



STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
100 N. Stewart Street, Suite 200 | Carson City, Nevada 89701
Phone: (775) 684-0135 | <http://hr.nv.gov> | Fax: (775) 684-0118

Meeting Minutes of the Employee-Management Committee
April 24, 2014

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

Committee Members:

Management Representatives	Present
Mr. Mark Evans–Chair	X
Ms. Mandy Payette–Co-Vice-Chair	X
Ms. Bonnie Long	
Ms. Claudia Stieber	
Ms. Allison Wall	
Ms. Michelle Weyland	X
Employee Representatives	
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. Robert Whitney, EMC Counsel, Deputy Attorney General
Ms. Carrie Lee, EMC Coordinator
Ms. Jocelyn Zepeda, Hearing Clerk

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

2. Public Comment

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

3. Adoption of the Agenda – Action Item

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

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

4. Grievance of Carolyn Burns, #2731, Department of Public Safety. Hearing concerning whether grievant's failure to provide documents and materials at least 12 days prior to the date of the scheduled hearing was due to reasons beyond the grievant's control – Action Item

Carolyn Burns was not present at the hearing.

Co-Vice-Chair Stephanie Canter asked for a motion.

MOTION: Moved to dismiss the grievance due to lack of response to provide materials before scheduled hearing.
BY: Chair Mark Evans
SECOND: Committee Member Donya Deleon
VOTE: The vote was unanimous in favor of the motion.

5. Grievance of Gavin Swick, #2733, Department of Public Safety. Hearing concerning whether grievant's failure to provide documents and materials at least 12 days prior to the date of the scheduled hearing was due to reasons beyond the grievant's control – Action Item

Gavin Swick was present in proper person.

Co-Vice-Chair Stephanie Canter requested an explanation from Mr. Swick regarding his failure to submit grievance packets.

Mr. Swick stated that his grievance is based on the interpretation and implementation of the law, and that he did not feel packets were necessary.

Co-Vice-Chair Stephanie Canter asked Mr. Swick if had notified EMC Coordinator to inform her that he was not intending to submit a packet and still wanted to move forward with the grievance. Mr. Swick stated that he did not think so, and EMC Coordinator Carrie Lee stated that he had not contacted her.

Co-Vice-Chair Stephanie Canter said that without the packets the Committee would not have a copy of the grievance and would not be able to open it up for discussion at a hearing.

MOTION: Moved to dismiss due to lack of response.
BY: Chair Mark Evans
SECOND: Committee Member Michelle Weyland
VOTE: The vote was unanimous in favor of the motion.

6. Adjustment of Grievance of Thomas Finley, #3007, Department of Corrections

Thomas Finely was present in proper person. Deputy Attorney General Charles Mackey was present on behalf of the agency employer Nevada Department of Corrections (“NDOC” or “Employer”).

Thomas Finley was duly sworn. Witnesses for NDOC, Brian Boughter and Scott Alexander, were duly sworn and appeared at the hearing. Mr. Finley stated that he would like to utilize the Employer’s witnesses.

During the hearing, Mr. Finley stated that he is being paid less as an HVACR 3 than the NDOC employee in the HVACR Specialist 2 position at High Desert. Mr. Finley argued in substance that as a HVACR Specialist 3 he supervised the HVACR Specialist 2 and therefore he was entitled to a step increase pursuant to NAC 284.204(1)(c), which allows for adjustment of steps within the same grade in order to maintain an appropriate differential between the base rate of pay of a supervisor and the base rate of pay of an employee who is in the supervisor’s direct line of supervision.

NDOC argued Mr. Finley did not supervise the HVACR Specialist 2. NDOC’s reasoning was that Mr. Finley did not approve employee time sheets, did not authorize employee leave requests, did not prepare employee performance evaluations, and he did not have the ability to hire or recommend disciplinary actions against employees. Therefore, Mr. Finley did not engage in administrative supervision and was thus not a supervisor. Furthermore, NDOC had not sent Mr. Finley to supervisory training. NDOC further argued that the pay disparity between Mr. Finley and the HVACR Specialist 2 was due to the fact that the HVACR Specialist 2 employee had been employed with NDOC since 2000 and had received pay increases prior to the freeze in step increases due to budget constraints implemented before Mr. Finley was hired by NDOC.

