



**STATE OF NEVADA**  
**EMPLOYEE-MANAGEMENT COMMITTEE**  
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**Meeting Minutes of the Employee-Management Committee**  
**April 7, 2016**

Held at the Richard Bryan Building, 901 S. Stewart Street, Tahoe Conference Room, 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>
Ms. Mandy Payette—Chair	X
Mr. Guy Puglisi	X
Ms. Claudia Stieber	
Ms. Allison Wall—Co-Vice-Chair	
Ms. Michelle Weyland	
Ms. Pauline Beigel	
<b>Employee Representatives</b>	
Ms. Stephanie Canter—Co-Vice-Chair	
Ms. Donya Deleon	X
Mr. Tracy DuPree	
Mr. David Flickinger	
Ms. Turessa Russell	X
Ms. Sherri Thompson	

**Staff Present:**

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

- 1. Chair Mandy Payette:** 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 Payette requested a motion to adopt the agenda.

**MOTION:** Moved to approve the adoption of the agenda.  
**BY:** Committee Member Donya Deleon  
**SECOND:** Committee Member Guy Puglisi  
**VOTE:** The vote was unanimous in favor of the motion.

**4. Approval of Minutes for February 25, 2016 – Action Item**

Chair Payette requested a motion to adopt the minutes.

**MOTION:** Moved to approve the minutes.  
**BY:** Committee Member Puglisi  
**SECOND:** Committee Member Turessa Russell  
**VOTE:** The vote was unanimous in favor of the motion.

**5. Discussion and possible action related to Motion to Dismiss of Grievance #4191 of Tyler Mleczo, submitted by the Department of Public Safety, supporting documentation, and related oral argument, if any – Action Item**

A Motion to Dismiss was submitted to the Employee-Management Committee (“Committee”) by the agency employer Department of Public Safety (“DPS”) which was represented by Deputy Attorney General Michelle Alanis. Nevada Highway Patrol (“NHP”) Trooper Tyler Mleczo (“Mr. Mleczo”) was present in proper person.

DPS requested Grievance #4191 be dismissed as there were no allegations of violations of statutes or policy; DPS was complying with newly-enacted Assembly Bill 388 (“AB 388”) which went into effect July 1, 2015. Mr. Mleczo disagreed with DPS’ motion to dismiss.

The Committee deliberated on the issues presented. Committee Member Puglisi stated after reviewing the applicable statutes and regulations he needed further clarification. Committee Members Russell and Deleon were in agreement.

Chair Payette requested a motion.

**MOTION:** Moved to deny the Motion to Dismiss to obtain clarification.  
**BY:** Committee Member Puglisi  
**SECOND:** Committee Member Deleon  
**VOTE:** The vote was unanimous in favor of the motion.

**6. Adjustment of Grievance of Tyler Mleczo, #4191, Department of Public Safety– Action Item**

Chair Payette opened the hearing on the adjustment of Grievance #4191. Mr. Mleczo, DPS Management Analyst I Kristen Defer (“Ms. Defer”), Department of Administration, Division of Human Resource Management (“DHRM”)

Deputy Administrator Shelley Blotter (“Ms. Blotter”), DPS Personnel Officer III Mavis Affo (“Ms. Affo”) and NHP Trooper Patrick Johnson (“Mr. Johnson”) were sworn in prior to testifying; Ms. Affo did not testify. Both parties submitted exhibits; there were no objections to the exhibits.

Mr. Mleczeko argued in substance AB 388 made certain changes to NRS 281.145, specifically to the military leave allotment for State employees, which went from 39 paid days for military leave to 15 days of paid military leave, in addition to 24 days, with the stipulation that the 24 days fall on a Saturday or Sunday. Mr. Mleczeko argued in substance he took 27 days of military leave before July 1, 2015. After July 1, 2015, Mr. Mleczeko contacted DPS’ Human Resources (“HR”) to find out how much military leave he had remaining, and was told that he had 11 days remaining, and Mr. Mleczeko took those remaining 11 days. Mr. Mleczeko testified in substance that when he returned to work he found that he was in debt to the State of Nevada by approximately \$2,300. Mr. Mleczeko further testified in substance he was penalized by the changes made by AB 388 and that he relied on DPS’ HR to provide him information on how many days of military leave he had.

DPS testified that DPS complied with the changes made to NRS 281.145, and have done their best to resolve the issues some employees experienced although some employees felt they were penalized.

