

1 STATE OF NEVADA

2 EMPLOYEE-MANAGEMENT COMMITTEE

3 MEETING TRANSCRIPT

4 JUNE 9, 2022

5  
6 PARKER: It's 9:00. We'll call the meeting to order  
7 of Employee Management Committee, Thursday, June 9th, 2022,  
8 9:00 AM. Uh, 2 locations, um, Grant Sawyer building in Las  
9 Vegas and Nevada State Library and Archives in Carson City.  
10 Um, the sites are cone-connected by video conference and  
11 microphone. So, remember when you're talking, please  
12 enunciate. Make sure that you talk towards the camera so that,  
13 uh, people in the south, we can hear you in the north, and in  
14 the north, they can hear us in the south. And, uh, emergency  
15 instructions are -- in Northern Nevada, we will follow staff  
16 either to, uh -- towards Stewart Street and across the street  
17 or in the middle of the capitol. Uh, in southern Nevada --  
18 what was it? Who's down there that they'll follow? Is Todd --

19 SCOTT: You would -- you would go out the main  
20 door that you came in, turn left down the hallway, go all the  
21 way down the hall, and exit that door out into the parking  
22 lot.

23 PARKER: Okay. Stay together please and follow  
24 those directions. Thanks. And so, let's see here. So, we'll go  
25 ahead and, uh, take com -- uh, public comment in Southern

1 Nevada. Is there any public comment?

2 RUSSELL: There doesn't appear to be any comment.

3 PARKER: Thank you. And in Northern Nevada, any  
4 public comment? Doesn't appear to be any public comment. Uh,  
5 and we'll have public comment at the end as well. Uh, we'll go  
6 on to number 3, Committee Introductions and Meeting Overview  
7 and Updates. So, we'll start in Southern Nevada with Committee  
8 Introductions, please.

9 SCOTT: Mary Jo Scott, OPM <inaudible>.

10 RUSSELL: Teresa Russell, University of Nevada, Las  
11 Vegas.

12 WEISS: Todd Weiss, Deputy Attorney General.

13 PARKER: Awesome, thanks. And then in the North?

14 MERRILL: Mechelle Merrill, uh, DETR Vocational  
15 Rehabilitation.

16 EVANS: Lisa Evans, Deputy Attorney General's  
17 Office.

18 PARKER: And Stephanie Parker, uh, Attorney  
19 General's Office.

20 JOHNSON: Nora Johnson, Employee Management  
21 Committee Coordinator.

22 PARKER: And thank you all for being here. So, um,  
23 we'll move on to adoption of the agenda.

24 RUSSELL: Teresa. I motion that we adopt the agenda.

25 PARKER: We have a motion. Do we have a second?

1 MERRILL: I'll second that. Mechelle Merrill.

2 PARKER: All in favor?

3 MULTIPLE: Aye.

4 PARKER: Okay. That was unanimous. Agenda adopted.

5 Go ahead. Oh, I thought I heard somebody. So, okay. So, um,  
6 just a quick brief view. I mean, we're going to -- we actually  
7 are gonna take, um, some items out of order. Uh, we have -- do  
8 we have all parties available? First, I just wanna make sure  
9 that all grievants are in, um, attendance. David Robinson?

10 ROBINSON: Yes, I'm here.

11 PARKER: Perry Chung?

12 CHUNG: Yeah, I'm here.

13 PARKER: Steven Stubia?

14 STUBIA: I'm here.

15 PARKER: Gina Ringwalt?

16 RINGWALT: Present.

17 PARKER: Okay, thanks. Okay, we're gonna take, um,  
18 2 of these out of order. We're gonna take number 6 and number  
19 8 out of order. But before we get started, um, I just wanna  
20 give an overview of kind of what the process looks like is,  
21 um, we'll -- I'll -- I'll go ahead and ask each party if they  
22 accept the packets that have been submitted. Um, we'll ask for  
23 any witnesses and swear the witnesses in. Um, then I'll be  
24 asking, uh -- starting with the employee and, and then the --  
25 the employer representative, uh, ask for opening statements,

1 um, and then case presentations and then closing statements.  
2 We're allowed an hour for each grievance, so, um, we'll be  
3 timing that. So, you, um, just wanna make sure that you're  
4 concise with the information that you're giving. And then, um,  
5 also we wanna make sure that everybody's respectful. We all  
6 have to go to work with each other tomorrow, so -- and going  
7 forward. So, I wanna make sure that all comments and -- and,  
8 uh, testimony is respectful. And, uh, once the closing  
9 statements are done, then we'll go to deliberation and that's  
10 where only committee members may discuss. Grievants or the  
11 representatives of the a -- the agencies or representatives  
12 may be asked questions, but you are not to discuss anything  
13 unless asked. Um, during testimony, be respectful of the other  
14 party and wait until you are acknowledged by the chair before  
15 speaking. Make sure that you introduce yourself. State your  
16 name for the record for transcription purposes. And, uh --  
17 okay, that's -- that's a summary. So, um, I know that I was  
18 asked to, uh, do 6 and 8 together, so I'm actually going to --  
19 first of all, is there any objections to moving number 6,  
20 Perry Chung and Gina Ringwalt -- combining? I'll consider any  
21 objections, but other than that we're probably gonna just  
22 combine those. Okay. So, I know that I was given a list of  
23 witnesses -- uh, not until they start, um, with the opening  
24 statements. And first of all, for Perry Chung and Gina  
25 Ringwalt, are there any objections to the packets that were

1 submitted by either party?

2 RINGWALT: No objection.

3 PARKER: Any objections of Perry?

4 CHUNG: Nope.

5 PARKER: So, for Perry Chung it looks like you have  
6 no witnesses there or -- for the agency we have witnesses  
7 Cathy Sheehy.

8 SHEEHY: Yes.

9 PARKER: Am I saying that right?

10 SHEEHY: Yes. Thank you.

11 SCOTT: We should switch. Madam Chair?

12 PARKER: Yes?

13 SCOTT: This is Mary Jo Scott, for the record. I'm  
14 going to have the grievant and the agency switch, um, to come  
15 to the table. They were sitting on the wall, so I'm bringing  
16 them to the table where you can see them.

17 PARKER: Absolutely.

18 SCOTT: So, do you want both Perry Chung and Gina?

19 PARKER: Yes.

20 SCOTT: Okay. So, Perry Chung and Gina, if you'll  
21 come to the table, and the agencies as well.

22 PARKER: And then -- and then for Gina Ringwalt, I  
23 don't see any, uh, additional -- for that case, I don't see  
24 any additional witnesses. So, um, Ms. Sheehy, um, I just wanna  
25 swear you in and so I'm gonna have you repeat after me, but

1 I'm gonna have you state your name. So, I, and you state your  
2 name.

3 SHEEHY: Cathy Sheehy.

4 PARKER: You, Cathy Sheehy. So, I, Kathy Shehe.

5 SHEEHY: I, Cathy Sheehy.

6 PARKER: Swear to tell the truth and nothing but  
7 the truth.

8 SHEEHY: Swear to tell the truth and nothing but  
9 the truth.

10 PARKER: Awesome, thank you. Okay, so we're gonna  
11 go ahead and start with opening statements by the employee and  
12 we'll start with, um, Perry Chung. And is -- Perry Chung is,  
13 um, Gina up at the table too? Gina Ringwalt?

14 RINGWALT: Yes, I am.

15 PARKER: Okay.

16 WEISS: Madam Chair?

17 PARKER: I can't see that far. Our screen is kind  
18 of far away and they don't like me to turn around.

19 WEISS: No, no, you're fine. Madam Chair?

20 PARKER: Huh? Yes, Todd, sorry.

21 WEISS: Uh, we, uh -- we need to swear in the  
22 grievants as well.

23 PARKER: Oh, okay. Oh yes, we do. I'm sorry I don't  
24 have my normal notes. So, um, Perry and -- Perry, um, just  
25 repeat after me, but state your name when I say state your

1 name. I, state your name.

2 CHUNG: I, Perry Chung.

3 PARKER: Promise to tell the truth and nothing but  
4 the truth.

5 CHUNG: Promise to tell the truth and nothing but  
6 the truth.

7 PARKER: And Gina, I, state your name.

8 RINGWALT: I, Gina Ringwalt.

9 PARKER: Promise to tell the truth and nothing but  
10 the truth.

11 RINGWALT: Promise to tell the truth and nothing but  
12 the truth.

13 PARKER: Thank you so much. Okay. And so, Perry,  
14 you're number 6, so we're gonna start with you. If you can  
15 give your opening statement. I'm gonna turn around.

16 CHUNG: Just go and I start? Okay. Uh, members of  
17 the State of Nevada Employee Management Committee, morning. My  
18 name is Perry Chung, and I have been employed as a Mortgage  
19 Lending Examiner II with the State of Nevada Department of  
20 Business and Industry's Division of Mortgage Lending since  
21 September 2013. I'm a sincere employee and my annual  
22 performance reviews have documented that I meet standards or  
23 exceed standards every year. I have had no disciplinary  
24 actions taken against me in more than 8 years with the  
25 division until September 2021 when I was threatened with

1 progressive disciplinary action leading up to and including  
2 termination for choosing to refrain from participating in the  
3 state of Nevada's vaccine and weekly testing requirements  
4 outlined in the July 30th, 2021, Nevada State Employee COVID-  
5 19 Masking and Testing Policy memorandum from the office of  
6 Governor Steve Sisolak that has been interchangeably  
7 represented by management over the past year as the Governor's  
8 directive, the Governor's requirements, and the Department of  
9 Business and Industry's COVID-19 policy. We are here today to  
10 determine if the people I've named in my grievance, the  
11 appointed authorities of the State of Nevada Department of  
12 Business and Industry Director Terry Reynolds, and former  
13 Deputy Director Vincent Budd Milazzo, the Commissioner of the  
14 Division of Mortgage Lending, Cathy Sheehy, the office of  
15 Governor Steve Sisolak, and ultimately Governor Steve Sisolak  
16 himself, are responsible for unlawfully requiring myself and  
17 similarly unvaccinated State of Nevada employees to submit to  
18 mandatory asymptomatic weekly testing for COVID-19 SARS-CoV-2,  
19 using an -- an experimental, emergency-use authorized UA and  
20 not FDA-approved diagnostic test, unilaterally and materially  
21 altering the terms, conditions, or privileges of my employment  
22 with the State of Nevada based on genetic information. And  
23 ultimately whether their actions are, and have at all times  
24 during the past 11 months, been prohibited by both state and  
25 federal law. During this hearing, I'll present relevant



1 documentation to demonstrate that not only did the people I've  
2 named in this grievance inappropriately represent that the  
3 office of Governor Steve Sisolak required the asymptomatic  
4 weekly COVID-19 testing of the State of Nevada employees in  
5 the implementation of its July 30th, 2021 memorandum titled  
6 Nevada State Employee COVID-19 Masking and Testing Policy, but  
7 that they then used this incorrectly developed and implemented  
8 memorandum to harass and discriminate against me and any  
9 similarly unvaccinated State of Nevada employees who lawfully  
10 exercised their rights to maintain their medical privacy and  
11 medical autonomy. To compound the liabilities that the Office  
12 of Governor Steve Sisolak's policy memorandum created, people  
13 named in this grievance further unlawfully used their official  
14 authority or influence to harass, retaliate and discriminate  
15 against me for exercising my lawful right to decline  
16 participation in the governor's unenforceable weekly  
17 asymptomatic testing policy in response to my verbal, written,  
18 and submitted expression of my sincerely held religious  
19 beliefs that are in direct conflict with the memorandums  
20 asymptomatic weekly testing requirements. Lastly, I will  
21 outline the coordinated steps that people I've named have  
22 taken to coerce, intimidate, and harass me when I pointed out  
23 the unlawfulness of what they were doing. And I will show how  
24 the collective effects of their actions have not only created  
25 a hostile work environment for the past 11 months, but that

1 the hostile work environment they have created is likely to  
2 continue for the foreseeable future, or as long as these  
3 people remain in their appointed positions and are not held  
4 accountable for their actions. On September 22nd, 2021, when  
5 directly questioned by the former Deputy Director of the  
6 Department of Business and Industry, Vincent Budd Milazzo in  
7 the presence of the Commissioner of the Division of Mortgage  
8 Lending, Cathy Sheehy, about my current COVID-19 vaccination  
9 status --

10 PARKER: Mr. Chung --

11 CHUNG: Yes ma'am?

12 PARKER: Can I just interrupt you? This is your  
13 opening statement. This is not presentation of your case. Are  
14 you going to reiterate the same information during the  
15 statement of your case?

16 CHUNG: Uh, I thought I was just giving --

17 PARKER: A brief? Okay. I just wanted to make sure.

18 CHUNG: Okay.

19 PARKER: Thanks.

20 CHUNG: Should I continue?

21 PARKER: Yes -- yes, please.

22 CHUNG: Oh, okay. Uh, on September 22nd, 2021,  
23 when directly questioned by the former Deputy Director of the  
24 Department of Business and Industry, Vincent Budd Milazzo, in  
25 the presence of the Commissioner of the Division of Mortgage

1 Lending, Cathy Sheehy, about my current COVID-19 vaccination  
2 status, I verbally informed them both that I would like to  
3 exercise my right to maintain my medical privacy for personal  
4 reasons that I would rather not be forced to disclose. During  
5 that meeting, I was told that my responses were mandatory and  
6 neither my Division Commissioner nor the former Deputy  
7 Director could answer the specific questions and concerns I  
8 had about the emergency-use authorized status of both the  
9 diagnostic tests and the vaccines. And they had very little  
10 information or answers to my questions regarding the State of  
11 Nevada Department of Business and Industry's policies and  
12 procedures regarding SARS-CoV-2 and COVID-19, except for the  
13 informal discipline in the form of a letter of instruction  
14 advising me that I had 48 hours to provide evidence of a  
15 COVID-19 test or proof of vaccination, or I would face  
16 progressive disciplinary action up to and including  
17 termination. 2 days later, on September 24th, 2021,  
18 Commissioner Cathy -- Cathy Sheehy told me that they had no  
19 record of my being vaccinated or tested. Therefore, they  
20 proceeded to issue me formal discipline in the form of a  
21 written reprimand for insubordination and other violations I  
22 have disagreed with for not providing proof of being  
23 vaccinated or having tested for COVID-19, despite being  
24 asymptomatic and otherwise complying with the masking  
25 requirements listed in the July 30th, 2021 memorandum. On

1 September 28th, 2021, due to the lack of management responses  
2 to my outstanding questions, I formalized in writing my right  
3 to decline participation in the State of Nevada's vaccination  
4 and testing protocols in response to COVID-19 and sent it to  
5 my Division Commissioner. Within the next 48 hours, the  
6 Department of Business and Industry immediately retaliated  
7 against me by initiating an internal investigation to begin  
8 the process of terminating my employment based on my  
9 disclosure of improper governmental action and assertion of my  
10 sincerely held religious beliefs. Since asserting both my  
11 legal and personal reasons for deciding not to participate in  
12 the State of Nevada's weekly COVID-19 testing requirement, I  
13 have been required to participate in the compulsory and  
14 internal investigation less than a week later on October 5th,  
15 2021. And in order to even submit my request for a religious  
16 exemption or accommodation from the Department of Business and  
17 Industry, I have had to painstakingly detail in writing the  
18 nature of my personal, private, and sincerely held religious  
19 beliefs, all to ultimately have my legitimate written and  
20 submitted questions remain unaddressed since October 2021. And  
21 my requests for religious accommodations summarily denied with  
22 no explanation whatsoever of any undue hardship this would  
23 cause the State of Nevada, the Department of Business and  
24 Industry, or the Division of Mortgage Lending, stating that my  
25 request was now moved because the arbitrary goalpost of 70%

1 vaccination rate for employees at my duty location had  
2 supposedly been achieved. To be clear, the date that the  
3 former Deputy Director had supposedly exempted us from the  
4 requirements the Department of Business and Industry had  
5 mandated and imposed upon me since July 30th, 2021, was  
6 exactly 5 days after receiving my completed Religious  
7 Accommodation to Testing form, 9 days after receipt of my  
8 completed ADA 4 Job Modification Accommodation Request form,  
9 and the very next day after receiving my formal grievance  
10 through needs. Rather than approve my religious accommodation  
11 request and allow me to resume the performance of my work  
12 duties from home, which had been perfectly safe and acceptable  
13 for the Department of Business and Industry and the Division  
14 of Mortgage Lending while on lockdown. From March 2020 through  
15 June 2021, I exceeded the work performance standards for my  
16 position for the position -- for the period of time I was  
17 telecommuting until we were instructed by Division Management  
18 to return to the office in June 2021 with no exemptions or  
19 accommodations being granted. The former Deputy Director's  
20 perfunctory denial of my exemption and accommodation requests,  
21 at minimum, was wholly unsatisfactory in the context of what  
22 the Department of Business and Industry and the Division of  
23 Mortgage Lending have put me through, and more significantly  
24 what is required by federal law. I have filed 2 complete  
25 grievances with the State of Nevada, Numbers 8417 and Number

1 8582, to have my concerns heard. And the relatively  
2 straightforward resolutions I've proposed thus far have been  
3 dismissed at each part of the grievance process along the  
4 chain of command, demonstrating the Department of Business and  
5 Industry's refusal to hold the people I've named in my  
6 grievances accountable for their actions to and against me  
7 over the past 8 months, which I feel constitute injustices and  
8 have created a hostile work environment for me, in stark  
9 contrast with the duties listed under NRS 281.631. I  
10 appreciate the opportunity to appear before the Employee  
11 Management Committee and communicate my ongoing concerns  
12 regarding how I've been treated throughout this process and  
13 continue to be treated today. As I have since filing this  
14 grievance over 8 months ago, back in October 2021, I remain  
15 hopeful for a just and fair determination on this matter after  
16 the presentation of all relevant facts and testimony today.  
17 Thank you very much for your time.