Testimony was presented at the hearing by Mr. Finley that he was hired by NDOC in 2012. He testified that he read the class concepts and duties for the HVACR Specialist 3 position when he was hired for the job and they stated that the position was a supervisory position, and that he was never told when he was hired that he would not be a supervisor. Mr. Finley testified in substance that the HVACR Specialist 2 position is the lead worker position, and so as the HVACR Specialist 3 he would be supervising the employee in the HVACR Specialist 2 position, but that this employee was earning more money than he was earning. Additionally, Mr. Finley testified that NDOC had the authority to adjust his steps and remove the pay disparity between his pay and the HVACR Specialist 2 employee’s pay. Finally, Mr. Finley added that he was not asking that any adjustment to his pay be made prior to the lifting of the [State employees’] wage freeze in December 2008.

Testimony was presented by Mr. Alexander that the HVACR Specialist 3 position had been “NPD 19d” in early 2000 because NDOC has a computerized management system, that the HVACR Specialist 2 position did not have a statement of computerized management system, and that [the Department of] Personnel had approved the NPD 19 request. Additionally, Mr. Alexander stated that technical supervision was different than administrative supervision. According to Mr. Alexander, technical supervision was supervision where the person had the technical knowledge to provide guidance to subordinates on how to perform certain functions, while administrative supervision was when a person established policy, signed authorization forms for hiring, supervised and evaluated. He explained in substance that he interpreted the “supervise and evaluate the performance of subordinate HVACR Specialists” statement in the HVACR Specialist 3 Class Concepts as meaning that Mr. Finley as the HVACR Specialist 3 had to have the ability to let him know if the HVACR Specialist 2 was or was not learning what that employee needed to in order to maintain the facility.

Mr. Alexander also stated that the Class Concepts for the HVACR Specialist 4 position talked about the scope of administrative duties, which was [to him] more consistent with administrative supervision. Mr. Alexander testified that Mr. Finley did not perform performance evaluations, did not engage in hiring or disciplining of other NDOC personnel and did not establish policies or forms and standards for the HVACR Specialist 3 position. He also stated that he never told Mr. Finley during the interview that the HVACR Specialist 3 position was a supervisory position, and does not remember Mr. Finley asking if the position was a supervisory position. He further testified that he was “pretty sure” the work performance standards for the HVACR Specialist 3 position did not state anything about it being a supervisory position.

With respect to the HVACR Specialist 2 employee, Mr. Alexander testified that this employee was hired by NDOC in 2000, and was already employed by the State of Nevada before being hired by NDOC.

Mr. Boughter testified that NDOC did not consider the HVACR Specialist 3 position a supervisory position because the person in that position would not be approving time sheets, would not be performing employee evaluations and would not be administering any part of the disciplinary or corrective process, and that the very first phrase under the Class Concepts of the HVACR Specialist 3 position indicated that this position was to work under general supervision. Mr. Boughter also testified in substance that he was told when he was appointed a supervisor that he had to take foundational courses in order to exercise his role as a supervisor, while Mr. Finley had not been through any supervisory training while with NDOC.

Mr. Boughter went on to testify in substance that there were certain procedures under NAC 284.204 which needed to be followed for step increases to be processed through an NPD 4. The first level of authorization for a step increase was an agency’s personnel officer, the second level of authorization was the agency’s division administrator, the third level of authorization was to send the

NPD 4 to “fiscal,” the fourth level of authorization was to Personnel [Dept. of Administration, Human Resource Management] and then the final level of authorization was the Governor’s Office.

Mr. Boughter testified that in Mr. Finley’s case the employee in the HVACR Specialist 2 position had received step increases while Mr. Finley had not received any step increases but was frozen at step one; Mr. Boughter added that if NDOC approved a step increase for Mr. Finley they would have to approve a step increase for many of its other employees. Mr. Boughter stated that NDOC did request accelerated rates of pay for certain, difficult to fill positions, such as the hiring of medical staff due geographical considerations, but such requests were not experience-based, and that even in cases where the position was difficult to fill the hiring and step increases still had to go through the NPD 4 process.

Additionally, Mr. Boughter testified that the Department of Corrections’ Human Resource Office had a database of templates with job elements on them, and that it was up to the supervisor or appointing authority to fill in the standards that were required for the work performance and that those were kept in a file in the NDOC’s Human Resource Office.

Co-Vice-Chair Stephanie Canter heard closing arguments and opened up the grievance to the Committee for discussion and deliberation. The EMC reviewed the evidence, and considered the statements of the witnesses and argument of counsel, representatives, and parties.

MOTION: Moved to deny the grievance.
BY: Committee Member Michelle Weyland
SECOND: Chair Mark Evans
VOTE: The vote was unanimous in favor of the motion.

7. Public Comment

There were no comments from the audience or Committee members.

8. Adjournment

MOTION: Moved to adjourn.
BY: Committee Member Sherri Thompson
SECOND: Co-Vice-Chair Mandy Payette
VOTE: The vote was unanimous in favor of the motion.