Mr. Johnson testified he was on military leave returning from deployment when he received an email from DPS’ HR. The email stated he had 39 days to use after July 1, 2015. Mr. Johnson further testified DPS’ HR advised he did not have any days to use and ended up overusing 22 days that he had to repay. Mr. Johnson testified in substance he filed a grievance which was resolved when DPS’ HR backdated his military leave so he did not have to repay the overpayment. Mr. Johnson further testified DPS did its best to ensure he was compensated.

Ms. Defer testified her duties included handling all of payroll for DPS, doing retro-pay adjustments and handling military pay differential payments. Ms. Defer further testified when she first became aware of the changes to NRS 281.145, she alerted employees that had military leave they could be in danger of going over, or had already gone over, their leave time. Upon questioning, Ms. Defer did not recall the effective date of AB 388, but knew it was retroactive to July 1, 2015, and warned the affected employees there could be adjustments.

Ms. Defer stated in substance she worked with Mr. Mleczeko to try to resolve the situation so he would not owe any money. Ms. Defer further stated in substance she helped everyone affected but was bound by the law. Ms. Defer indicated in substance that DPS did not have clarification regarding the 12-month period on July 1, 2015, when the law changed, and that DPS did not have clarification from DHRM on what a 12-month period was going to be until late August 2015, after which she sent an email to the affected DPS employees.

Ms. Blotter testified that she had been the Deputy Administrator at DHRM for 10 years, and that some of her duties included overseeing the Consultation and Accountability section of DHRM, researching for current legislation and

preparing for regulations to be adopted by the Personnel Commission. Ms. Blotter testified in substance that a committee consisting of a number of agency representatives had been put together to work on the language of AB 388. Ms. Blotter further indicated that AB 388 was signed into law on June 4, 2015. However, Ms. Blotter also testified in substance that it was not until August 3, 2015, that DHRM told the State agencies the new payroll code to use in association with the new law because DHRM was still trying to obtain interpretation of AB 388 from the Legislative Counsel Bureau.

Ms. Blotter stated in substance that DPS made her aware that some of its employees would be losing money as a result of the changes to NRS 281.145, and she advised DPS to go back and do what recoding was possible to try and benefit its employees as much as possible. Ms. Blotter indicated that DPS was not required to go back and recode the leave to benefit its employees. However, Ms. Blotter also stated that the agencies still had to abide by the law when making those changes, and that whether or not the changes to NRS 281.145 were codified into the NRS, those changes were still effective on July 1, 2015.

Ms. Blotter further testified in substance that the situation involving applying the changes made to NRS 281.145 was difficult and “tricky” to handle, and that DPS had no control over the 12-month period referenced in AB 388, and whether that time period remained a calendar year.

The Committee, after having read and considered all of the documents filed in this matter and having heard oral arguments, deliberated on the issues presented. Committee Member Puglisi stated in substance it was important to know when the emergency regulation went into effect which indicated when the 12-month period in AB 388 went into effect, because a reasonable person could assume that the 12-month period went into effect on July 1, 2015, and that the 12-month period would be a rolling calendar from July 1 until whatever period a person took their first day of military leave; the law was not codified, so NRS 281.145 still said that 39 days during a calendar year was the applicable period of military leave. Chair Payette voiced the opinion even though AB 388 was not codified that did not negate the fact that the changes AB 388 made to NRS 281.145 were still effective July 1, 2015. Committee Member Russell stated in substance that the 15-day period concerning military leave in AB 388 applied to employees who worked a Monday through Friday shift, and that the additional hours equivalent to 24 working days took into consideration employees who worked non-traditional days.

Testimony was reopened with agreement from the parties, and Ms. Blotter clarified that the effective date of the emergency regulation setting the 12-month period in AB 388 to a calendar year for all State agencies with the exception of the Office of the Military was July 1, 2015. Ms. Blotter also testified in substance that the 15 days of military leave was for anyone to use for military leave, whether or not the employee worked the weekend, and that the 24 additional days was for employees whose normal work schedule fell on a Saturday or Sunday. Ms. Blotter further testified in substance that the 15 days and the 24 days added together totaled 39 days, and that the difference between NRS

281.145 before and after July 1, 2015, was that the 39 days of leave was not specific to employees with weekend schedules prior to July 1, 2015.