18 PARKER: Thank you. Okay. Um, you're gonna -- are  
19 you gonna use -- do both of your opening statements together  
20 for both employees or do you, um,

21 RINGWALT: No, these are 2 completely separate cases  
22 here, 2 separate grievances. So, I have my own opening  
23 statement if I may.

24 Yes. Gina Ringwalt, I-I'm -- I'm not speaking with you,  
25 sorry. Um, uh, after -- after one opening statement, the

1 agency has their turn to do an opening statement. So, I'm  
2 asking the agency if they, uh -- uh, uh, Scott Husbands if he  
3 would like to make his. But I'll address you when I need --  
4 when I need you to go. Okay?

5 RINGWALT: Okay.

6 PARKER: Thank you.

7 HUSBANDS: Thank you, sorry. This is Deputy Attorney  
8 General Scott Husbands for the record, uh, counsel to Business  
9 and Industry Mortgage Lending and Division of Industrial  
10 Relations. I think that these 2 grievants are probably -- I  
11 know that there are -- they're 2 separate grievances. Ms.  
12 Ringwalt might have some things to say differently than Mr.  
13 Chung. The overall issues are the same. Um, I do have some  
14 concerns, so I'd like to hear from her. Because I do have some  
15 concerns about the scope of what it is that we're doing here  
16 today. The scope of the committee's jurisdiction and  
17 authority. I don't think -- I'd like to hear what she has to  
18 say. Based on what I have just heard from Mr. Chung, I don't  
19 believe that the committee has any jurisdiction or authority  
20 to entertain his grievance. But I'd like to see what it is  
21 that she's specifically requesting, to see if she uses some of  
22 the same buzz words that caused me some concern that -- that  
23 he did. But I think I can respond to both after she --

24 PARKER: Okay. So, Ms. Ringwalt, go ahead and give  
25 your opening statement, please. Thank you.

1 RINGWALT: Okay, thank you. My name is Gina Ringwalt,  
2 formerly known as Gina Denny. You'll see both names throughout  
3 the packets of information. I legally, uh, did a name change  
4 to Gina Ringwalt in 2021, so it's kind of like in the middle  
5 of all this. Um, I-I have wished to, uh, retain the name Gina  
6 Den-Denny professionally, because that is the name that I'm  
7 known by throughout the industry of, uh, mortgage banking for  
8 the last 25 years, and a solid reputation in the industry has  
9 been built for me with that name from my hard work. Um, today  
10 I'm not here to represent The Division. I'm here to represent  
11 myself and to defend my name and my character. I wanna thank  
12 you, the committee, for allowing me this opportunity and for  
13 hearing me today, and for recognizing the fact that this is  
14 very, very important to me. Thank you and thank you as well.  
15 I've been a Senior Mortgage Examiner for the Division of  
16 Mortgage Lending since October 14th, 2013. Prior to that, I  
17 was employed in the mortgage lending industry here in Las  
18 Vegas since 1985. I have interim service with the Department  
19 of Motor Vehicles where I served Nevada from July 220 -- or  
20 2007 until October 11th, 2013. I have been and continue to be  
21 an outstanding employee and represent my state with pride and  
22 honor, as I am a proud citizen of the State of Nevada. And my  
23 kids are productive members of their home state and serve  
24 proudly through other agencies and trades. If you have the  
25 chance to read some of my work performance evaluations, or all



1 of them that were written during my time with the Division,  
2 you'll get an idea of who I am as an employee for the State of  
3 Nevada. Ms. Sheehy herself has endorsed me as being known for  
4 organizing and planning Division gatherings and team-building  
5 exercises for our -- for our Division. I've been noted as a  
6 key contributor, respected by my peers and my licensees. She  
7 has also called upon me to represent the Division at  
8 conferences, training events, fraud fairs held to educate the  
9 public and to train new examine -- new examiners starting out  
10 with the Division. I take pride in my work. I strive to  
11 represent the Division, the Department, and my coworkers in a  
12 respectable manner. I strive to build confidence in our  
13 community to trust that we are regulating the industry to the  
14 standards of the laws in which they have been key  
15 contributors. Um, Mr. Husbands, um, who evidently is here, he  
16 did state in his pre-hearing statement that "employees like  
17 Ms. Ringwalt" and I'm -- I'm left to wonder what -- what  
18 exactly that means. But maybe we could address that later. He  
19 could answer that question. Um, Mr. Husbands will try to paint  
20 a picture -- a contrasting picture of me and my work ethics.  
21 His statements are simply an attempt to get you to believe  
22 that Ms. Sheehy does not bear credibility in her overall  
23 evaluation of me as an outstanding employee over the past 6  
24 years that she herself has served the Division. Um, and she  
25 has praised me for my outstanding service on many, many

1 occasions. And I-I thank you for that recognition, Cathy. Mr.  
2 Husbands will even go so far as to write statements that  
3 contradict the very exhibit material that he collected from  
4 Ms. Sheehy. He will change her wording. This is either a lack  
5 of interest in this case, the disregard for the importance of  
6 my career, or a willful attack on my character for the sake of  
7 telling you in this hearing that my grievance must be denied,  
8 Mr. Husbands will tell you that I refused to sign the written  
9 reprimand. You'll review that in my packet today or at a later  
10 time. And, uh, you will find that, um, in his Exhibit A3, Ms.  
11 Sheehy, in her own hand, wrote, "Gina did not want to sign  
12 without taking it home to review." That is typically what we  
13 do before we sign documents. Um, on no occasion did Cathy even  
14 insinuate that I refused. So, that was possibly opinion from  
15 Mr. Husbands, I'm not sure. Mr. Husbands did not address the  
16 discrepancies in the written reprimand, one being that I had  
17 prior discipline in the form of a -- an oral warning. That  
18 document does not exist because that action did not occur. And  
19 I believe Ms. Sheehy would be gracious enough to admit this  
20 error on her part or to produce a document to the committee as  
21 proof that it did occur. But that won't be necessary because  
22 the labels that Ms. Sheehy, um, labeled as an oral warning,  
23 Exhibit B, is actually a letter of instruction, and that form  
24 in itself states this is not a form of discipline. So, no  
25 prior discipline has been administered to me ever. The written

1 reprimand itself prepared and issued by Ms. Sheehy did not  
2 follow the proper procedures. Uh, she was able to administer  
3 disciplinary action without knowing the proper procedures for  
4 doing so, or neglected to research those -- those policies and  
5 procedures. Mr. Reynolds allowed this to happen, which is a  
6 direct violation of NRS 281.631, which states "a state officer  
7 or employee shall use official authority of influence of the  
8 officer to remedy any reprisal or action that they become  
9 aware of." And he became aware of that in my grievance, which  
10 is why it's escalated to this point because he chose or  
11 neglected not to address it in its format, which was  
12 incorrect. Um, Ms. Sheehy could attest to you today that my  
13 primary job at the Division as a mortgage examiner is to  
14 detect fraud, prove fraud, find the statute that supports the  
15 wrongdoing, and bring that to the offender's attention and  
16 recommend enforcement action. I have been trained over the  
17 last 38 years to detect fraud and to learn statutes. And in my  
18 efforts to protect the consumers --

19 PARKER: Can you guys hear us? We lost. You froze.  
20 Hello? So, there's nothing -- sorry, everybody. Figuring out  
21 what's going on. Slight pause. Okay. So was the -- the initial  
22 call was ended? Sometimes they're -- it's hard to know exactly  
23 which -- yeah, it's a whole little gray island <inaudible>.

24 UNIDENTIFIED: Oh, it's Vegas has no internet. Oh,  
25 that's what's happening. Okay. It's like 113 degrees there, it

1 probably melted.

2 UNIDENTIFIED: Mary Jo was having --

3 UNIDENTIFIED: Um, well, so the -- the team's link  
4 does have an audio call-in, uh, conference ID number.

5 UNIDENTIFIED: Apparently, Grant Sawyer's internet  
6 is completely down.

7 UNIDENTIFIED: Yikes. They've been experiencing  
8 brownouts down south 'cause it's so hot. Yeah.

9 UNIDENTIFIED: How can they not, right? I mean,  
10 yeah, when it hot the surface of the sun, how can you not have  
11 brownouts.

12 UNIDENTIFIED: Contact Jeff and see if they have an  
13 ETA for repair, like.

14 UNIDENTIFIED: 'Cause we have full-day planned.

15 UNIDENTIFIED: Yeah. It -- it will make for really  
16 terrible audio.

17 UNIDENTIFIED: The entirety of Grant Sawyer is out.  
18 They have no internet. They have no phones. So, we can't call  
19 in. We can't do -- so it'd have to be cell phones.

20 UNIDENTIFIED: So, we're going --

21 UNIDENTIFIED: That's going to affect the audio,  
22 right?

23 UNIDENTIFIED: Well, what we can do right now maybe  
24 is to call a break, and we can contact our EATS and see if  
25 there's actually an estimated time of restoration. If it's 15,

1 20 minutes break --

2 UNIDENTIFIED: If you can get through.

3 UNIDENTIFIED: And then we may have to see what  
4 happens after that. But if you'll call a break

5 UNIDENTIFIED: I'm apo -- I apologize to everybody.  
6 But yeah, could you tell 'em to tell them down there?

7 UNIDENTIFIED: Absolutely. We'll take a 20 minute --  
8 let's give 20 minutes. We'll take a 20-minute break and see if  
9 we can reconvene. Let's come back at 10, not guaranteeing  
10 anything.

11 UNIDENTIFIED: Okay. Thank you, Todd.

12 \*\*\* END OF MEETING \*\*\*

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1 STATE OF NEVADA

2 EMPLOYEE-MANAGEMENT COMMITTEE

3 MEETING TRANSCRIPT

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5  
6 PARKER: All right. You guys can hear us?

7 UNIDENTIFIED: Yes, we can.

8 PARKER: Okay. So, we're gonna try and get through  
9 this. Um, we've been giving a heads up that it could go down  
10 again, so could be kind of spotty And, um, Ms. Ringwalt-Denny,  
11 you were, um, giving -- you -- how many more minutes does she  
12 have on opening?

13 UNIDENTIFIED: She has 10 minutes.

14 PARKER: 10 minutes on opening -- up to 10 minutes  
15 on opening.

16 RINGWALT: Shall I continue now?

17 PARKER: Yes, please.

18 UNIDENTIFIED: Madam Chair. Do we need to confirm  
19 how far you got on recording as far as her opening statement  
20 so that you can hear it all, or -- or is that necessary?

21 JOHNSON: Nora Johnson -- Nora Johnson For the  
22 record, the last statement I received from Ms. Ringwalt-Denny,  
23 was that Ms. Sheehy will attest that, uh -- stated that my job  
24 is to detect and find fraud, to turn in statistics, and to  
25 protect consumers. We froze around that set of statements.

1 PARKER: Thank you, Nora. They're frozen again?  
2 They're frozen again. Yep. If you can hear us, you're frozen.  
3 So -- hi. You guys froze up right at that moment. Okay. So,  
4 you're down again.

5 UNIDENTIFIED: Our -- our IT guys says that there  
6 may be intermittent issues throughout Grant Sawyer for the  
7 day, that the network guys are working on it. It's not  
8 completely resolved. Um, okay. Oh, they were up, they were  
9 down.

10 PARKER: You saw 'em come up?

11 UNIDENTIFIED: Todd said they were up for just a  
12 second.

13 UNIDENTIFIED: Gotta love technology.

14 UNIDENTIFIED: Okay. Thank you.

15 UNIDENTIFIED: I feel like this has happened, uh,  
16 more since the -- the new equipment. Yes. New and not quite  
17 improved. That's awesome.

18 UNIDENTIFIED: Maybe we should --

19 UNIDENTIFIED: What, reschedule?

20 UNIDENTIFIED: Well, no. I was, uh -- the  
21 administrator for EATS is just down the hall. We were -- we're  
22 gonna go knock out his door and be like, Hey Tim.

23 UNIDENTIFIED: Hey, Tim. What's up?

24 UNIDENTIFIED: What's going on man?

25 UNIDENTIFIED: Are we worried? What's up?

1 UNIDENTIFIED: Right? I --

2 UNIDENTIFIED: I was gonna say, we could just  
3 carpool, meet in the middle, just do it first --

4 UNIDENTIFIED: Yeah. We should just hold these  
5 Tonopah from now on.

6 UNIDENTIFIED: Tonopah, Laughlin.

7 UNIDENTIFIED: Oh, Monster Shack.

8 UNIDENTIFIED: What else is in the middle.

9 UNIDENTIFIED: I've broken down in Tonopah.

10 UNIDENTIFIED: I think there's a thing about  
11 breaking down in Tonopah.

12 UNIDENTIFIED: We got flat tire right outside  
13 Tonopah.

14 UNIDENTIFIED: You can expect a week in Hawthorne  
15 being broken down.

16 UNIDENTIFIED: I'd take Tonopah over Hawthorne.

17 UNIDENTIFIED: Yeah. This was --

18 UNIDENTIFIED: What'd you say?

19 UNIDENTIFIED: I said I take Tonopah over Hawthorne.

20 UNIDENTIFIED: Yeah. A week of eating nothing but  
21 McDonald's.

22 UNIDENTIFIED: My sister went on a birthday  
23 excursion --

24 UNIDENTIFIED: Yep, cause that's all got in  
25 Hawthorne. They have one casino.



1 UNIDENTIFIED: Yeah, that --

2 UNIDENTIFIED: My sister went on a birthday  
3 excursion with the endgame being like 3 days in Vegas with her  
4 girlfriends and she stayed at the clown hotel.

