



**STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
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**Meeting Minutes of the Employee-Management Committee
June 20, 2019
(Subject to Committee Approval)**

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	X
Ms. Tonya Laney	X

Employee Representatives

Mr. Tracy DuPree	
Ms. Turessa Russell	X
Ms. Sherri Thompson	X
Ms. Sonja Whitten	X
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 Russell

SECOND: Member Whitten

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

5. Discussion and possible action related to #6250 of Tanya Armendariz, Department of Corrections – Action Item

Chair Puglisi stated he would take the agenda items out of order and would begin with grievance #6250.

Chair Puglisi opened the Committee for discussion.

Chair Puglisi stated this was a shift bid related grievance and the background was this particular facility was not subject to shift bid due to the staffing levels.

Chair Puglisi stated in lieu of shift bidding, the employees submit a ‘wish list’ and it seemed that this employee did not get her wish list approved.

Member Laney stated she saw the same thing; the Deputy Director has the authority under Administrative Regulation (AR) 301.01 subsection 5 to exempt certain positions and that the entire facility qualified for the exempt positions.

Member Laney stated the grievant filing against AR 301 was excluded from the shift bid process.

Chair Puglisi stated in his notes, it seemed the agency was following the AR’s, there was no shift bid required but the wish list was submitted as a courtesy.

Chair Puglisi stated in the past, shift changes are up to the agency’s

discretion and based on EMC Decision 10-16, the Committee denied a grievance related to shift change.

Chair Puglisi stated from what he saw, it would be within the Committee's authority to deny the grievance based on NRS 284.020 subsection 2, which stated the agency has the right to run its affairs as they see fit, as long as they are not violating law, regulation or statute.

Chair Puglisi stated he did not see where the agency had violated law, regulation, or statute.

Member Russell stated she disagreed.

Member Russell stated according to page 4 of the grievance, there was a statement that there are 22 legislative approved posts and on page 2 of AR 301 section 2 it stated 'shift bidding shall be conducted in all institutions and facilities having more than 20 correctional officers on the legislative approved staffing chart'.

Chair Puglisi stated then the AR stated, 'except as described below' and discussed the exempted positions.

Member Laney stated they exempted the positions down to where there was only 17 so they were within the number required.

Member Russell stated the way she was reading it was the positions are still there, but it was the exempt positions that were not there.

Member Russell stated she was not reading that would negate the need for a shift bid process.

Member Whitten stated on the first page of the grievance, the grievant stated it was improperly delegated to Lt. Spiece which was in violation of AR 301, as AR 301 does state the shift bid is supposed to be done by an Associate Warden (AW) or the Warden.

Chair Puglisi stated the Committee recently denied a grievance because the agency has the right to delegate this authority, however, even in the process of delegating the process, the final approval is still done by the appropriate party.

Chair Puglisi stated to be consistent, the Committee should follow what they have previously decided.

Member Laney stated the question she had was regarding page 2 of 7 where the grievant was questioning whether or not the non-exempt positions were still subject to the shift bid.

Member Laney stated the grievant is a correctional officer, but it was not clear in the grievance details if she was placed in one of those exempt

positions.

Member Laney stated in reviewing the grievance it looked like the argument was they did the wish list and the grievant's position was exempted to get around AR 301.

Member Thompson stated the question was did the facility fall below the 20 correctional officers.

Member Laney stated AR 301.01 subsection 5 was clear and stated 'selection of those positions is not subject to the requirements set forth in other sections of the Administrative Regulation; the selection of Warden exempt positions is discretionary and is not based on seniority or length of service; since the selection of Warden exempt positions is completely discretionary, Wardens also have the discretion to remove officers from these positions'.

Member Laney stated the AR gave the Wardens the authority to make those positions exempt or not but it was not clear in the grievance whether or not the grievant's position was made exempt, excluding the grievant from being able to participate in the regular shift bid.

Member Laney stated on page 1 of 7 in the details, even the grievant stated 'although exempt positions do not qualify for shift bid, explain how each exempt position is not necessary; it's simply an improper sham to attempt to avoid a shift bid'.

Member Keith stated on page 3 the agency response stated they decided to ask for input from staff for which posts they would prefer as opposed to just placing staff in the posts but no promises were made and the determination was based on the needs of the institution, which is the agency's right to do.

