



STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
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Meeting Minutes of the Employee-Management Committee
June 12, 2014

Held at the Bryan Building, 901 S. Carson Street, Carson City, Nevada, and the Grant Sawyer Building, 555 E. Washington Avenue, Room 1400, Las Vegas, Nevada via videoconference.

Committee Members:

Management Representatives	Present
Mr. Mark Evans—Chair	X
Ms. Mandy Payette—Co-Vice-Chair	
Ms. Bonnie Long	X
Ms. Claudia Stieber	
Ms. Allison Wall	X
Ms. Michelle Weyland	
Employee Representatives	
Ms. Stephanie Canter—Co-Vice-Chair	
Ms. Donya Deleon	X
Mr. Tracy DuPree	
Mr. David Flickinger	
Ms. Turessa Russell	X
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. Chair Mark Evans:** Called the meeting to order at approximately 9:00 a.m.

2. Public Comment

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

3. Adoption of the Agenda – Action Item

Chair Evans requested a motion to adopt the agenda.

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

4. Approval of Minutes for April 10, 2014 – Action Item

Chair Evans requested a motion to approve the minutes of the April 10, 2014, meeting with the modification in item 4, page 2, the third paragraph, where “vive” chair should be “vice” chair.

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

5. Approval of Minutes for April 24, 2014 – Action Item

Chair Evans requested a motion to approve the minutes of the April 24, 2014, meeting with the clarification on page 5, third paragraph, to read “NDOC’s Human Resource Office database” rather than the “DHRM database.”

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

6. Discussion and possible action related to motion to dismiss of Grievance of Tania Arguello, submitted by the Department of Corrections, supporting documentation, and related oral argument – Action Item

A Motion to Dismiss was submitted to the Employee-Management Committee (“EMC”) by the agency employer Nevada Department of Corrections (“NDOC”) which was represented by Deputy Attorney General Cynthia Hoover. Tania Arguello was present in proper person and represented by Michael Flamm, although most of the oral argument was presented by Ms. Arguello.

Chair Evans explained the procedure for motions to dismiss, and that the Committee was not hearing the case but determining if the case fell within their jurisdiction.

Ms. Hoover argued that the Committee lacked jurisdiction to hear Ms. Arguello's grievance because NDOC had received written direction from Adam Drost, former manager of Central Payroll, which set forth how to handle the issue of holiday pay, that NDOC was simply following that direction, and that if the Committee decided it had jurisdiction in the matter it would mean overturning Central Payroll's direction. She was further argued that the Committee did not have jurisdiction over Central Payroll, which was not a party to the case. Finally, Ms. Hoover argued that the Committee had declined jurisdiction in similar cases where there was an executive order mandating how agencies were to pay salary adjustments and holiday pay.

Ms. Arguello argued in substance that the Committee had jurisdiction to hear her grievance because she was not arguing that the regulation dealing with holiday pay or the instructions from Adam Drost and Central Payroll were incorrect; rather, Ms. Arguello argued that NDOC was not correctly applying the appropriate regulation and Central Payroll's instructions to her particular circumstances.

The Committee reviewed the documents submitted, considered the arguments presented and deliberated on the record. The Committee found that pursuant to NRS 284.384 they did have jurisdiction to hear Ms. Arguello's grievance because it concerned interpretation of policy.

Chair Evans requested a motion.

MOTION: Moved to deny the Motion to Dismiss.
BY: Committee Member Turessa Russell
SECOND: Committee Member Bonnie Long
VOTE: The motion passed with a 5:1 majority vote. Chair Mark Evans, Committee Members Bonnie Long, Donya Deleon, Sherri Thompson and Turessa Russell voting for, and Committee Member Allison Wall voting against.

7. Discussion and possible action related to motion to dismiss of Grievance of Michael Whitfield, submitted by the Department of Corrections, supporting documentation, and related oral argument – Action Item

A Motion to Dismiss was submitted to the Employee-Management Committee ("EMC") by the agency employer Nevada Department of Corrections ("NDOC") which was represented by Deputy Attorney General Dominika Morun. Michael Whitfield was not present.

Ms. Morun argued in substance that the Committee lacked jurisdiction to hear Mr. Whitfield's grievance based on two separate grounds. First, Ms. Morun argued that in the past the Committee has determined that Letters of Instruction ("LOI") are not disciplinary and that it would be the best practice to decline hearing a grievance based on LOIs. Second, she argued that the Committee did not have the jurisdiction to hear Mr. Whitfield's claims of retaliation and discrimination because there was a Federal hearing available for the harassment

claim and a State administrative hearing process available for the retaliation claim.

The Committee reviewed the documents submitted, considered the arguments presented and deliberated on the record. The Committee noted that once in the past it had determined that an LOI had moved from being instructional in nature to being disciplinary in nature. However, since no copy of the LOI was provided to the Committee it was unable to determine if such an event had occurred with respect to the LOI in this matter. The Committee determined that it did not have the jurisdiction to hear the grievance and moved to grant NDOC's Motion to Dismiss.

Chair Evans requested a motion.

MOTION: Moved to grant the Motion to Dismiss
BY: Committee Member Allison Wall
SECOND: Committee Member Donya Deleon
VOTE: The vote was unanimous in favor of the motion.

8. Public Comment

There were no comments from the audience or Committee Members.

9. Adjournment

Chair Evans asked for a motion to adjourn.

MOTION: Moved to adjourn
BY: Committee Member Turessa Russell
SECOND: Committee Member Allison Wall
VOTE: The vote was unanimous in favor of the motion.