5 UNIDENTIFIED: Nice. Nice.

6 UNIDENTIFIED: I think it's in or near Tonopah. She  
7 sent me pictures. I'm like --

8 UNIDENTIFIED: Uh-uh.

9 UNIDENTIFIED: -- what are you doing?

10 UNIDENTIFIED: You're not gonna get out of there  
11 tonight.

12 UNIDENTIFIED: Oh, it's terrifying. She's like, I've  
13 got an Elvis clown room. I'm like, nope. No. Absolutely not.  
14 Like, have you not ever seen a horror movie?

15 UNIDENTIFIED: Right?

16 UNIDENTIFIED: I'm not doing it.

17 UNIDENTIFIED: Uh, the Fun motel? Absolutely not.  
18 Absolutely not. Also, tell me who is it, uh -- Matt Kaplan. We  
19 were having our monthly meeting with NPU. He was telling me  
20 that there was one trooper that was stationed in Tonopah, and  
21 he lived at the clown motel. And I was like, why would you  
22 make --

23 \*\*\* END OF MEETING \*\*\*

24

25

1 STATE OF NEVADA

2 EMPLOYEE-MANAGEMENT COMMITTEE

3 MEETING TRANSCRIPT

4 JUNE 9, 2022

5  
6 PARKER: And we didn't hear anything the last time  
7 that you started, so.

8 RINGWALT: Okay.

9 PARKER: Go ahead and begin.

10 RINGWALT: Okay, I'll continue if I may. Okay. Um,  
11 contrary to Mr. Husband's pre-pre-hearing statements, he would  
12 like you to believe that I submitted my Religious  
13 Accommodation Request on October 14th, 2021, when in fact, I  
14 have proof in my packet submitted that that was received by  
15 Annie Houston, AKA Andrea Houston on October 1st, 2021. Mr.  
16 Husbands is telling us that there was a policy in place that  
17 did not allow any exemption from testing based on personal or  
18 religious reasons. And he says this again, "the policy as  
19 written did not allow for any exemption from testing based on  
20 a personal or religious reason." Could it be that the state  
21 has such policies that do not accommodate a protected class?  
22 Would the State of Nevada make such an admittance in public on  
23 a document for the sake of having my grievance denied as Mr.  
24 Husband's requested of you? I wonder if this policy exists. I  
25 find it hard to believe that human resources would actually

1 move forward with such a policy, but I do assume he provided a  
2 copy of the policy he refers to in his pre-hearing statement  
3 that I haven't received a copy of. I ask the committee to  
4 review the evidence provided and to make a determination in  
5 whether or not I was insubordinate based on the written  
6 reprimand that was issued to me, which insinuates that I was  
7 in violation of the Governor's Emergency Directive 047. And I  
8 would also like you to inspect the written reprimand to  
9 determine that in fact, it wasn't completed or enforced per  
10 the policies that Ms. Sheehy is to uphold when issuing any  
11 form of disciplinary action to her employees. Some of the key  
12 players, um, and I'm just noting this because I kind of wanna  
13 congratulate, um, Ms. <inaudible> and Ms., uh, Houston on  
14 their recent promotions. I'm sure they worked very hard for  
15 those. And Mr. Milazzo himself, who was promoted to the  
16 governor's office, during the course of the 10 months that  
17 we've been, um -- I've been fighting for my reputation. And  
18 also Mr. Milazzo points out that he is the appointing -- or  
19 was in his capacity of the, uh, Deputy Director, the  
20 appointment-appointing authority over human resources. I wish  
21 the committee, um, could, um, have Ms. Sheehy provide the date  
22 that she forwarded my letter of instruction to Agency  
23 Services, at Budd Milazzo's request and in violation of NAC  
24 284.480, and the date that she forwarded her written reprimand  
25 to the Department of Human Resources Management in accordance

1 with NAC 284.638. I ask the committee was the Governor's  
2 testing policy, mandate, program, regulation, directive -- was  
3 that filed with the Secretary of State to become an  
4 enforceable directive, policy, mandate, regulation, et cetera?  
5 And lastly, I would like it to go on record the exact date  
6 that the NSBC, Nevada State Business Center, which is my work  
7 duty station -- I would like it to go on record the date that  
8 the 70% vaccination rate, as stated by the governor and the  
9 director, Terry Reynolds, as being the number needed to waive  
10 weekly testing, and where that number came from as a  
11 recommendation for COVID-19 safety protocol for State of  
12 Nevada employees who report to the NSBC work duty station. I'm  
13 here on my own time. I requested admin time leave per NAC 284.  
14 589, appointing authority, Cathy Sheehy, may grant  
15 administrative leave with pay to an employee for his or her  
16 appearance as an aggrieved employee. That was rejected for me.  
17 I was not allowed that admin leave. So, therefore, I used my  
18 annual because I was instructed to attend this hearing, then  
19 go back and put it in, which would've had me absent without  
20 leave. Not -- not a good thing. And this is just an example of  
21 the, uh, previous last 10 months of what I feel is a hostile  
22 work environment. And my -- my major concern is, going  
23 forward, I wish to do my job in the most professional manner  
24 that I have been for my 15 years of service with the state,  
25 without any harassment, without any coercion, and to live up

1 to the, uh, Mortgage Lending Division's mission statement. Let  
2 me remind you of what that is. The Division of Mortgage  
3 Lending's mission is to promote and grow Nevada's non-  
4 depository mortgage lending and related industries through  
5 reasonable and firm, but fair implementation and enforcement  
6 of our laws. We should know those laws. We should be familiar  
7 with those laws, when we are put in a position and charged  
8 with implementing enforcement on the community. Um, that's all  
9 I have. Thank you so much for your time and -- and patience.

10 PARKER: Thank you. Thank you for your patience for  
11 technical difficulties as well. And Mr. Husbands, your opening  
12 statement?

13 HUSBANDS: Thank you. Um, Madam Chair, members of the  
14 committee, um, greetings. Good morning. Thank you for your  
15 time. Um, I will agree with the grievants, and I think the  
16 members of the committee and the Chair herself have stated,  
17 uh, that this is an important process. This is an important  
18 process through which we resolve workplace issues within the  
19 authority of the Employee Management Committee so that we  
20 don't get to the things that the personnel division deals with  
21 on a litigation basis, so that we can informally resolve  
22 grievances and stop issues before they get to litigation. So,  
23 it is an important process that without any doubt, the Office  
24 of the Attorney General thanks the committee members for their  
25 time, thanks the grievants for their time, and the witnesses.

1 That being said, I do think that we have some issues with  
2 respect to the authority of the committee or the jurisdiction  
3 of the committee to entertain, uh, Mr. Perry and Ms. Ringwalt-  
4 Denny's grievances. I-I wanted to wait and -- and hear their  
5 opening statements. I've read the materials, obviously, the  
6 pre-hearing statements and the submissions. But we heard from  
7 the grievants phrases hostile work environment, the term  
8 coercion, retaliation, discrimination, uh, references to, uh,  
9 the Office of the Governor. Um, I wrote some of these things  
10 down. Those cause me concern for a variety of reasons. I think  
11 the committee has a long-standing history of not entertaining  
12 any grievances that are based on claims which would fall under  
13 Title VII, um, which would fall under claims relating to  
14 discrimination or harassment, uh, based on a person's  
15 religious beliefs. I think that's what is going on here today.  
16 So, I don't think the committee, uh, has any authority, um,  
17 under those decisions. Some of the examples I found would be  
18 decisions number 83-10, 01-17, 05-17. I think the committee's  
19 own frequently asked questions regarding grievances, uh,  
20 reference that -- that it will not entertain complaints  
21 relating to discrimination, harassment, and retaliation. And  
22 that is because there are other mechanisms by which those  
23 things can be pursued. They can be pursued through EEOC,  
24 through NERC, through, um, DHRM, through the Sexual Harassment  
25 Discrimination Unit. The EMCs Rules of Practice themselves, I

1 think it's on page 204, um, references s not hearing  
2 grievances based on unlawful discrimination. The -- the next  
3 point, I guess, would be under NAC 284.658 Subsection 2, which  
4 defines grievances. Um, the EMC lacks jurisdiction and  
5 statutory authority over a grievance to the extent a remedy  
6 exists under federal law. There are a few other NRS sections  
7 that are referenced in there, but these claims are based on,  
8 as best I understand, an allegation of discrimination. An  
9 allegation that a request was made for an accommodation under  
10 Title VII, based on a sincerely held religious belief, and  
11 that the accommodation was -- was wrongfully denied. So, I  
12 think under NAC 284.658 Subsection 2, the committee does not  
13 have any authority or jurisdiction to hear, uh, either of  
14 these grievances. The third point being, since March of 2020,  
15 we've all been living, um, under -- I guess, as recently it-  
16 it's been ended. But during that time, we had been living  
17 under various emergency directives. And during such time, the  
18 committee, I believe, has dismissed a number of COVID-related  
19 grievances, uh, one of which I wrote down, Decision number 30-  
20 21, uh, based on the idea that the Employee Management  
21 Committee has no authority to supersede a mandate from the  
22 governor. What's at issue today is the July 30th, 2021, policy  
23 that came out. Um, I don't know if I would go so far as to say  
24 it was a mandate. That was a policy that discussed  
25 vaccination. And around that vaccination discussion, it

1 recognized people's right to make personal choices, either  
2 based on undisclosed reasons or -- or religious beliefs that  
3 they did not want to get vaccinated. And the accommodation to  
4 that policy was a testing requirement. So, to the extent the  
5 committee's own history with these COVID grievances would  
6 eliminate jurisdiction or eliminate authority, I think I would  
7 say that's the third issue. The fourth issue is setting aside  
8 those 3 points relative to this committee's jurisdiction and  
9 and authority. The policy at issue here is similar to policies  
10 that issue all over the country that have been upheld all over  
11 the country. I-I-I'm not aware of anyone which was struck  
12 down. The policy in this case required vaccination. It  
13 recognized that people could make a choice to not get  
14 vaccinated. And the accommodation to that was testing. These  
15 are simple cases. Um, I-I don't think it would be appropriate  
16 to get into why an accommodation was requested, what the  
17 nature of the accommodation was, uh, whether it was granted or  
18 not, whether granting of it was lawful or unlawful. I just --  
19 I heard a lot of concerning -- I read a lot of concerning  
20 information in the grievance submissions, and I heard a lot  
21 more that specifically concerns me, as I said, relating to  
22 those words. Um, retaliation, for example, NRS 281.631  
23 provides a process for that. We talked that -- heard  
24 retaliation, harassment, coercion, official exercise of power  
25 or abuse of power. But to the extent the committee decides to



1 move forward and -- and entertain these grievances, these are  
2 simple. These are really simple cases. There was a policy in  
3 place that required state employees to be vaccinated. It  
4 allowed those employees who had a personal or religious reason  
5 to not get vaccinated to be tested. And the policy itself, the  
6 frequently asked questions, speaks to that direct point. What  
7 if I have personal or religious reasons why I do not want to  
8 get -- want to get vaccinated? The policy does not require  
9 vaccination. Employees who choose not to get vaccinated due to  
10 personal or religious reasons must undergo weekly testing  
11 consistent with this policy. And it references the fact that  
12 employees may be disciplined. There is no leeway in that  
13 policy. This was a policy that was issued by the office of the  
14 governor that was issued under an emergency directive. This is  
15 not a policy of the Department of Business industry. It is,  
16 however, a policy that the Department of Business and Industry  
17 was to follow. And the policy allowed for no exceptions. So,  
18 these employees -- I don't think there's any dispute about the  
19 fact that they did not submit to testing. They were not  
20 vaccinated. They did not submit to testing. And the written  
21 reprimand was appropriate form of discipline in this case. I  
22 should point out, I-I do think Ms. Rinwalt-Denny is -- is  
23 correct, um, regarding the reference to an oral warning. I  
24 don't think it was an oral warning. I think it was a letter of  
25 instruction. But beside the point, I-I think we have some

1 serious problems here related to the committee's jurisdiction  
2 and authority to move forward this morning. Excuse me. That's  
3 all I have. Thank you.

4 PARKER: Okay. Thank you. All righty. So, we're  
5 gonna go ahead and move on to case presentation. Keep in mind  
6 that, um -- so, case presentation, each side will present  
7 their case. Then, uh, the other party can actually cross-  
8 examine or ask questions, and then we'll go to the other side.

9 UNIDENTIFIED: Um, point of order.

10 PARKER: Oh, thank you.

11 UNIDENTIFIED: Um, I-I think that you want to maybe  
12 entertain the jurisdiction question first.

13 PARKER: So, I think -- I think counsel had the  
14 opportunity to submit a motion to dismiss based on  
15 jurisdiction.

16 HUSBANDS: Um, we did.

17 PARKER: And did you?

18 HUSBANDS: I-I did not. I got into this well after  
19 those motions to dismiss would've been due, I think. 10  
20 working days after the Notice of Hearing went out. Um, so I --

21 UNIDENTIFIED: It's -- I guess my point is not, um,  
22 procedural in that sense, but before you move on, you have to  
23 make the jurisdictional decision.

24 PARKER: Okay. So, on.

25 HUSBANDS: I think that may not be fair.

1 PARKER: Yes?

2 HUSBANDS: I -- to that point, I guess I would say  
3 no, we did not. Um, I apologize for not having submitted one.  
4 However, that is -- that doesn't, I don't think, take away the  
5 serious issue that's at hand. It's a subject -- it's  
6 essentially it's subject matter jurisdiction issue. It's an  
7 authority issue. It amounts to a separation of powers issue.  
8 Uh, those things can be brought at any time. I understand  
9 there are rules in place, and the rule in this case was that a  
10 motion to dismiss should have been filed within 10 working  
11 days of issuance of the Notice of Hearing. I mean, there's --  
12 there's no doubt about the fact that one was not. Uh, if there  
13 was, it would be entertained prior to what we're doing here  
14 today. But I don't think, respectfully, that that prohibits me  
15 from raising the issue.

16 PARKER: No, it doesn't. No, it doesn't. And, um,  
17 I'm gonna break from the norm here. So, we'll address this  
18 with committee members. I'm just gonna say -- and then, uh,  
19 Lisa or Todd, or -- or, uh, Deputy Attorney Generals speak up,  
20 if you will. Um, this committee does have jurisdiction on, uh,  
21 disciplinary matters. Um, I think that in your own opening  
22 statement, you identified that there was an issue with the  
23 document itself, misstatement. Just because we can't give, uh,  
24 a grievant what they're asking for, or all of it cannot be  
25 heard here, it doesn't mean that we don't hear parts of it --

1 the grievance. Um, but -- but you're absolutely right.  
2 Discrimination -- I mean, I think that would probably come up  
3 in deliberation. 'Cause you're absolutely right, we don't deal  
4 with discrimination. So, I don't know. This is a free for all,  
5 giving a free for all for comments.

6 UNIDENTIFIED: Um, I'm gonna defer to Todd Weiss  
7 first.

8 WEISS: Yeah, Madam Chair, uh, Deputy Attorney  
9 General, Todd Weiss. Uh, there are portions of the grievance  
10 that we do not have jurisdiction to look at, as Mr. Husbands  
11 articulated, um, especially the -- the retaliation, hostile  
12 work environment, anything following under federal law, uh,  
13 religious exemptions, we can't look at 'cause that's an EEOC  
14 issue, um, we've previously declined to, uh, entertain, uh,  
15 grievances relating to the governor's, uh, mandate or policy  
16 based on our inability to do anything about that. Um, but what  
17 we can -- what the EMC does have jurisdiction to look at is  
18 whether the discipline that was rendered was disciplined, you  
19 know, fairly and evenly under the agency's policies. Um, that  
20 we do have jurisdiction to look at, regardless of what the --  
21 the, uh -- the basis of it was. Um, so I -- so I-I don't  
22 believe the grievance at issue should be dismissed in their  
23 entirety. Um, but there are portions that we do not have  
24 jurisdiction to look at.