Ms. Blotter also testified in substance that prior to July 1, 2015, a State employee using military leave would receive all of his or her military pay for any hours he or she served in addition to receiving all of their State pay for all of the hours they served for the 39 days. After July 1, 2015, the employees would receive all their military pay for the 15 days and State pay for 15 days, and for the remaining 24 days the employee would only be eligible for the difference between State pay and military pay if the employee normally worked on a Saturday or Sunday. Furthermore, after July 1, 2015, if the employee's State pay was greater than his or her military pay then the employee would only receive that difference in pay, and would no longer receive all of their military and all of their State pay.

After Ms. Blotter finished testifying, Committee Member Russell indicated that it was an unfortunate set of circumstances, but the Committee had no authority to change the situation. Committee Member Deleon was in agreement, and stated DPS did not violate any statutes or regulations. Chair Payette noted that DPS minimized the effects of AB 388 on its employees, and did not see where DPS abused statutory requirements in implementing the changes to NRS 281.145.

Chair Payette requested a motion.

**MOTION:** Moved to deny grievance due to lack of finding of any violation of NRS 281.145.

**BY:** Committee Member Russell

**SECOND:** Committee Member Deleon

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

**7. Adjustment of Grievance of Bonnie Borgman, #4014, Department of Employment, Training and Rehabilitation– Action Item**

Contributions Examiner II Bonnie Borgman (“Ms. Borgman”) was present in proper person. The agency employer Department of Employment, Training and Rehabilitation (“DETR”) was represented by Personnel Officer III Brian Boughter. Witnesses Ms. Borgman, DETR Employment Security Division (“ESD”) Supervisor for Account Services Maja Dozier (“Ms. Dozier”) and ESD Deputy Administrator Jeffrey Frischmann (“Mr. Frischmann”) were sworn in and testified at the hearing. Both parties submitted exhibits; DETR objected to all of Ms. Borgman’s exhibits with only Exhibit 1(a) being relevant. Chair Payette overruled the objection.

Grievant stated in substance that the nature of her grievance dealt with unprofessional behavior by management, the performance of duties outside of her Work Performance Standards, working conditions, such as being short staffed and the performing of additional IT duties due to new computer system errors, defects and numerous angry and frustrated callers. Ms. Borgman stated in substance that she would prove there was personnel conflict and inappropriate action by management at DETR.

DETR in substance asked the Committee to dismiss Ms. Borgman's grievance because it felt that there was no regulation, statute or policy noted in Ms. Borgman's grievance which had been violated, and that no type of decision by the Committee would enhance the improvements DETR was trying to make with respect to its new system and processing in its Contributions Unit. DETR noted in substance that there had been unprofessional e-mails sent to Ms. Borgman, but that those e-mails had been addressed, and that meetings had taken place so that DETR believed it had met all of the requirements of the grievance process. DETR added in substance that although many of the concerns raised in Ms. Borgman's grievance were addressed, it continued to address some of the concerns raised in the grievance.

Ms. Borgman stated that she had a personal conflict with, and had been sent an unprofessional e-mail from, her supervisor Ms. Dozier. Ms. Borgman stated in substance that the e-mail said she had incorrectly filled out a defect report. Additionally, Ms. Borgman said in substance that Ms. Dozier had come over to her (Ms. Borgman's) desk and started to raise her voice at Ms. Borgman, alleging that Ms. Borgman had hung up on an employer, and that the employer was yelling at her (Ms. Dozier). Ms. Borgman alleged in substance that when a co-worker acknowledged that she was the employee who had spoken with the employer Ms. Dozier said "that's ok" and walked away.

Ms. Borgman felt that there was a lack of training for management, and that management was vindictive toward her. Additionally, Ms. Borgman in substance described what her duties were, and stated that she was required to fill out defect forms and fill out a daily phone log, which she indicated in substance was time consuming. Ms. Borgman testified in substance that as an examiner she had not received training on upload instructions.

Ms. Dozier testified that she was a supervisor for the Account Services Unit at ESD. Ms. Dozier stated in substance that the new computer system came on line on September 28, 2015, that the system was far from perfect, and had "lots of glitches" which DETR was still in the process of fixing, and there were ongoing issues with the system. However, Ms. Dozier indicated in substance that DETR was addressing the issues to try and improve and correct the system.

Ms. Dozier stated in substance that Ms. Borgman had received training on the new computer system, and that she had in fact sat with Ms. Borgman and showed her how the new system worked, had sent out e-mails to show what to do to work through the new system, and that the e-mails included instructions and screen shots. Ms. Dozier stated in substance that if Ms. Borgman did not read her e-mails then her e-mails would do no good, and that she needed to at least ask her (Ms. Dozier) if she did not understand something. Ms. Dozier added that she was aware of the frustration of employees in her unit, and that employers yelled at her, too.