Member Keith stated the agency could have not asked the staff at all, not given them the option.

Chair Puglisi stated it was unfortunate the Committee has seen so many grievances regarding shift bid when the agency does it as a courtesy but because they have implemented these procedures to try to give everybody a fair shift, if people don't get what they want they file a grievance.

Member Thompson stated the grievant was citing her dissatisfaction with other employees not getting what they wanted but the Committee is not there to decide for other people, they are to decide for the grievant.

Chair Puglisi stated in other shift bid grievances, the Committee also looked at the time that had gone by and the grievance may be moot at this point.

Chair Puglisi stated the shift bids had been done, everyone had their schedule, arrangements had been made.

Chair Puglisi stated there was a schedule in the grievance, but it did not allude to what she requested versus what she received.

Member Keith stated the grievant comments stated 'at this point, I am not requesting a new shift bid, I am requesting Officer McCastle be placed in Unit 2 where she bid for that post and where she has seniority'.

Member Keith stated the grievant was asking for relief for someone else.

Chair Puglisi stated the request was outside the Committee's jurisdiction, they could not direct the agency to accommodate another employee.

Member Thompson stated the request to move Officer McCastle had nothing to do with the EMC.

Chair Puglisi also noted that seniority was not at issue as this was not a matter of the shift bid process.

Chair Puglisi asked if anyone was prepared to make a motion.

Member Laney motioned to deny grievance #6250 based on lack of jurisdiction per NRS 284.020 subsection 2, as the Deputy Director has the authority under AR 301.01 subsection 5 to exempt positions excluding them from the shift bid process.

There was no second or friendly amendment therefore the motion died.

Chair Puglisi asked if there was a different motion and continued the Committee deliberations.

Member Laney motioned to deny grievance #6250 based on lack of jurisdiction per NRS 284.020 subsection 2.

Member Keith seconded the motion.

Chair Puglisi asked if there was any discussion, there was none.

MOTION: Move to deny grievance #6250 based on lack of jurisdiction per NRS 284.020 subsection 2.

BY: Member Laney

SECOND: Member Keith

VOTE: The vote was 5 to 1 in favor of the motion with Member Russell voting nay.

6. Discussion and possible action related to #6228 of Dana Thomas, Department of Public Safety – Action Item

Chair Puglisi opened the Committee for discussion.

Chair Puglisi stated the employee is disputing her compensation for holiday pay on Christmas day 2018 and initially he believed she had been compensated correctly, however after reviewing the grievance more, was not sure.

Chair Puglisi stated there were no timesheets or payroll records included in the grievance making it difficult to ascertain what took place.

Member Russell stated based on the lack of information, the Committee should move the grievance forward to collect all the facts.

Chair Puglisi stated he was of the same opinion unless someone else could see something he was missing.

Chair Puglisi stated there was a memo that was issued in 2011 that stated employees working on holidays, based on if it was their scheduled day or not, and based on an example chart, but what made this confusing was the employee worked overtime and the employee stated it was her regular day off.

Chair Puglisi stated the Committee had moved a similar grievance to hearing.

Chair Puglisi stated if this grievance was moved to hearing, a subject matter expert from Central Payroll would need to be subpoenaed.

Member Laney stated she had the same concern regarding the lack of time sheets and a schedule.

Member Thompson stated this grievance was very complex and felt the Committee needed more information.

Member Whitten motioned to move grievance #6228 to hearing.

Member Russell seconded the motion.

Chair Puglisi asked if there was any discussion, there was none.

MOTION: Move grievance #6228 to hearing.

BY: Member Whitten

SECOND: Member Russell

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

7. Discussion and possible action related to Grievance #6192 of Lionesha Frazer, Department of Corrections – Action Item

Chair Puglisi opened the Committee for discussion.

Chair Puglisi stated he had noted this grievance as a possible EEO venue and there did not appear to be any injustice to the employee arising out of the employee/employer relationship, but an issue with another coworker.

Chair Puglisi state the EMC could not mandate the employer to address another employee and these matters are confidential.

Chair Puglisi stated it appeared there is a mutual conflict between the grievant and another employee which may be why there is an active investigation on this matter.

Member Laney stated on page 2 of 4 the agency response stated this matter had been forwarded to the Inspector General's Office (IG) for review and resolution.