25 MERRILL: Can I ask question for clarification?

1 PARKER: Yes.

2 MERRILL: Um, so Dep Weiss, does that mean --  
3 Mechelle Merrill for the record. Does that mean that we as a  
4 body can only look at whether or not the individuals did or  
5 didn't do something that rose to the level of discipline? Kind  
6 of just separating should discipline have been given without  
7 looking at the why?

8 WEISS: We -- we could -- I'm sorry, Deputy  
9 Attorney General, Todd Weiss. Um, yeah, member Merrill, we can  
10 look at whether the discipline was -- was applied as per  
11 agency policy. Um, we are not in a position to -- to conclude,  
12 out of this agency, that the governor's mandate was right,  
13 wrong, or otherwise. Um, we -- we have to accept it as was.  
14 And that was a decision we made a long time ago, to decline  
15 those -- those, uh, grievances because we don't have authority  
16 to -- to, uh -- to say that the governor's mandate was -- was  
17 improper for any -- any legal reason. Um, but what we can do  
18 is ask was the discipline that was rendered under that policy,  
19 mandate, whatever you wanna call it -- was that done fairly,  
20 properly, and according to the agency's policies on  
21 discipline.

22 MERRILL: So -- Mechelle Merrill for the record.  
23 Just to make sure I heard it right. So we have to look at  
24 whatever directives we had from the governor's office as just  
25 statement of fact. And then did the individual's experience

1 discipline appropriately, not questioning whether or not the  
2 governor's directive was right, wrong, or indifferent?

3 WEISS: Correct. Um, you know, there -- there --  
4 there could be a possibility of looking at, you know, did --  
5 what-whatever actions we're looking at, did it violate the --  
6 the governor's policy mandate? Um, but for our purposes, we  
7 have to -- we have to move forward as if the policy mandate  
8 was -- was proper and in effect. Um, we don't have the  
9 authority to say otherwise, frankly.

10 MERRILL: So, just to hear it again. So, we are  
11 making the assumption as we hear this today, that the  
12 governor's policy was proper on the -- on -- at that time. And  
13 then if it was proper, then we can look at if the discipline  
14 was appropriate.

15 WEISS: Correct.

16 MERRILL: Okay.

17 UNIDENTIFIED: And -- and I just want to state for  
18 the record, every case that has come before us related to  
19 COVID, we have not denied all of them 100%. So, it just  
20 depends on the circumstances. And you're right, we don't have  
21 the jurisdiction or the authority to overturn the governor's -  
22 - the governor's policy. But it's to ensure that it's being  
23 followed. This is just about the discipline.

24 PARKER: Okay. Any other questions? Did we satisfy  
25 that?

1 HUSBANDS: And if I may, Madam Chair?

2 PARKER: Yes.

3 HUSBANDS: Deputy Attorney General Scott -- Scott  
4 Husbands. Then, I guess we would -- if that's the committee's  
5 decision, we would just simply be limiting testimony as to, I  
6 did hear, I think, Ms. Ringwalt suggest that she believed some  
7 policies were not followed, or procedures were not followed  
8 regarding the written reprimand. Um, so that -- we would just  
9 focus in testimony on that. Is -- was there a problem in the  
10 issuance of the written reprimand? Was a written reprimand  
11 appropriate for the alleged violation of the policy? So, we  
12 don't need to be getting into all the other issues related to  
13 Title VII, which is <inaudible>.

14 PARKER: Right, right. And -- and thank you for  
15 saying that. Because, just to be clear, uh, just so that  
16 grievants know that, uh, the discrimination portion of your  
17 claims is not something that we can address. Um, and that  
18 would be handled out of a different venue. Um, and so to do  
19 yourself justice and to stay to the scope of what we're here  
20 about, ensure that you're focusing on the discipline itself  
21 and whether or not it was, um, appropriate, so, um -- or the  
22 issues related thereto. Does that make sense to everybody?  
23 Okay. So, um, let's move on to case presentation. And Mr.  
24 Chung?

25 CHUNG: Yes.

1 PARKER: Do you wanna go ahead and present your  
2 case, not to be redundant with the opening statement, but if,  
3 uh, you had other relevant facts or, um, uh, your case that  
4 you wanted to present specific to that portion?

5 CHUNG: Um, if -- if I may, uh --

6 PARKER: You have 17 minutes for this portion.

7 MERRILL: That's for the whole hour.

8 PARKER: Oh, okay.

9 MERRILL: So, is it 2 hours 'cause it's two people?

10 Or --

11 PARKER: Yes, it is.

12 MERRILL: Okay. So, we have 17 minutes remaining in  
13 the first hour.

14 PARKER: Okay, go ahead.

15 CHUNG: Okay. So, I guess what I'll do then is  
16 just switch gears to, um, the discipline, uh -- uh, and, uh, I  
17 guess it's gonna take a lot of rearranging, but, uh, I'm gonna  
18 try to address that first, if I may. Um, would it be  
19 appropriate for me to read my grievance or

20 PARKER: So, just so that you know -- and I didn't  
21 -- I apologize. I didn't bring my regular notes, but we have  
22 read through your grievance. So the committee members have  
23 read through your grievance. So th-this should be, you know,  
24 points that you wanna emphasize related to --

25 CHUNG: Okay.



1 PARKER: -- that -- that portion that -- the  
2 disciplinary.

3 CHUNG: Uh, understood. Okay. If I may, I-I would  
4 like to -- I would like to -- I would like to keep it in the  
5 order that I -- that I have it in. I just want to -- I will be  
6 mindful to focus on procedural steps, if I'm understanding  
7 that correctly.

8 PARKER: Right.

9 CHUNG: Okay. Uh, all right. Okay. Uh, then I  
10 guess we could start with the Exhibit -- Exhibit 27. Um, what  
11 I would like to talk about there, uh -- okay, this is the  
12 policy that Mr. Husbands refers to. Um, I-I'll get to it  
13 shortly, but, uh, it -- it doesn't resemble a policy that I'm  
14 used to having worked at the Division. Uh, usually policies  
15 that come from the Department of Business and Industry bear  
16 the -- either the Deputy Director or the Director's signature.  
17 This one did not. Um, on the top of page 2, one of the  
18 questions, uh, in the FAQ, how will each work site be  
19 assessing the 70% threshold for workplaces? And will any  
20 resources be provided to the divisions to assist with this?  
21 Uh, the answer to that is the DHHS Office of Analytics is  
22 working with the Division of Human Resource Management to  
23 develop metrics for each work location using the Nevada  
24 Immunization Registry and the work location on record for each  
25 employee. Uh, in the middle of page 3 of 4, uh, what kind of

1 testing is required, PCR only or will antigen be allowed? It  
2 is recommended that only nucleic acid amplification tests, PCR  
3 tests, be utilized for this program. If the employee gets an  
4 antigen check -- test, the results must be sent for  
5 confirmation using a NAAPS-PCR, which may delay test results.  
6 Please note that over the counter or at-home tests do not meet  
7 the testing requirements of this policy. Uh, towards the  
8 bottom of that same page, what if I have personal religious  
9 reasons why do not wanna get vaccinated? Employees who choose  
10 not to get vaccinated due to personal or religious reasons  
11 must undergo weekly testing consistent with this policy. What  
12 if the employee refuses to adhere to this policy? The employee  
13 will be subject to discipline or corrective action. Uh, next I  
14 will switch to Exhibit 45. Let's see here. Exhibit 45, page 4,  
15 uh, second to last, paragraph. 4 -- okay. In this email from  
16 Cathy Sheehy, once NSBC has reached 70%, the mandatory testing  
17 will cease. This is not 70% for MLD, Mortgage Lending  
18 Division, but 70% vaccination rate for all of NSBC, minus the  
19 first floor. At the time, Wells Fargo was still located on the  
20 first floor. We are close, but there needs to be a few more  
21 vaccinated. Um, let's see here. Okay. Um, same Exhibit, page  
22 7, last paragraph, at the bottom of the page, uh, 70%  
23 vaccination rate for state work sites. This percentage is  
24 determined by all state employees in a physical building. Many  
25 of our divisions are in a building with other state divisions,

1 so it is not your division only that has to get to 70%. I will  
2 notify administrators when their building has reached the 70%  
3 vaccination rate, at which time employees at that building  
4 will not be required to test. This notification will come from  
5 myself or Terry Reynolds only. If you are in a building with  
6 other state agencies, and they say that the building has  
7 reached 70% and they do not have to test unless notified by  
8 myself. In this case, it was Vincent Budd Milazzo or Terry  
9 Reynolds, you must continue to test. Um, let's go to the next  
10 page, um, the August 20th email. Uh, first sentence, as you  
11 are aware, DHHS and the governor's office has been working  
12 diligently with the rollout of the COVID testing program. Um,  
13 let's see here. Yeah, uh, a lot of these exhibits, they --  
14 they speak to the ongoing harassment, but also to -- to the  
15 sharing of my medical information per NRS 449A.112. I did not  
16 authorize him, Mr. Milazzo, to, uh, blind copy or, uh, CC Jana  
17 Farley or Cathy Sheehy regarding my vaccination status. Um,  
18 let's see here. Pri-prior to, um, even the discussion on  
19 September 22nd, 2021 with both Cathy Sheehy and, uh, Budd  
20 Milazzo, uh, I did receive a voicemail from Cathy Sheehy, uh,  
21 requiring me to bring a doctor's note for having been, uh, on  
22 sick leave for 2 days in a row. She was accusing me of sick  
23 leave abuse. Um, let's see here. Okay, then I-I guess I'll  
24 just start at the beginning of this process for myself. Uh,  
25 this is in my grievance. But, uh, at 8:30 AM on the morning of

1 September 22nd, when asked by Budd Milazzo in the presence of  
2 Cathy Sheehy, if I was vaccinated or tested, I expressed my  
3 discomfort regarding sharing private medical information. When  
4 told that my response was mandatory and further asked why I  
5 was not comfortable, I cooperated and stated that I have  
6 personal reasons and feelings that I prefer not to discuss.  
7 Before concluding the discussion, I was presented with the  
8 letter of instruction dated September 22nd, 2021. That is  
9 Exhibit 2. Um, okay. Um, it's also included in, uh, the agency  
10 packet Exhibit A-2 on page, uh, 25 of 50. Uh, 2 days later on  
11 September 24th, I was presented with a written reprimand,  
12 Exhibit 3, by Cathy Sheehy in the presence of Zeljana Ajdari.  
13 She is our Deputy Commissioner. The written reprimand outlines  
14 allegations that I disagree with. Uh, Exhibit 3 is the written  
15 reprimand. Uh, I'll draw your attention to the second page of  
16 it. On July 30th, 2021, the governor of the State of Nevada  
17 issued Emergency Directive 047, which requires all state --  
18 all state employees who are not fully vaccinated against the  
19 COVID-19 virus to be tested on a weekly basis. You were  
20 required to test on or by 9:00 AM September 24th, 2021. As of  
21 9:00 AM, September 2 -- 24th, 2021, the Department of Health  
22 and Human Services has no record of you being tested, and you  
23 have not provided proof of having completed a test to your  
24 administrator. You are expected to adhere to the COVID-19  
25 testing requirements as directed by the governor. Continued

1 violations of the COVID-19 testing requirement will not be  
2 tolerated and may result in progressive disciplinary action.  
3 Now, if I could turn your attention to Exhibit 28. Uh, this is  
4 the State of Nevada Executive Department Declaration of  
5 Emergency Directive 047 that's referenced in my written  
6 reprimand, um. On note -- in no space, um, that -- does, uh,  
7 this Emergency Directive 047 require weekly asymptomatic  
8 COVID-19 testing. Um, it does, however, reference that, uh, we  
9 are required to wear masks indoors. Um, but, uh, we can go  
10 through each one of these together if we -- if you'd like.  
11 But, uh, my assertion is that nowhere on Declaration of  
12 Emergency Directive 047, as alleged in my written reprimand,  
13 does it require weekly testing. Therefore, uh, I-I can't help  
14 but disagree with the allegations on my written reprimand. Uh,  
15 this directive that they refer to in the written reprimand,  
16 the Governor's Emergency Directive 047, does not quote  
17 unquote, require all state employees who are not fully  
18 vaccinated against the COVID-19 virus to be tested on a weekly  
19 basis, as alleged by Cathy Sheehy. Uh, we could compare it to  
20 emails and attached official correspondence from the Office of  
21 Governor Steve Sisolak from March 2020, uh, in Exhibit 28. If  
22 you could flip to the next pages with me, uh, I believe this -  
23 - the following page after Emergency Directive 045. This is,  
24 uh, proclamation, if I'm not mistaken, from the Office of  
25 Governor Steve Sisolak. It bears a different stationary at the

1 top of it, and it does bear his signature, uh, making it, in  
2 my opinion, an executable document. Uh, the next page is April  
3 28th, 2022. Again, similarly, the Office of Governor Steve  
4 Sisolak, has a different stationary at the top, and it bears  
5 Governor Steve Sisolak signature. Uh, if we can flip to  
6 Exhibit 29. In Exhibit 29, uh, to me, this is what, uh,  
7 legitimate, historically enforceable policies from the  
8 Department of Business and Industry look like. They have a  
9 policy number. They have been vetted by human resources and  
10 are executed by either the Deputy Director or Director of the  
11 Department of Business and Industry. When the people named in  
12 my grievance have tried to pass this off as a -- what the  
13 people named in my grievance have tried to pass off as a  
14 policy or the governor's directive looked like neither a  
15 directive, an executive order, a proclamation, or anything  
16 that is actually -- actually executed by the State of Nevada  
17 Executive Department or the Governor of the State of Nevada.  
18 Uh, if we can flip to Exhibit 31 -- I'm sorry if I'm going a  
19 little quickly here, but, uh, I'm, uh, feeling a little bit  
20 under the gun. Um, in Exhibit 31, see State of Nevada  
21 Department of Business and Industry Governor Steve Sisolak  
22 and/or the Office of Governor Steve Sisolak at no time since  
23 the beginning of the COVID-19 SARS-CoV-2 Coronavirus pandemic  
24 possessed the right to unilaterally alter the terms of the  
25 employment agreement I signed with the State of Nevada on

1 September 23rd, 2013, when it requires mandatory asymptomatic  
2 weekly testing for COVID-19, using an experimental emergency-  
3 use authorized UA diagnostic test as a condition for my  
4 ongoing employment. As I've provided an Exhibit 31 of the  
5 employee's packet, per NRS 613.345, uh, #1, it is unlawful  
6 employment practice for an employer to ask or encourage a  
7 prospective or current employee to submit to a genetic test,  
8 to require or administer a genetic test to a person as a  
9 condition of employment, to alter the terms, conditions, or  
10 privileges of employment based on genetic information, to  
11 terminate employment based on genetic information. As used in  
12 the section, genetic information means information that is  
13 obtained from a genetic test. Uh, B, genetic test means a test  
14 that uses deoxyribonucleic acid extracted from the cells of a  
15 person, or a diagnostic test that uses another substance  
16 extracted or otherwise obtained from the body of a person,  
17 which determines the presence of an abnormality or deficiency  
18 that indicates a susceptibility to an illness, a disease, an  
19 impairment, or other physical or mental disorder. Um, so if we  
20 could flip to Exhibit 32. Now, um, Exhibit 32. Uh, this is the  
21 -- this is the Department of Administration Division of Human  
22 Resource Management's Manual for Genetic Information Non-  
23 Discrimination, or GINA. Um, on the top of page 3, uh, under  
24 the Genetic Information Non-Discrimination Act of 2008, it is  
25 illegal to discriminate on the basis of genetic information.

