Thomas stated if the grievant and his representative take a moment to discuss that and if they thought there was a reasonable chance a resolution could be made and understanding the testimony regarding coverage, the agency would be amenable to that as well.

Ms. Lake stated they would be amenable to that.

Chair Puglisi called a 20 to 30-minute recess to allow the parties to discuss the issue off the record.

Chair Puglisi went back on the record at 11:34 am.

DD Thomas stated during the break, NDOC and Ms. Wickham considered the basis of the grievance, what Mr. Buen was seeking and called him and his representative back with what they considered the fairest option.

DD Thomas stated all parties agreed to the following: Effective May 6th, 2019, all charge nurses at HDSP, all CNIIs' will work a Sunday through Wednesday schedule or a Wednesday through Saturday schedule except for George Taino who does the case management aspect of the operation and except for the new night shift charge nurse Ariana, who will work a 6:00 pm to 4:00 am shift Monday through Thursday.

DD Thomas stated the above is effective May 6th with the clear understanding it is subject to change if there is a charge nurse who gets sick or is out on extended leave and the facility has the right to temporarily modify the schedule to meet those needs.

Ms. Lake stated with that agreement, they would withdraw the grievance.

Chair Puglisi asked EMC Coordinator Nora Johnson the appropriate way to make a motion to withdraw the grievance.

Ms. Johnson stated as both sides agreed, through discussion to that agreement and Ms. Lake as the representative agreed to withdraw the grievance that no motion needed to be made as it was requested to withdraw on the record.

Ms. Johnson deferred to Mr. Whitney for verification.

Mr. Whitney stated that was correct and there was no need to make a motion as the grievance was withdrawn on the record.

Chair Puglisi stated there would not be a written decision within 45 day and that grievance #5984 of Arturo Buen was withdrawn.

8. Public Comment

There were no comments in the North or in the South.

9. Adjournment

Chair Puglisi adjourned the meeting at approximately 11:39 am.