Chair Puglisi stated the employee's proposed resolution was 'to be left up to the discretion of management and all I ask is this issue be taken care of by an outside agency due to my safety and possible retaliation and nepotism that I have experienced within the past at my current institution'.

Member Laney stated in that same explanation from the employee, page 1 of 4, it stated once the employee filed the complaint, she asked if she could be removed and a shift change accommodation was made.

Member Laney stated with the employee being accommodated and stating the rest of the grievance is up to management, she did not feel the Committee could do anything.

Member Thompson stated the employee stated in the resolution she was asking the grievance to be taken to an outside agency and that was not within the Committee's authority to grant.

Chair Puglisi stated the immediate situation had been resolved as her shift was changed.

Member Russell asked EMC Coordinator, Nora Johnson if there had been any communication from the grievant or the agency regarding the status of the grievance.

Ms. Johnson stated she had received information from Christina Leathers, Human Resources Chief for NDOC, possibly requesting placing this grievance in abeyance pending the outcome of the IG's investigation but had not heard from either party completing that request.

Member Laney stated it seemed that what the employee had asked for

had been granted on both sides.

Member Keith stated Associate Warden Schreckengost was in the audience in the North and perhaps the Committee could ask him for clarification regarding the IG's office.

Mr. Schreckengost stated the IG's in the North work out of the central office in Carson City, there is a central office in Las Vegas and a satellite office in Ely.

Mr. Schreckengost stated the central offices are located outside of the institutions and the IG's report to the facilities as needed.

Mr. Schreckengost stated that while the IG's office is part of NDOC, they did have their own internal chain of command and report to the Director.

Member Laney stated everything the grievant requested had been addressed and there was nothing the EMC could do.

Chair Puglisi stated based on the Committee discussion, this may not meet the definition of a grievance.

Member Keith stated in the grievance details, the grievant stated '2 officers are supposed to be assigned to the visiting gatehouse because it is very busy, but when I work at the front, I am never sent help and I call every time'.

Member Keith stated maybe no one wanted to work with the grievant or maybe the management was not taking care of business and that was what the employee was grieving.

Member Thompson stated the employee was no longer working the gatehouse.

Member Keith stated it was not clear if the employee would be returned to the gatehouse after the IG's investigation.

Member Laney stated the statute she felt was most appropriate for this grievance was the definition of a grievance, NAC 284.658 subsection 2.

Member Laney moved to deny grievance #6192 as it does not meet the definition of a grievance per NAC 284.658 subsection 2.

Member Keith seconded the motion.

Member Russell stated in subsection 2 it stated where a grievance means an act, omission or occurrence which a permanent, classified employee *feels* constitutes an injustice.

Member Russell stated if the grievance made it to the Committee, the employee felt an injustice occurred.

Member Keith stated on page 2, Jeremy Bean stated they were forwarding it to the IG' office and there was no other comments from either party after that, so the Committee could not know if the issue had been resolved.

Chair Puglisi stated they more than likely stopped responding because the grievance had been turned over to the IG's office and without a direct request to place the grievance in abeyance, the Committee had to make a determination.

Chair Puglisi stated the Committee could deny the grievance without prejudice pending the outcome of the investigation.

The Committee discussed if denying the grievance without prejudice would allow the grievant to submit a new grievance with a new event date based on the date of the IG's report.

Mr. Whitney did not think it would allow the 'clock to restart' as the issues in the IG's report would be determined based on the issues in the grievance.

Member Whitten stated this employee feels grieved and the reason she was moved to a different shift was because of the issues that arose and the Committee doesn't know if that was temporary pending the outcome of the investigation or if that move is permanent.

Chair Puglisi stated even then, the agency staffs as they need to, and he hoped they wouldn't put two employees together that have a conflict but sometimes that may be unavoidable.

Chair Puglisi stated the EMC is not within their rights to tell the agency who should work together or not.

Member Whitten stated she did not disagree with that but thought the concern that initially caused the grievance was when she was at that location, she was there by herself when it should be a 2 staff position.

Member Keith stated in regard to it being a 2 staff position, that would be the IG's office determination, not the EMC.

Chair Puglisi stated they have not pointed to a regulation that says there must be, and he was of the opinion if they hadn't pointed that out, it probably doesn't exist.