1 The federal regulations for the employment provisions of GINA  
2 became effective on November 21st, 2009. Title II of GINA  
3 prohibits the use of genetic information in making employment  
4 decisions, restricts employers from acquiring genetic  
5 information, and strictly limits the disclosure of genetic  
6 information. In the middle of the page, genetic information,  
7 as defined by GINA, includes information about an individual's  
8 genetic tests. Now, if I could have you flip to the bottom of  
9 page 9. Uh, this is where it addresses harassment. Under GINA,  
10 it is also illegal to harass a person because of his or her  
11 genetic information. Harassment is illegal when it is so  
12 severe or pervasive that it creates a hostile work or  
13 offensive work environment, or when it results in an adverse  
14 employment decision, such as the individual being fired or  
15 demoted for discrimination. The law prohibits discrimination  
16 on the basis of genetic information when it comes to any  
17 aspect of employment, including hiring, firing, pay, job  
18 assignments, promotions, layoffs, training, fringe benefits,  
19 or any other term or condition of employment. Uh, if we go --  
20 if we can flip to -- past that, uh, the next page is the FAQ  
21 sheet for Genetic Information Non-Discrimination Act from the  
22 US Equal Opportunity -- Equal Employment Opportunity  
23 Commission, EEOC.

24 PARKER: So, I'm sorry, Mr. Chung. Um, so we're not  
25 doing anything related to discrimination. I just want to



1 reiterate that.

2 CHUNG: Okay, understood. Um, okay.

3 PARKER: So, this is just -- if your -- this has to  
4 do with was your -- this has to do with the discipline that  
5 was taken.

6 CHUNG: Sure. Uh, I'll -- I'll -- I'll move on.  
7 Um, let's see here.

8 PARKER: Your time's about up.

9 CHUNG: Okay. Okay. Well, what I would like to  
10 point out is, uh -- give me one second, I'm sorry. Um, uh,  
11 okay. On September 28th, in response to the written reprimand,  
12 I emailed Cathy Sheehy on the following Tuesday, September  
13 28th, uh, with my PYC letter, which was signed. Um, let's see.  
14 Uh, that's my Exhibit 4. Okay. So, in Exhibit 4, "Ms. Sheehy,  
15 please see the attached." If you don't mind, I will read this.  
16 Uh, actually, what I would like to do, um, because I-I am  
17 running low on time -- I appreciate your -- your leniency  
18 here. Uh, I would like to point out that I did contact, um --  
19 yeah, there's so much here that -- okay. Basically, my -- my  
20 assertion is that Mr. Milazzo denied -- basically, I-I was  
21 required to painstakingly outline my sincerely held religious  
22 beliefs, and he denied that without providing an undue  
23 hardship as required by federal law. But, okay. What I would  
24 like to get to -- I'm sure -- I'm just trying to find it here.  
25 Uh, let's see. I did contact the -- um, I believe it is

1 Exhibit 39. We could just flip to that really quickly. I did  
2 contact, on my own, the Department of Health and Human  
3 Services -- the Nevada Department of Health and Human  
4 Services, Office of Analytics Personnel. I feel like, uh, the  
5 information that I gleaned from my information -- my data  
6 request from Miss Emily Martino, uh, from DHHS conflicts with  
7 the assertion that, uh, we hit 70% vaccination rate for my  
8 duty location on October 19th. Uh, her findings were that we  
9 did hit 70% on September 10th, 2021, which is exactly 2 weeks  
10 -- which is 12 days before even the letter of in -- of  
11 instruction, and, uh, exactly 2 weeks before I was even given  
12 my written reprimand. So, uh, this -- this data directly  
13 conflicts with, uh, Mr. Milazzo's assertion that, uh, we hit  
14 70% vaccination rate among NSBC employees. And, uh, basically  
15 makes this entire process, uh -- it never should have happened  
16 to begin with. And I think that is where the crux of my  
17 disagreement with the written reprimand comes. Um, you know,  
18 uh, the entire time Budd Milazzo was, uh, asserting that, uh,  
19 this entire policy -- this, uh, directive was, uh, done in  
20 coordination with the Nevada Department of Health and Human  
21 Services and the Office of Analytics. But when I obtained that  
22 information independently on my own, uh, he -- it, uh -- it  
23 didn't substantiate what Mr. Milazzo was saying. And if that  
24 is the case, um, then none of this, uh, progressive  
25 disciplinary process should have been inflicted on me.

1 PARKER: Okay. Can you reference that -- that  
2 exhibit that you just mentioned?

3 CHUNG: Exhibit 39

4 PARKER: 39? And so, I

5 CHUNG: I made my re --

6 PARKER: Go ahead. I-I've let you go way over on  
7 your time for the -- the -- the presentation. You'll get  
8 additional time in a little bit. Okay?

9 CHUNG: Okay. I appreciate it.

10 PARKER: But I have to -- I have to allow, um, Mr.  
11 Husbands to cross and question.

12 CHUNG: Sure.

13 PARKER: Okay.

14 HUSBANDS: Uh, Deputy Attorney General Scott Husbands  
15 for the record. Mr. Chung, thank you for your time. I think I  
16 can keep my questions pretty simple. Um, I was having a hard  
17 time following. Given the limitations that we're operating  
18 under today in terms of things we can and can't discuss, what  
19 specifically is the issue -- we're here to discuss the written  
20 reprimand. Would you agree with me about that?

21 CHUNG: Yes, sir. I would.

22 HUSBANDS: What specifically are you alleging was  
23 done? What's your problem with the written reprimand, I guess?  
24 What -- what procedures weren't followed?

25 CHUNG: The -- the written reprimand, uh,

1 procedurally, uh, references that I was -- I was  
2 insubordinate, uh, due to not following Governor's Emergency  
3 Directive, uh, 047. And, uh, as I've mentioned, uh, before,  
4 uh, I believe it's Exhibit 28 if I'm remembering it off the  
5 top of my head. But, uh, in Exhibit 28, that is the actual,  
6 uh, Directive 047 from the Governor's Executive Department.  
7 And, uh, we can go through each one of these, but I looked it  
8 over, uh, probably 100 times, and I can't find anywhere on  
9 there where the Governor, Governor Steve Sisolak, um, you  
10 know, on an Executive Emergency Directive required weekly  
11 asymptomatic COVID-19 testing.

12 HUSBANDS: Okay. Well, you would agree with me,  
13 though, that the policy that we're talking about, the July  
14 30th, 2021, uh, policy that does require what you refer to as  
15 asymptomatic COVID testing.

16 CHUNG: Um, I-I believe that it -- it's trying to  
17 say that it is required, but it does not allow for religious  
18 accommodation on the -- on the testing. And, um, because every  
19 testing mechanism is currently only EUA, so emergency use  
20 authorized, uh, there -- there are multiple things that have  
21 to kick in, uh, regarding my informed consent, um, my -- my  
22 option to voluntarily, uh, withdraw from the testing program,  
23 um, and all of that has to be outlined in an actual policy.  
24 Uh, the fact that the policy -- in my opinion, it's not a  
25 policy. It's a -- it's a Frequently Asked Questions, um, that

1 hasn't been vetted by anyone in human resources or -- or, uh,  
2 the Department of Health and Human Services. 'Cause if that  
3 were the case, then I don't think that, uh, they would have  
4 authorized that to -- to be required of State of Nevada  
5 employees, uh, because it -- it sets itself up for liability.  
6 It'd be a violation of federal law.

7 PARKER: So --

8 CHUNG: If, uh --

9 PARKER: Do you mind if I jump in for a minute?

10 HUSBANDS: No, please.

11 PARKER: Okay. So, Mr. Chung, a-a --

12 CHUNG: Yes.

13 PARKER: Again, we're -- we're not here about the  
14 discrimination. So, uh, you -- you keep going -- you continue  
15 to go back to the religious exemption and from the testing now  
16 too. But --

17 CHUNG: Well --

18 PARKER: You're referencing federal violation. So  
19 that would indicate to me, and correct me if I'm wrong, that  
20 you are talking about discrim-discrimination?

21 CHUNG: Well, um, what I -- what I have, um, a  
22 grievance about, and I feel it constitutes an injustice, is,  
23 uh, I feel that, um, per the data that I've obtained from --  
24 independently from the -- the Nevada Department of Health and  
25 Human Services, my duty location achieved 70% vaccination rate

1 among its employees on September 10th.

2 PARKER: Okay.

3 CHUNG: And I was, uh, given my, uh, letter of  
4 instruction on September 22nd. So, if I was -- if our duty  
5 location hit 70% on September 10th, that's 12 days before, uh,  
6 the -- the, uh, conference call happened and the letter of  
7 instruction happened. And it's 14 days before the, uh, written  
8 reprimand that incorrectly references the Emergency Directive  
9 047. And I, uh -- I-I've made reference to the fact that  
10 Emergency Directive 047 does not require weekly testing. So,  
11 I-I have a problem with being accused of insubordination when  
12 I feel like this was not an enforceable policy, um, that, uh,  
13 the written reprimand incorrectly references, um, the  
14 Governor's Emergency Directive 047. And by the way, that was  
15 issued on July 27th, 2021, not July 30th. What, uh, Mr.  
16 Husbands is referencing on July 30th, 2021, is the, uh, Nevada  
17 COVID-19 testing, uh -- Masking and Testing Policy for State  
18 Employees. Uh, and that has -- like I -- like I mentioned  
19 before, that bears a different state stationary and a  
20 different, uh, structure to it all together than an actual,  
21 uh, emergency directive or proclamation from the governor's  
22 office himself.

23 PARKER: Okay. I'm gonna let Mr. Husbands take his  
24 time back. Go ahead. I'm sorry.

25 HUSBANDS: It's okay.

1 PARKER: I was just unclear.

2 CHUNG: Okay.

3 HUSBANDS: So, I think we can just really cut to the  
4 chase. I understand your issue, which I will address with the  
5 committee during my closing remarks. Your basic issue is that  
6 executive to the extent the written reprimand references  
7 Emergency Directive 047, and to the extent that you claim that  
8 directive doesn't pertain to this testing policy, that  
9 therefore the written reprimand is incorrect. Is that a fair  
10 summary of what you're claiming?

11 CHUNG: Uh, that, and, uh, there's a -- there's a  
12 very good po -- there's a very good probability that, uh, with  
13 Mr. Milazzo not being here to independently verify where he  
14 got the October 19th, uh, 70% vaccination rate at NSBC, my  
15 duty location, uh, we have conflicting information, and mine  
16 came directly from the department -- the Nevada Department of  
17 Health and Human Services and the Office of Analytics via a  
18 legitimate request that I made through the portal. So, uh,  
19 basically, uh, you know, Mr. Milazzo's here to -- not here to  
20 either, uh, defend, defend his October 19th date or refute my,  
21 uh, September 10th date. So that's where we're at across --  
22 we're at a crossroads. I do agree with you that I feel like  
23 the written reprimand was as, uh -- incorrectly references  
24 the, um -- the directive, um, and it -- it doesn't refer to an  
25 actual policy, at least not the ones that -- not in a format

1 that I'm used to seeing over the past, uh, almost 9 years of  
2 employment with the State of Nevada. It isn't signed by a  
3 Deputy Director. Uh, it isn't signed by the governor himself.  
4 It does not bear the seal of the State of Nevada, doesn't have  
5 the stationary from the State of Nevada Executive Department.  
6 Um, you know, I'm -- I'm not gonna go so far as to question  
7 where it came from. Uh, it do -- it did come from the Office  
8 of Governor Steve Sisolak. But, uh, every -- every other  
9 correspondence I've actually seen that's executable by the  
10 Governor's office, uh, bears his signature, uh, is  
11 countersigned by the Secretary of State. Um, you know, and --  
12 and this is neither. It just bears, uh, a completely different  
13 stationary on the top of the page than what I'm used to seeing  
14 that's an executable document from the office of the gov -- of  
15 Governor Steve Sisolak.

16 HUSBANDS: But just to confirm, the policy itself, as  
17 the committee stated before your presentation, essentially  
18 stands as a matter of law. So, you can't challenge the policy  
19 itself, can you? And that's -- you're -- you're suggesting  
20 that, but the policy itself stands as a matter of law. So, I  
21 guess my question to you would be, did you get tested as  
22 required by the policy?

23 CHUNG: Uh, I don't -- I'm gonna call that a-a  
24 Frequently Asked Question, uh, you know, a -- a Q and A. Uh, I  
25 don't -- I don't feel like it is, uh, an enforceable policy.



1 HUSBANDS: And again, I don't think you can challenge  
2 that today. I, you know -- I guess I would defer to the chair,  
3 um, to see if that's something that we think he should be  
4 <inaudible>.

5 CHUNG: If -- if that's the case, then I still do  
6 have questions as to when, uh, other employees -- other  
7 similarly situated unvaccinated employees at the State of  
8 Nevada, uh, NSBC, the Nevada State Business Center, at my duty  
9 location, um -- we were either not required as of September  
10 10th, 2021 to weekly test, right, or, uh -- or, I mean, I-I  
11 really don't want to question the, uh -- the Nevada Department  
12 of Health and Human Human Services on their data, especially  
13 if it was obtained legally, as a private citizen, through, uh,  
14 their portal, uh, through their normal channels. If I'm -- if  
15 I'm not mistaken, I have to take that at face value more than  
16 I'm going to take a policy that looks like none other -- no  
17 other policy I've ever encountered.

18 PARKER: Uh, so, Mr. Chung, I will -- I'm gonna  
19 state for the record, because, um, we've been hearing these  
20 for over a year now, but, um --

21 CHUNG: Okay.

22 PARKER The -- the Friday July 30th memo from the  
23 office of the governor is. in fact, state policy.

24 CHUNG: Understood. Then, I guess my question is  
25 how the written reprimand was written, uh, because it doesn't

1 reference that policy. It references, uh, uh, Governor Steve  
2 Sisolak Executive, um -- or Directive 047, which only requires  
3 masks indoors. And I-I-I feel like I did comply with that  
4 directive.

5 PARKER: Okay.

6 CHUNG: And then I -- and then I -- and then I  
7 question on, uh -- whether, uh, we were exempt from testing  
8 because we hit the 70% vaccination rate ultimately almost 2  
9 weeks before I was even, uh, issued the letter of instruction.

10 PARKER: Okay. I have a question from a committee  
11 member, if you don't mind.

12 CHUNG: Sure.

13 MERRILL: Um, Mechelle Merrill, for the record. So  
14 I'm just trying to clarify. Exhibit 39 says that 70% was  
15 achieved on January 7th of '22. Am I correct?

16 CHUNG: Right.

17 MERRILL: Okay.

18 CHUNG: Uh, that was -- that was upon my initial,  
19 uh, request on, um -- on May 9th.

20 MERRILL: Okay.

21 CHUNG: So -- I'm sorry. I'm sorry, on April 26th.  
22 So, on April 26th, I made that request through their portal.  
23 And, uh, on May 2nd, uh, Ms. Martino, uh, came back and said  
24 that, uh, in response to your inquiry, the location, 3300 West  
25 Sahara reached 70% vaccination on January 7th, 2022. Okay.