Ms. Dozier, in response to questioning, stated in substance that examiners have always assisted employers with filing their quarterly reports, and that part of that task now is assisting employers with the new system. Ms. Dozier added in

substance that they had always answered the help desk at ESD for the internal computer system, but that the current system was a different system than past systems. Ms. Dozier testified in substance that ESD was not asking the examiners to be IT people; ESD was asking the examiners to gather information from the employers that would assist its programmers to fix the new system.

Mr. Frischmann testified in substance that he had met with Ms. Borgman for about an hour and a half to discuss the issues and challenges she faced. Mr. Frischmann stated in substance that he agreed that the e-mail Ms. Borgman had received from Ms. Dozier was unprofessional, and that that issue had been addressed. Mr. Frischmann also noted in substance that Ms. Borgman had talked about her frustration related to the new computer system. Mr. Frischmann stated in substance that when you bring in a complex and large system like ESD did there would be difficulties and challenges to face. However, Mr. Frischmann added in substance that he explained to Ms. Borgman that everyone at ESD would all get through the process, and he felt that he had addressed Ms. Borgman's grievance.

With respect to Ms. Borgman's suggested resolution of having the IT help desk staff receive some of the employer calls about the new computer system, Mr. Frischmann explained in substance that ESD was a customer service-oriented agency, and that they (ESD) needed to understand the problems on the "front line," and have those reported. Mr. Frischmann acknowledged that although the work load would initially increase after the implementation of the computer system, as time passed and defects were identified the work would become better and easier. Mr. Frischmann also noted that ESD was asking users of the computer system, such as employers or Ms. Borgman, to report the problems with the computer system and to provide screen shots and other information about what problems are being encountered in order to determine if the problem was a training issue or a computer defect. Mr. Frischmann also stated in substance that by going through the time and effort of reporting the defects with the computer system it provided information to the vendor about what should be fixed first.

Mr. Frischmann, in response to questioning, stated in substance that although DETR had a help desk, it was for internal systems, and answering questions from employers about the computer system was outside of the help desk staff's scope of work. Mr. Frischmann testified in substance that Ms. Borgman's job had not essentially changed with the introduction of the new computer system. Mr. Frischmann in substance said that the primary focus of Ms. Borgman's job had been customer service, to help customers with problems, and that had not changed over time, even though Ms. Borgman and others may have had to learn a new computer system. Mr. Frischmann added in substance that approximately 25% of Ms. Borgman's Work Performance Standards were customer service-related. Finally, Mr. Frischmann said in substance that DETR was open to any transfer requests from Ms. Borgman, but that he was not aware of any transfer requests from Ms. Borgman since approximately November 11, 2015.

Chair Payette opened the hearing to the Committee for deliberations. Committee Member Puglisi noted that what was within the scope of Ms. Borgman's

proposed resolution to her grievance had been accomplished. Member Puglisi also noted that Job Element Six of Ms. Borgman's Work Performance Standards was to provide customer service to employers, and that the work Ms. Borgman believed was outside of her Work Performance Standards seemed to fall within the scope of the sixth standard. However, Committee Member Puglisi suggested perhaps DETR could reconsider the weight assigned to the 6<sup>th</sup> standard if Ms. Borgman was constantly on the telephone helping customers. Committee Member Deleon stated in substance that the Committee did not have the authority to tell agencies which duties to assign to its employees and that she understood how Ms. Borgman felt, but that she could not see how the Committee could take action. Chair Payette stated in substance that she too had had frustrations in dealing with new programs, and could appreciate what Ms. Borgman was being asked to do, but DETR had tried to accommodate what they could, and that there was not going to be a perfect fit for anyone in the matter. Mediation was suggested by Chair Payette. Committee Member Russell stated all parties could benefit from having a link on a website for the end users to resolve problems of both sides.

Chair Payette requested a motion.

**MOTION:** Moved to deny the grievance as the issues which had merit had been resolved.

**BY:** Committee Member Puglisi

**SECOND:** Committee Member Russell

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

## **8. Public Comment**

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

## **9. Adjournment**

Chair Payette stated if there were no objections, the meeting would be adjourned. Hearing none, the meeting was adjourned at 12:25 p.m.