Member Thompson stated it was not the responsibility pf the EMC to mandate the agency have 2 officers on duty, however, the Committee could advise the agency to review it to determine if it was reasonable.

Member Whitten asked if it had been the established practice and if so, then it would lead her to believe the employee does have a grievance if every time she is scheduled to work, the agency only puts one person there but when others are working, the agency staffs the position with two.

Member Russell stated she believed each institution has a listing of what posts need how many positions and when there is a shortage of staff, that determines which posts will be pulled from first.

Member Russell stated that information was unavailable for this discussion and she did echo what Member Whitten was concerned about; does this only happen with this specific employee or is this happening to others.

Member Keith restated is it the EMC's position to tell the agency how to run their institution or is it the IG's office to review the situation and give that recommendation.

Chair Puglisi stated the Committee needed to address the motion that was on the floor, which was to deny grievance #6192 as it does not meet the definition of a grievance per NAC 284.658 subsection 2.

Member Laney requested to withdraw her motion and Member Keith accepted the withdrawal.

Chair Puglisi stated he would entertain a motion to deny grievance #6192 as the agency has addressed the grievant's concerns by reassigning her to a different shift; there is no evidence within the grievance that regulation, statute or law has been violated.

Member Whitten moved the motion.

Member Laney seconded the motion.

Chair Puglisi asked if there was any discussion, there was none.

MOTION: Move to deny grievance #6192 as the agency has addressed the grievant's concerns by reassigning her to a different shift; there is no evidence within the grievance that regulation, statute or law has been violated.

BY: Member Whitten

SECOND: Member Laney

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

8. Discussion and possible action related to Grievance #6288 of Lionesha Frazer, Department of Corrections – Action Item

Chair Puglisi opened the Committee for discussion.

Chair Puglisi stated this grievance was regarding a Letter of Instruction (LOI) and the grievant was requesting other people be disciplined.

Member Laney stated the grievant admitted to receiving the email, admits to not responding to it until two weeks later.

Member Laney stated the last sentence in the grievant comments the grievant stated 'the LOI can stay in my file, but policies and procedures should be the same for all, not just one'.

Member Laney stated the Committee could not address what may or may not have happened with coworkers, the Committee is there to look at the discipline and the employee clearly stated she violated policy.

Chair Puglisi stated the agency has the right to run their affairs as they see fit per NRS 284.020 subsection 2 as long as no statute or regulation has been violated.

Chair Puglisi stated the EMC has no jurisdiction to mandate the agency take action on other employees, in this case other employees would not be aware there was an LOI issued in this matter.

Chair Puglisi stated the grievance process training does state an LOI cannot be grieved but could not reference where that was in the NAC's.

Member Russell stated one of her concerns was the Committee did not have a copy of the LOI and therefore did not know if the LOI was simply an LOI or if there was language that made it disciplinary in nature.

Chair Puglisi stated he would normally agree with that except the grievant herself stated the LOI could remain in her file.

Member Keith stated she did contact EMC Coordinator Nora Johnson for a copy of the LOI in order to review the language.

Ms. Johnson stated she had requested a copy from the grievant and had no response.

Chair Puglisi stated the Committee should not deal in hypotheticals and if it was not important enough for the grievant to provide a copy of the LOI, and the grievant stated she was fine with the LOI remaining in her file there was nothing the EMC could really do.

Chair Puglisi stated it was not within the EMC's jurisdiction to mandate an agency to take coaching action against another employee and those matters are confidential.

Member Whitten stated just the fact the grievant stated the LOI could stay in her file, it did not make sense as to why the grievant even took the issue to this level.

Member Whitten moved to deny grievance #6288 based on the grievant's response that the LOI could remain in her file.

Member Laney seconded the motion.

Chair Puglisi offered a friendly amendment to include 'furthermore, the EMC has no jurisdiction to mandate any action be taken against another employee'.

Member Whitten and Member Laney accepted the amendment.

Chair Puglisi asked if there was any discussion, there was none.

MOTION: Move to deny grievance #6288 based on the grievant's response that the LOI could remain in her file, furthermore, the EMC has no jurisdiction to mandate any action be taken against another employee.

BY: Member Whitten

SECOND: Member Laney

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

9. Public Comment

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

10. Adjournment

Chair Puglisi adjourned the meeting at approximately 10:28 am.