1 Then I asked for, um, some follow-up information. And I asked  
2 her, on the next page, thank you very much for the information  
3 and your prompt response to my data request. If I may, I'd  
4 like to follow up and request some additional materials and  
5 details regarding the information I had originally requested.  
6 Please see the attached. And then I included the original  
7 request to the Department of Health and Human Services, and,  
8 uh, I basically asked, uh, the -- the dates on which every  
9 agency in the Nevada State Business Center, uh, achieved 70%  
10 within their office, right, and how many employees were  
11 employed at that office -- in their office at the time that  
12 they achieved 70%. In which case, she, uh -- then she revised  
13 her information and her, uh, response to me. And, um -- and,  
14 uh, let's see here. On May 10th, her response was, hi Perry.  
15 When I was working on this list, I realized that our code to  
16 match employees with their vaccinations used the most recent  
17 date of vaccination. This means that I was using some booster  
18 doses as the vaccination date. So, the date I previously  
19 supplied for the vaccination completion of 3300 West Sahara  
20 Avenue was incorrect. 3300 West West Sahara Avenue actually  
21 reached 70% completed vaccinations on September 10th, 2021. I  
22 apologize for the error. And then she provided the dates on  
23 which each agency located in that building achieved 70%. And  
24 if you'll notice, um, some of them had -- they had not reached  
25 70% as of May 10th of this year. So, uh, you know, either way,

1 January 1st or January 7th, 2022, is not October 19th, 2021.  
2 And September 10th, 2021 is not October 19th, 2021. Right? Uh,  
3 both of those dates do conflict with Mr. Milazzo's assertion  
4 that on October 19th, uh, we hit -- we achieved 70%. And if I  
5 may, in my grievance, uh -- in my grievance, um, on page 6 of  
6 9, um, since then, uh, an email from Deputy Director Milazzo  
7 on October 19th indicated that all Department of Business and  
8 Industry staff are now exempt from COVID-19, as 70% of people  
9 in the Nevada State Business Center have been vaccinated. To  
10 date, I have not been provided with the source from which to  
11 independently verify the exact date on which 70% of the  
12 employees of the Nevada State Business Center have been  
13 vaccinated. Without being able to independently verify the  
14 specific date that 70% of the employees reporting to work  
15 within the Nevada State Business Center were fully vaccinated,  
16 as indicated in Budd Milazzo's previous emails, I feel that  
17 the date of 70% vaccination of the employees at the Nevada  
18 State Business Center on October 20th is an arbitrary date  
19 that -- that circumstantially occurred after the dates of my  
20 verbal request not to disclose private health information on  
21 September 22nd, 2021, the submission of my written assertion  
22 of my right to refuse vaccination and testing protocols. I  
23 could read that, but, uh, I don't think we're -- we're --  
24 we're entertaining that right now.

25 PARKER: And we're impeding on Mr. Husbands's time.

1 CHUNG: On September --

2 PARKER: So we're giving you back your time. I'm  
3 sorry.

4 HUSBANDS: Okay. That's fine. Thank you.

5 PARKER: I appreciate that.

6 HUSBANDS: My question, sir, I guess, is simple. This  
7 policy, which again, is state policy, and it's been confirmed  
8 by the Committee of State policy, was issued on July 30th,  
9 2021. You agree with that, correct?

10 CHUNG: Uh, I believe that it's a memorandum that,  
11 uh, is titled a policy, but okay.

12 HUSBANDS: The committee has directed you that this  
13 policy is state policy. You -- you -- you remember that part?  
14 It was just a few minutes ago.

15 CHUNG: Un-understood.

16 HUSBANDS: Okay. We can get through this really  
17 quickly. At no point in time after July 30th, 2021, uh, did  
18 you receive a vaccination, correct?

19 CHUNG: Correct.

20 HUSBANDS: And at no point in time after July 30th,  
21 2021, did you test as required by the policy that has been  
22 confirmed as valid state policy, correct?

23 CHUNG: Right. As an alternative, I did -- I did -  
24 - I did, uh, attest to my sincerely held religious beliefs,  
25 but, uh, we're not entertaining that here today.

1 HUSBANDS: That's correct. I have no more questions.

2 PARKER: Thank you. Okay. Um, Ms. Gina Ringwalt --  
3 or Ringwalt-Denny. I'm sorry.

4 RINGWALT: It's okay.

5 PARKER: Um, just wanted to acknowledge your  
6 preference there and, um, see if, uh -- allow you to make your  
7 presentation.

8 RINGWALT: Okay. So, um -- so again, going back to  
9 the -- the -- the written reprimand, I -- Mr. Husbands  
10 submitted that as Exhibit A3. Um, we could just refer to that.  
11 Um, his packet's a little bit thinner and probably easier to  
12 find out. Um, I-I'm not sure what -- what's going on now. And,  
13 you know, I'm learning more stuff like every day. So, I'm --  
14 I'm really confused. But I do wanna make -- make the statement  
15 that, um, this was completely handled unprofessionally and not  
16 per statutes, which I-I brought that up before. And Mr.  
17 Milazzo instructed Ms. Sheehy to forward my LLI to agency  
18 services, which is -- it's not allowed. You are not allowed to  
19 do that. And so, whether or not she did that, I'm not sure if  
20 she took that instruction from him knowing that per the  
21 statute, you-you're not -- you're not supposed to. And that's  
22 NAC 284.480, letters of instructions. It's not a part of the  
23 disciplinary process. Uh, Ms. Sheehy stated in my written  
24 reprimand that -- that it was, which in fact it's not. Um, and  
25 it also says that, um, it -- it's -- it's not to go on my

1 permanent file -- my personnel file, and Mr. Milazzo  
2 instructed her to put that there. So, whether or not she did,  
3 I'm not sure. I ordered my service jacket to verify that all  
4 of this stuff was done in the manner that it was presented to  
5 me, and I found out that it in fact was not. Um, according to  
6 the written reprimand, Ms. Sheehy was required to forward that  
7 written reprimand to Human, uh, Resources. And on that form,  
8 it specifically instructs her to do so under the statute of  
9 NAC 284.638. Now, when I paid for and requested my service  
10 jacket, this was not in that file. So, I'm not sure if this  
11 was a hoax. Like, I'm not sure, because it was prepared  
12 improperly. It wasn't forwarded to HR per the requirements of  
13 this -- the -- the law. And it's got erroneous information in  
14 it pertaining to me. And it also, um, alleges that I didn't  
15 follow the Governor's Emergency Directive 047, um, which in  
16 fact I did. And, um, an Emergency Directive -- I have it, um,  
17 Exhibit 8, if -- if you wanna look at that again -- uh, I'm  
18 sorry, 7. So I looked through it over and over and over again.  
19 047 -- it requires state severance and public, but nowhere  
20 does it say that -- that, uh, state -- all state employees who  
21 are not vaccinated are required to test on a weekly basis. I  
22 don't see that there. So, when I'm accused -- or they allege  
23 that I didn't follow Directive 047, I have to firmly disagree  
24 with that. Um, if they found me in violation of that, I would  
25 accept that, but I am not. I did follow it. Uh, Governor

1 Executive Orders -- he has power. He is the governor. It's an  
2 emergency. It's a life-threatening disease. We were ordered to  
3 come back to the office and deal with it. Whether or not we  
4 felt safe, deal with it. And the governor, um, went through  
5 the proper channels in his Emergency Directive. He had it, um,  
6 filed with the Nevada Secretary of State, uh, the memo that  
7 everybody's referring to dated, dated July 30th. I mean, Mr.  
8 Husbands, with all due respect, the policy that you're  
9 referring to that does not -- and I'm not bringing --

10 PARKER: Mr. -- Ms. Ringwalt-Denny, your -- your  
11 statements are to me, um, not directed towards representation  
12 for the agency, so Mr. Husbands. So present to the committee,  
13 please.

14 RINGWALT: Okay.

15 PARKER: Yes. I-I just don't want you to address  
16 him directly because it's not cross-examination.

17 RINGWALT: Oh, okay.

18 PARKER: You're presenting to the committee your  
19 case.

20 RINGWALT: Okay. Okay. Sorry about that. And thank  
21 you for stopping me.

22 PARKER: That's okay.

23 RINGWALT: Okay. So, um, back to the emergency  
24 directive that was written and filed with the Secretary of  
25 State. Um, again, I'm not guilty of not doing that. I-I did



1 wear a face covering. Um, so I feel that the written  
2 reprimand, it wasn't -- it wasn't carried out properly, A, and  
3 B, it -- it insinuates that I did something that -- that I'm  
4 guilty of doing something that I'm not guilty of doing. I-I'm  
5 57, I think -- 56, 57, I -- you lose track after a while. I'm  
6 capable of following instructions. I mean, I'm -- I'm a good  
7 employee. I-I do everything that -- that I'm supposed to do.  
8 And I followed the Governor's Emergency Directive, and I've  
9 been wrongfully accused of not doing that. And it -- it kind  
10 of hurts my soul. But, um, you know, again, the actions that  
11 were taken were -- were not according to policies and  
12 procedures.

13 PARKER: Okay. All right. I just wanted to make  
14 sure you guys didn't freeze on us.

15 RINGWALT: Yeah. And I also want to bring something  
16 else up that --

17 PARKER: As long as it's contained within your  
18 grievance, yes.

19 RINGWALT: Yes.

20 PARKER: Okay.

21 RINGWALT: That the, um -- that, you know, now, I-I -  
22 - and I question the validity of the 70%. Like, I-I don't --  
23 now it's like, whoa, what happened, you know? Because I was  
24 getting -- given the same email that the whole division, or  
25 maybe the whole state was given. Well, our -- our -- our duty

1 station in particular, that the 70% vaccination was reached on  
2 October 19th, and that came from former, uh, Deputy Director  
3 Budd Milazzo. And if the Department of Health and Human  
4 Services is stating that that is not correct, that it's a  
5 different date. And if in fact that date is prior to Ms.  
6 Sheehy inflicting disciplinary action on me, then -- then  
7 that's -- that's something that, um, that you guys are gonna  
8 ultimately have to decide whether or not that date is correct  
9 -- if Mr. Milazzo was here to produce that data.

10 PARKER: Okay.

11 RINGWALT: I don't know if anybody checked it before  
12 they -- before they proceeded with the disciplinary action.  
13 I'm not sure.

14 PARKER: Awesome, thanks. Does that conclude your  
15 presentation?

16 RINGWALT: Um --

17 PARKER: You'll get another chance during closing  
18 as well.

19 RINGWALT: Okay, yes. Yes, thank you.

20 PARKER: Thank you. Mr. Husbands, cross?

21 HUSBANDS: Yes, thank you. Uh, Deputy Attorney  
22 General Scott Husbands for the record. Um, just a few  
23 questions, Ms. Ringwalt-Denny, you had referenced in your  
24 presentation concerns about the letter of instruction. Um, and  
25 again, I will admit that the written reprimand references it

1 as an oral warning. It was actually a letter of instruction. I  
2 will agree with you that a letter of instruction in and of  
3 itself is not disciplinary. However, would you agree with me,  
4 I think you left out, um, somewhat of a key piece of that  
5 regulation or statute. An agency can use a letter of  
6 instruction, uh, as a basis for future discipline if an  
7 employee doesn't follow the guidance in the letter of  
8 instruction. Would you agree with me on that?

9 RINGWALT: Yes, I do agree with you -- with you on  
10 that, but they are not, um --

11 HUSBANDS: Simply I -- so you agree, and you agree  
12 that the letter of instruction, which specifically references  
13 the July 30th, 2021 policy, uh, referenced your failure to  
14 comply with -- essentially, to submit yourself to COVID  
15 testing, right? That letter of instruction?

16 RINGWALT: Uh, the coaching material? Yes. I agree.

17 HUSBANDS: Okay. So you're not disputing -- so you --  
18 you didn't comply with the letter of instruction, correct?

19 RINGWALT: Uh, the letter of instruction didn't tell  
20 me what I needed to do. It told me what it felt like I didn't  
21 do.

22 HUSBANDS: Okay. If we can, um -- just bear with me  
23 one second while I find that. It's exhibit A2 to the  
24 employer's packet. I'll just read -- bear with me for one  
25 second. Uh, beginning of the first paragraph, it says, this

1 letter of instruction details the department's expectations  
2 that you comply with the State of Nevada's, uh, COVID-19  
3 masking and testing policy. And then it outlines the number of  
4 dates on which information was communicated to you. Do you see  
5 that there?

6 RINGWALT: I do, yes.

7 HUSBANDS: And then second to last paragraph, you are  
8 receiving this letter of instruction because you missed your  
9 required COVID -- uh, weekly COVID test for the week of August  
10 30th and September 6th. So, you see that, correct?

11 RINGWALT: I do.

12 HUSBANDS: And further on, your compliance with the  
13 policy, I'm abbreviating, is not only required, but it's also  
14 important for ensuring the health and safety of coworkers in  
15 the community as well as to protecting the continuity of DBIS  
16 operations. You see that, correct?

17 RINGWALT: I do.

18 HUSBANDS: Okay. So, at no point after issuance of  
19 the letter of instruction, or at any point after the July  
20 30th, 2021 policy, um, did you receive a COVID-19 vaccine,  
21 correct?

22 RINGWALT: No, I did not.

23 HUSBANDS: Nor did you submit yourself, uh, to COVID  
24 testing as required by the letter of instruction as required  
25 by July 30th, 2021 policy, correct?

1 RINGWALT: No, I did not.

2 HUSBANDS: I have no further questions.

3 PARKER: All right. Okay. So, we will go to your  
4 case presentation. Uh, thank you Madam Chair. Again, uh,  
5 Deputy Attorney General Scott Husbands. I have one witness,  
6 uh, which will be somewhat brief, and that would be, uh, Cathy  
7 Sheehy, who I believe is down there in Las Vegas.

8 PARKER: Okay. And she's been sworn in at the  
9 beginning, so is she at the table?

10 SHEEHY: Yes, I am.

11 PARKER: Thank you. All right, go ahead.

12 HUSBANDS: Okay. Thank you. Uh, Ms. Sheehy, bood  
13 morning. How are you?

14 SHEEHY: Good, thank you.

15 HUSBANDS: Good. Uh, you are -- are you currently  
16 employed by the Department of Business and Industry?

17 SHEEHY: Yes.

18 HUSBANDS: And in what capacity are you employed?

19 SHEEHY: The Commissioner for the Mortgage Lending  
20 Division.

21 HUSBANDS: Can you briefly describe for the  
22 committee, um, as the Commissioner, what your job duties  
23 consist of?

24 SHEEHY: Uh, I run the operation of a division of  
25 27 employees. Uh, we oversee the Non-Depository Mortgage

1 Lending Industry. We license, we examine, and we enforce  
2 compliance, um, of those entities as well as the individuals.

3 HUSBANDS: Okay. Um, so part of those duties would be  
4 managing those 27 employees, correct?

5 SHEEHY: Yes.

6 HUSBANDS: And that would also be enforcement of any  
7 B and I policies or any other policies applicable to the  
8 Mortgage Lending Division?

9 SHEEHY: Yes.

10 HUSBANDS: And that would also include -- we're  
11 talking here today about a policy, uh, issued by the  
12 Governor's office that's been recognized as valid policy, this  
13 July 30th, 2021, uh, policy. Do you require that -- or  
14 recollect that policy?

15 SHEEHY: Yes.

16 HUSBANDS: And that is in the employer's packet as  
17 Exhibit A1. Um, Ms. Sheehy, what does that policy say? What  
18 does it provide for?

19 SHEEHY: Um, there was a direction regarding, um,  
20 requirement to wear the mask, and, um, whether -- if you're  
21 not vaccinated, then testing would, uh, begin.

22 HUSBANDS: Okay. And it, um -- that policy itself,  
23 did it recognize the right of employees to make choices  
24 regarding whether or not to be vaccinated?

25 SHEEHY: Yes.

1 HUSBANDS: And as a-an alternative to, uh,  
2 vaccination, it required testing, correct?

3 SHEEHY: Correct.

4 HUSBANDS: Does the policy itself provide for any  
5 exceptions to the testing requirement?

6 SHEEHY: No.

7 HUSBANDS: Does the policy allow for discipline, uh,  
8 to the extent employees do not comply?

9 SHEEHY: I'm sorry, can you repeat that?

10 HUSBANDS: Sure. Does the policy itself, uh, uh,  
11 provide for discipline in the event employees don't comply  
12 with the testing requirement?

13 SHEEHY: Yes.

14 HUSBANDS: And as the Commissioner, you were  
15 responsible for enforcing this testing policy from the  
16 governor's office?

17 SHEEHY: Yes. It came through the Director's  
18 office, but yes.

19 HUSBANDS: Okay. Can you explain just briefly how  
20 this practically worked? So how did you enforce -- it pertains  
21 to if you're not vaccinated, you must get tested. How did that  
22 work as a practical matter in -- in your division?

23 SHEEHY: Um, we were advised that, um, there would  
24 be a report provided by, um, I believe the acronym was DHHS,  
25 that would, uh, -- um, identify individuals -- employees that

1 were not vaccinated. Um, and then those va -- those employees  
2 would be notified of the requirement. And, um, if they were to  
3 vaccinate at that time, then that report would be updated, I  
4 believe, on a weekly basis. So, we would know who we -- who  
5 needs to test as an employee on a weekly basis.

6 HUSBANDS: And did you have any employees in your  
7 division that were unvaccinated and required to test?

8 SHEEHY: Yes.

9 HUSBANDS: And did all of the employees who were  
10 required to test do so to your knowledge?

11 SHEEHY: No.

12 HUSBANDS: In fact, um, the 2 that are with us today,  
13 Mr. Chung and Ms., uh, Ringwalt-Denny, uh, were 2 employees  
14 who were required to test and failed to do so?

15 SHEEHY: Correct.

16 HUSBANDS: And they were issued, uh, at first a  
17 letter of instruction we have in front of us as part of the  
18 employer's exhibits. Is that correct?

19 SHEEHY: Yes.

20 HUSBANDS: And they didn't comply after the issuance  
21 of the letter of instruction, correct?

22 SHEEHY: Correct.

23 HUSBANDS: And then you issued a written reprimand,  
24 is that right?

25 SHEEHY: Correct.



1 HUSBANDS: And what was the basis for issuance of the  
2 written reprimand?

3 SHEEHY: Uh, not following the, uh, directive.

4 HUSBANDS: Okay. Basically, that they had not  
5 submitted to covid testing, is that correct?

6 SHEEHY: Correct.

7 HUSBANDS: And did you feel, um -- can you explain  
8 for us your responsibility relative to issuance of that  
9 written reprimand? Um, just where you were in the decision-  
10 making process about issuing the reprimand and decisions made  
11 around the written reprimand?

12 SHEEHY: Yes. The -- the, uh -- the letter  
13 instruction and the, uh, written warning, or written  
14 reprimand, um, came down from the Director's office. Um, I was  
15 well aware of, um, both letters being issued. Um, I executed  
16 them in person. The Director's office is in Carson City. Our  
17 office and, um -- both of the employees are in my office in  
18 Las Vegas. And so I was, uh, given the, uh, letters to execute  
19 in person to each employee.

20 HUSBANDS: Okay. And in fact, you ended up signing,  
21 uh, I believe. So, it's your signature that appears on Exhibit  
22 A3, which would be the written reprimand?

23 SHEEHY: Yes.

24 HUSBANDS: And so, based on the evidence you had --  
25 bear with me just one second. Uh, based on the evidence you

1 had, it was your determination that a written reprimand was an  
2 appropriate level of discipline for the employee's failure to  
3 apply with the COVID testing policy, correct?

4 SHEEHY: Yes.

5 HUSBANDS: Were there other more severe forms of  
6 discipline that you could have issued?

7 SHEEHY: I believe the --, the directive was, uh,  
8 it could include up to, uh -- further disciplinary action up  
9 to termination.

10 HUSBANDS: Okay. So why did you go with the written  
11 reprimand in this case versus termination?

12 SHEEHY: I believe it's, uh, the, uh -- the first  
13 violation regarding this refer -- or, uh, this, uh, order. Um,  
14 and so we wanted to make sure that we follow the proper course  
15 of action.

16 HUSBANDS: Okay. And you have, um, with you, I  
17 believe you -- you put together for the committee on a-an  
18 easel type presentation, a-a timeline of events. Is that  
19 right?

20 SHEEHY: Yes.

21 HUSBANDS: So, some of those, I think, are, um, not  
22 something we need to get into because they pertain to  
23 accommodations that were requested. But -- so that is  
24 available down south. Um, she has written out a list of -- a  
25 timeline of events, and essentially, we can -- the committee

1 down there can read that for the committee members up here.

2 PARKER: So, was this presented -- was a copy of  
3 this presented in the packets?

4 HUSBANDS: No.

5 PARKER: 'Cause any new information cannot be  
6 presented.

7 HUSBANDS: No, it's not.

8 PARKER: That's the same thing as adding additional  
9 paperwork into the records, so we can't allow that. Sorry.

10 HUSBANDS: Understood.

11 UNIDENTIFIED: Did they not allow it? Okay.

12 PARKER: Correct. That -- that would not be  
13 allowed. It would've had to have been, um, added into the  
14 packet. Had you included a copy of it, we could have done  
15 that. You -- you can discuss it if you want, but you just  
16 can't share documents.

17 HUSBANDS: I understand. Uh, just quickly then, from  
18 the date of July 30th, 2021, did you send any reminders to  
19 your employees about the vaccination and testing policy?

20 SHEEHY: Uh, yes. I sent directly to the staff, uh,  
21 a couple -- probably 3 or 4 emails, um, just notifying them,  
22 reminding them, advising them, um, so that they know when the  
23 testing would begin.

24 HUSBANDS: Okay. And again, to your knowledge, at no  
25 point in time after July 30th, 2021, did either of these

1 employees get tested, which they've admitted to. Is that  
2 right?

3 MS. SHEEHY: Correct.

4 HUSBANDS: I have no further questions.

5 PARKER: Okay. Um, so Perry Chung, you may cross-  
6 examine the agency through represent -- through, uh, Mr.  
7 Husbands, if you had questions.

8 CHUNG: Um --

9 PARKER: About his testimony. Not to present your  
10 case, but about his test -- about his

11 CHUNG: Okay. Um, okay. I would just like to know  
12 on -- on what he's basing the validity of what he keeps --  
13 what he continues to keep representing as the policy. Um, it -  
14 - it does not look like it was executed from the governor's  
15 office. Uh, it's on -- it's on.

16 PARKER: Okay. I'm -- I'm gonna stop you. If you're  
17 talk -- referencing what I've already advised you is policy,  
18 which is the July -- Friday, July 30th, 2021 memorandum for  
19 the -- from the office of the governor. That is state policy  
20 that was put out to all agencies.

21 CHUNG: Okay.

22 PARKER: This body recognizes that this is a policy  
23 that was actually in effect.

24 CHUNG: Un-understood.

25 PARKER: So, he's not representing that, I am.

1 CHUNG: Okay. Fair -- fair enough. Um, I guess my  
2 next question is -- let's see. Uh, um, I do have  
3 correspondence. I-I just gotta -- just gotta locate it. Um,  
4 uh, if we could flip to exhibit 30A. So, is this in your  
5 testimony? This is your time to ask him a question about his  
6 presentation. So --

7 CHUNG: Sure.

8 PARKER: If you have questions about something that  
9 he covered in his packet. If it's only in yours, it's not his  
10 -- part of his presentation.

11 CHUNG: Understood. Um --

12 PARKER: You'll -- you'll have a time in closing.  
13 This is not the end of it. But -- just only if you have a  
14 redirect or some kind of questions that you need to ask him  
15 about what he testified about -- about his <inaudible>.

16 CHUNG: Sure. Um --

17 PARKER: Or the witness. I'm sorry. I have to allow  
18 for the witness, too.

19 CHUNG: Okay. I-I get -- I could ask Ms. Sheehy  
20 that. Um, on, on what date did Budd Milazzo represent to you  
21 that we hit 70% vaccination rate at the Nevada State Business  
22 Center?

23 SHEEHY: I don't have that in front of me, so I-I  
24 wouldn't be able to -- to cite an exact date.

25 CHUNG: Okay. At any point did he, uh -- did he

1 say, um -- did he -- did he have any conversation with you in  
2 reference to --

3 PARKER: So, wouldn't that be hearsay. I'm sorry.  
4 Is that hearsay? I'm --

5 UNIDENTIFIED: I haven't heard the question.

6 PARKER: Oh, sorry. She's -- he's asking her if he  
7 told her something -- any conversation -- asking about any  
8 conversation they had.

9 CHUNG: Yeah, I was asking her if at any time --

10 UNIDENTIFIED: Um, he's talking to the witness  
11 though. So, it's not hearsay. It's -- that's what she said.

12 PARKER: He's asking what the other guy said.

13 UNIDENTIFIED: Oh, well, yeah, that's hearsay.

14 PARKER: Okay. Thank you. Yeah, you can ask her  
15 what she knows.

16 CHUNG: Okay.

17 PARKER: You can't ask her what somebody else said.

18 CHUNG: Uh, understood. Um, at any time did you  
19 and Mr. Milazzo have a conversation as to when he received my,  
20 uh, job accommodation request or, um, my religious  
21 accommodation to testing form?

22 HUSBANDS: I would --

23 CHUNG: Uh, in reference -- in reference to the  
24 October 19th date of supposed 70% vaccination rate and, uh,  
25 exemption from weekly testing?

1 PARKER: No --

2 HUSBANDS: No, I would --

3 SHEEHY: No.

4 PARKER: Go ahead.

5 HUSBANDS: No, I was just gonna say, Madam Chair --

6 it's Deputy Attorney General Scott Husbands for the record. I-

7 I would object to that question to the extent that it is

8 getting into issues of accommodation, um --

9 PARKER: Yeah.

10 HUSBANDS: Under both ADA and Title VII.

11 PARKER: Yeah. Again, we're not here about, uh --

12 yeah. If you had -- if -- like I said before, if you have

13 issues about the policy itself and about your accommodations

14 and not being allowed for either religious or medical

15 exemption, that's a different venue completely.

16 CHUNG: Understood. Um, if I may -- if I do have a

17 question as to where I can seek further guidance on, um, the -

18 - the topics that we are expressly prohibited from discussing

19 today, uh, can -- can the committee advise as to where the

20 proper venue would be for that?

21 PARKER: Yes, we will. Absolutely.

22 CHUNG: Okay.

23 UNIDENTIFIED: Madam Chair?

24 WEISS: Yeah, Madam Chair, I -- Deputy Attorney

25 General Todd Weiss, I-I-I -- we don't -- we don't give legal

1 advice here, um.

2 PARKER: We're not giving legal advice. We're  
3 telling them what other venues, and that's in statute, that  
4 they can go to. Correct? As far as whether or not we have  
5 jurisdiction and what other venues they have. 'Cause I think  
6 we sent that to other

7 JOHNSON: Nora Johnson for the record. Our usual  
8 letter -- the language in our usual letter is that, uh, the  
9 EMC lacks jurisdiction, relief may be provided in another  
10 venue. We do actually typically try to stay away from steering  
11 them in one direction or another.

12 PARKER: Okay.

13 WEISS: Yeah.

14 PARKER: All right. So, yeah. Okay. So, we -- yeah,  
15 we cannot provide legal advice for you. That's -- you'd have  
16 to get -- get an attorney for that. I can see that. But, um --

17 CHUNG: Understood.

18 PARKER: But -- but this is only about -- again,  
19 this is about your disciplinary action itself, not whether or  
20 not the policy was -- the policy -- we can't do anything about  
21 the policy. Okay?

22 CHUNG: Understood.

23 PARKER: We don't have the authority. And that  
24 would have to, um, be completely different jurisdiction. We  
25 don't do discrimination here at all, ADA, any of that stuff.



1 So.

2 CHUNG: Okay. Um, I-I did have one last question  
3 for Mr. Husbands, if I may.

4 PARKER: Sure.

5 CHUNG: Um, okay. Uh, can I ask, at least in terms  
6 of his testimony today, what the connection is between Steve  
7 Sisolak Emergency Directive 047 and the Frequently Asked  
8 Questions, uh, Healthy Work site? Um, I-I guess it's just a --  
9 a question and answer, but it -- it's being represented as a  
10 policy. So, I'm -- I'm -- I'm, you know -- on -- on my written  
11 reprimand, it references n-nothing else except for Emergency  
12 Directive 047. But, uh, I'm being accused of insubordination  
13 for not following what's being represented as a policy, again.  
14 Um, but on my written reprimand, it -- it only references  
15 Emergency Directive 047. So, I -- I maintain that I was  
16 compliant with Emergency Directive 047. But, uh, I -- it -- it  
17 -- it's very hard for me to -- to accept that I'm being held  
18 as insubordinate.

19 PARKER: So, are you -- are you asking him a  
20 question? Because this is where you ask him a question, not  
21 make a plea. Okay? I-I get --

22 CHUNG: Sure.

23 PARKER: No, I get your question, but let him  
24 answer. Ask him and -- and let him answer.

25 CHUNG: Okay. Uh, what -- what is the connection

1 and how do those two, I guess, interact with each other?  
2 Emergency Directive 047 and the Healthy Work Site Frequently  
3 Asked Questions? Because it seems like -- it seems like I wa -  
4 - I was written up for not following Emergency Directive 047,  
5 which I-I maintain that I have. Right? And I just -- I wanna  
6 understand the connection and how that ties in --

7 PARKER: Your time is coming close -- this is gonna  
8 cut into your closing time. That's why I'm asking you just to  
9 ask the question and let him answer.

10 CHUNG: Okay. What is the correlation between  
11 Emergency Directive 047 and, um -- and my insubordination for  
12 not following the policy that's -- that labeled as a  
13 memorandum?

14 HUSBANDS: Um, I guess I would answer, uh -- not  
15 necessarily my testimony. I think the document probably speaks  
16 for itself. Emergency Directive 047 is part of a continuing  
17 body of emergency directives that were issued under a general  
18 proclamation of state of emergency. Um, while I guess I will  
19 admit to you that specific 047 pertains to masking, that  
20 references the entire body of all the other emergency  
21 directives that were issued. Uh, we are talking here about the  
22 July 30th, 2021 policy requiring vaccination. And if no  
23 vaccination, testing. The written reprimand itself is clear on  
24 its face that that is what is at issue. Um, it says,  
25 essentially, you were required to test, you failed to test,

1 and you're being disciplined as a result. It included, I  
2 believe, as an exhibit, the letter of instruction, which  
3 specifically referenced the July 30th, 2021 policy. And you've  
4 admitted that you knew about the policy and that you haven't  
5 been tested and that you didn't comply with the policy. So,  
6 for that reason, you were issued a-a written reprimand. But  
7 specific to the issue with the Emergency Directive 047, if you  
8 read that emergency directive, it's clear that it is one part  
9 of a very large body of a series of emergency directives.

10 CHUNG: Okay.

11 HUSBANDS: All of which were <inaudible> to the  
12 authority under which the governor's office issued the July  
13 30th, 2021 policy.

14 CHUNG: Understood. Can you, uh -- can you  
15 reference any emergency directive, uh, from when -- when -- on  
16 the onset of Coronavirus pandemic, uh, all the way leading up  
17 to Emergency Directive 052, that specifically speaks to  
18 required weekly testing? Is it in an emergency directive  
19 anywhere?

20 HUSBANDS: I-I don't have those in front of me, so  
21 no, I can't do that right now. Um, if I had the time to sit  
22 here and do that, I possibly could. But again, we're talking  
23 about the July 30th, 2021 policy, which is referenced in the  
24 written reprimand. It's referenced in the letter of  
25 instruction. You admitted you knew about it, and you admitted

1 that you didn't follow it. So that's what we're here to  
2 discuss today. I understand you have issues with the validity  
3 of the policy. The validity of the policy is not at issue.  
4 What's -- and what's also not an issue -- I-I'll save that for  
5 closing.

6 PARKER: Okay. And if you're finished, we can move  
7 on to closing.

8 CHUNG: Uh, sure.

9 UNIDENTIFIED: Madam Chair?

10 PARKER: Yes?

11 UNIDENTIFIED: I need at least a 5-minute relief  
12 break, please.

13 PARKER: Okay. We're gonna take a 5-minute break.

14 UNIDENTIFIED: Thank you.

15 UNIDENTIFIED: Could you mute down south, please?

16 PARKER: We jumped in, so we can't <inaudible>

17 UNIDENTIFIED: <crosstalk>

18 PARKER: Okay, we're back. That's correct. Closing,  
19 closing statements.

20 UNIDENTIFIED: Are we muted still?

21 UNIDENTIFIED: Madam chair?

22 PARKER: Can you guys hear us?

23 UNIDENTIFIED: Yes. Can you hear us?

24 PARKER: Yep.

25 UNIDENTIFIED: Madam Chair, uh, Ms. Ringwalt-Denny

1 has not had a chance to do cross-examination of the agency.

2 PARKER: I'm sorry. Thank you.

3 UNIDENTIFIED: No problem.

4 RINGWALT: May I?

5 PARKER: Yes, uh.

6 RINGWALT: Thank you.

7 PARKER: Yes, you may go ahead and cross-examine.

8 RINGWALT: Okay. Thank you. Um, Cathy, I just -- I  
9 had a question for you. Um, was it you or Budd Milazzo that  
10 prepared that, uh, written reprimand?

11 SHEEHY: Budd.

12 RINGWALT: Budd did prepare that?

13 SHEEHY: Mm-hmm. <affirmative>.

14 RINGWALT: Okay. But you just put your name on it  
15 because, like you said, you were the -- pretty much like a  
16 witness, I guess.

17 SHEEHY: I was delivering it.

18 RINGWALT: The liaison to deliver, thank you. Um, Mr.  
19 Husbands, what date did Terry Reynolds consult you regarding  
20 the results of an in -- uh, internal investigation on me? Can  
21 you please provide that?

22 HUSBANDS: I don't think I should answer that  
23 question. It probably pushes into the attorney-client  
24 privilege. I would say -- I guess I would defer to the chair  
25 on that. Um, I would -- a little bit feeling in the awkward

1 position because I'm here testifying. But I would say that --

2 PARKER: Yeah, 'cause you're not a witness.

3 HUSBANDS: Right. Even if I was, I couldn't answer  
4 that question 'cause it pushes in on the attorney-client  
5 privilege.

6 PARKER: He's correct.

7 RINGWALT: Okay. Um, is -- is there any way that I  
8 could request the data that Mr. Milazzo based his 70%, uh,  
9 October 19<sup>th</sup>, uh, date? Is there any way that he can be asked  
10 to provide that to us?

11 PARKER: Um, so not at this point. If -- if you  
12 haven't asked for him to be a witness.

13 RINGWALT: He was named in the grievance.

14 PARKER: Did you put him on a witness list?

15 RINGWALT: Uh, no. I listed him in my grievance. I  
16 guess I assumed he would be here today. Um, and then one more  
17 question for you, Mr. Husbands. Can you please explain to me  
18 what you meant by employees like Ms. Ringwalt in your, uh,  
19 pre-hearing statement?

20 HUSBANDS: Then you'd have to point me to where I-I  
21 said that.

22 RINGWALT: Okay. In your pre-hearing statement on  
23 page -- on page 3 of 4.

24 HUSBANDS: Okay.

25 RINGWALT: Oh, wait, I'm sorry. Hold on.

1 HUSBANDS: I found it. It's on page 2, uh, the top of  
2 the page, lines 1 and -- but line 2 is where it specifically  
3 says employees like Ms. Ringwalt. Um, the pre-hearing  
4 statement says, going back to page 1, line 27, despite the  
5 fact that the policy itself did not allow for exemption from  
6 testing, and that the standard for establishing an undue  
7 burden under Title VII is relatively low, the Department of  
8 Business and Industry and its Division of Mortgage Lending  
9 allowed employees like Ms. Ringwalt to submit written requests  
10 for an accommodation in an unlikely event, that Title VII  
11 would require an accommodation. I wrote that. By the phrase  
12 "employees like Ms. Ringwalt," I was intending to refer to  
13 employees who were requesting accommodations based on  
14 sincerely held religious beliefs under Title VII.

15 RINGWALT: Okay, thank you for that. And then, um, I  
16 just wanna be clear that the written reprimand does state that  
17 I didn't follow Directive 047. So that's -- that's all I have.

18 PARKER: Okay. Thank you.

19 RINGWALT: Thank you.

20 HUSBANDS: I have nothing further.

21 PARKER: Thanks. Um, so we'll go ahead and move to  
22 closing statements. And Mr. Chung.

23 CHUNG: Okay. Um, let's see.

24 PARKER: And you have about 5 minutes.

25 CHUNG: Okay.

1 PARKER: Not to exceed 5 minutes.

2 CHUNG: Uh, all right. Due to their actions since  
3 September, 2021 that I feel constitute injustices, I've  
4 experienced discrimination from my employer, the State of  
5 Nevada.

6 PARKER: Wait a minute.

7 CHUNG: Okay. I apo -- I apologize.

8 PARKER: Strike the discrimination thing.

9 CHUNG: Understood. Um, I do feel that I, uh -- I  
10 do feel that I do have legally protected rights to medical  
11 privacy and autonomy per NRS 449A.112, NRS 613.345, and, uh,  
12 Title II of the Genetic Information on Discrimination Act of  
13 2008. Uh, I do feel like I have a legal -- a lawfully  
14 protected, right --

15 PARKER: So, if you are claiming discrimination,  
16 you need to go to a venue that deals with discrimination. Uh,  
17 again, this policy that states that you either have to test or  
18 get vaccinated is a policy for state employees. So, in your  
19 closing statement,

20 CHUNG: I'm not --

21 PARKER: Go ahead.

22 CHUNG: I'm not claiming -- I'm not claiming  
23 discrimination. I am claiming that I do have a right to  
24 medical privacy and autonomy. Um, uh, I do feel like I have a  
25 right to disclose, uh, improper governmental action per NRS



1 281.631 and NRS 613.340. And, uh, yeah, the rest of it, um --  
2 for -- for declining my employee -- employers offer to  
3 participate in the State of Nevada COVID-19 vaccination and  
4 asymptomatic weekly testing protocols outlined in the July  
5 30th, 2021 Nevada State employee COVID-19 masking and testing  
6 policy memorandum. Um, in the hopes of clearing -- uh, let's  
7 see here. The Department, and in the larger scope of things  
8 the State of Nevada, finds itself in the unenviable position  
9 of having to reconcile whether its actions have caused more  
10 harm or potential safety hazards than protecting both the  
11 constituents and its employees. You can't have it both ways.  
12 You can't accuse me of endangering people because they  
13 required me to physically be in the duty location when the  
14 accommodation would've satisfied all parties with no undue  
15 hardship. This cause, uh -- therefore, it is my assertion that  
16 I cannot be found insubordinate for not doing what they're  
17 unable to lawfully require me to do. Additionally, even if the  
18 Department of Business and Industry could prove that they have  
19 a lawful right to require me to submit to weekly asymptomatic  
20 gen-genetic testing without my informed consent, they would  
21 have to provide me the information I requested regarding the  
22 experimental treatment authorized under Emergency Use  
23 Authorization, at which time I could consider the potential  
24 benefits against the numerous known and unknown risks, which  
25 they have not. Uh, I-I-I submitted my -- my questions to, uh,

1 Cathy Sheehy on October 15th, 2021. La-lastly, if they -- even  
2 if they had provided me the answers to my requested  
3 information, I'm still entitled to refuse to volunteer for  
4 experimental treatments. Um, in the hopes of clearing my  
5 professional reputation and the sincere desire to pursue  
6 future opportunities, whether with the State of Nevada or in  
7 the private sector, without a blemish on my per-permanent  
8 personnel record, I have appeared before this committee and  
9 have done my best to present all of the relevant documentation  
10 regarding the actions I feel constitute injustices I've  
11 experienced since September of last year. I consider it a  
12 great dishonor to me personally to have to assert that I have  
13 not been insubordinate and carrying out my duties as assigned.  
14 I wish to have the following noted for the record: that I have  
15 served the Division of Mortgage Lending and the citizens of  
16 Nevada faithfully and honorably over the past nearly 9 years  
17 of my career with the State of Nevada, and have been  
18 recognized for meeting or exceeding standards each one of  
19 those past 9 years, that I have never had any prior  
20 disciplinary actions taken against me, that neither Cathy  
21 Sheehy nor Vincent Budd Milazzo nor Terry Reynolds has met  
22 their burden of proof that I was insubordinate in lawfully  
23 asserting my legally protected right to medical privacy and  
24 autonomy per NRS 449A.112, NRS 613. 345, and Title II of GINA,  
25 a disclosure of improper governmental action per NRS 281.631,

1 and NRS 613.340, and, uh, yeah, my sincerely held religious  
2 beliefs, um, and for declining my employer's offer to  
3 participate in the State of Nevada's COVID-19 vaccination and  
4 asymptomatic weekly testing protocols outlined in the July  
5 30th, 2021. --

6 PARKER: Okay. I'm sorry, your time's up. We're  
7 gonna have to move on to, uh, Ms. Rinwalt-Denny for your  
8 closing statement, please.

9 CHUNG: Understood. Thank you very much for your  
10 time.

11 PARKER: Thank you.

12 RINGWALT: I just wanna thank you guys again for  
13 letting me be heard today. I'm -- I'm very grateful that --  
14 that you respectfully would hear me today. And, um, I hope it  
15 -- and I have faith in your decision here today, whatever it  
16 is that you decide, based on all of the documentation that was  
17 provided. And I -- and I hope that in the future that, um,  
18 people such as, um, Mr. Milazzo and Ms. Sheehy could get  
19 together and maybe make sure that exactly what they're -- what  
20 they're writing, they're following the -- the laws that I'm  
21 required to follow as well. And I think it's only fair that --  
22 that they should be held to the same standards, um, that I am  
23 as an employee. And, um, I-I basically, I think that's all. I  
24 just really wanna thank you guys for this opportunity today. I  
25 appreciate it.

1 PARKER: Thank you. Thank you. Mr. Husbands?

2 HUSBANDS: Thank you. Uh, Deputy Attorney General  
3 Scott Husbands for the record. I also will echo, um, Ms.  
4 Ringwalt-Denny's comments to thank the committee for its time,  
5 uh, to thank the employees, thank the witnesses, again. And on  
6 behalf of the Office of the Attorney General, uh, just to make  
7 the recognition that these are important hearings, um, to the  
8 extent that we are attempting to adjudicate workplace issues.  
9 Um, I know that it's been a long day already. We had some  
10 issues this morning with, um, technology, but I appreciate  
11 everybody's time. Uh, I will keep my remarks brief by simply  
12 focusing on, um, what is not at issue here, what is not in  
13 dispute. There was testimony, uh, by both grievants, uh,  
14 relative to the specific reference to Emergency Directive 047.  
15 Um, Emergency Directive 047 is part of -- simply 1 of a large  
16 number of emergency directives that were issued that all fall  
17 underneath the umbrella of the state. Um, the proclamation of  
18 emergency that was recently lifted by the Governor's office,  
19 but which was effect at the time. The proclamation declaring  
20 state of emergency gives the governor's office the power to  
21 create policy. The policy that's issu -- at issue here, which  
22 isn't in dispute -- is one of the things that that's not in  
23 dispute, is that individuals -- employees who were not  
24 vaccinated, were required to detest -- to test. Um, so that  
25 policy is not in dispute. I don't think there's any dispute as

1 to the authority of the Governor's office to have enacted the  
2 policy. The policy has been declared as valid by the committee  
3 and has been accepted as valid in the past. There's also no  
4 dispute as to the fact that these employees did not comply  
5 with the policy. The -- they first received a letter of  
6 instruction. Both of which admitted to receiving that. Um,  
7 both of which admitted that it was correct, and they did not  
8 test. Um, they also admitted that they received a written  
9 reprimand, which pertained to the failure to test. They both  
10 admitted that they did not test, and that there was a series  
11 of progressive discipline steps, which could have been taken  
12 as testified to by Ms. Cathy Sheehy, who's the Commissioner of  
13 the -- the Mortgage Lending Division. And she felt that the  
14 written reprimand was an appropriate form of discipline. So,  
15 the things that are not in dispute are the authority, uh,  
16 underlying the policy or the fact that these employees were  
17 subject to the policy, the fact that these employees did not  
18 comply with the policy, and the fact that the written  
19 reprimand specifically references non-compliance with the  
20 policy and incorporates the -- the letter of instruction. So,  
21 I think this hopefully is a simple matter. Um, I'm grateful  
22 that we were able to step away from some of the more thorny  
23 issues relative to the accommodation issues and  
24 discrimination, um, because this really is a simple case. We  
25 have a valid policy. These employees did not comply with it.

1 And they were issued a written reprimand, which is basically  
2 step 2 on 5-step progressive discipline path. For that reason,  
3 I would suggest -- and my understanding is what they're  
4 requesting is for these written reprimands to be removed. And  
5 I would request that the committee affirm the written  
6 reprimands and deny grievances. Thank you.

7 PARKER: Thank you. All right. So, the -- the  
8 committee's going to deliberate, and we'll talk amongst  
9 ourselves. They may -- committee members may ask questions of  
10 either witnessed or the parties. Um, but at no time may you  
11 interject without um, being asked a question and then without  
12 being recognized. Um, but committee members feel free to make  
13 comments. Okay. I have a question. For the record, Stephanie.  
14 Um, when did the testing start at B and I? So, I know that the  
15 -- the order was issued -- the policy was issued Friday, July  
16 30th. And then I heard a comment saying, and then they would  
17 let them know when the testing would start, What date did  
18 testing start? And that could be either counsel or if you  
19 want, uh, the witness, Ms. Sheehy, to respond to that.

20 HUSBANDS: I personally don't know.

21 PARKER: Okay.

22 HUSBANDS: Wish I did, but I don't know when exactly.  
23 I know -- I believe once the memorandum was issued and the  
24 policy was announced, there was a period of time within which  
25 employees were exempt from complying. When specifically, the

1 Department of Business and Industry or the Mortgage Lending  
2 Division said effective Monday such and such date, you must be  
3 tested over subject to discipline, I-I don't know. I guess I  
4 would submit to the committee that it -- that that  
5 announcement predated the non-test, um, examples that we have  
6 here today.

7 SCOTT: Madam Chair?

8 PARKER: Yes?

9 SCOTT: Mary Jo Scott, for the record. It states  
10 in the policy August 15th is the effective date for those who  
11 are not fully vaccinated, must be tested weekly for COVID-19.  
12 And proof of testing and results must be submitted to their  
13 Human Resource Officer or Department.

14 PARKER: Thank you.

15 SCOTT: You're welcome.

16 PARKER: I do have one more question if nobody else  
17 does. <inaudible> Mary Jo. Um, so my question is -- so August  
18 15th, and then we go to -- it -- first of all, I just wanted  
19 to ask, is, um, Ms. D-Denny-Ringwalt -- or Ringwalt-Denny, I'm  
20 sorry, and Mr. Chung in the same building?

21 SCOTT: Yes, they are.

22 PARKER: They're in the same building? And

23 SCOTT: Oh --

24 PARKER: Go -- go ahead. I'm sorry.

25 SCOTT: I'm sorry. I was meaning here. But you're

1 both located at 3300 Sahara, correct?

2 CHUNG: Correct.

3 SCOTT: Yes, they are.

4 PARKER: Um, okay. And so, we've got documentation,  
5 and it was in Exhibit, uh, 39, stating that this location had  
6 met their 70% vaccinations on September 10th, 2021. Is there a  
7 dispute to that?

8 MERRILL: Mechelle Merrill, for the record. And did  
9 the -- Mr. Milazzo and Ms. Sheehy know that on that date?

10 PARKER: So, Ms. Sheehy, I have a question for you  
11 'cause I-I think I heard testimony during this case that DHHS  
12 was to contact the agencies to let them know when they made  
13 their 70%. And as a Commissioner, do you know when you were  
14 notified? If it was in fact September 10th?

15 SHEEHY: I do not recall the date, but I -- we  
16 would've gotten an email from the Director's office i-  
17 dentifying that we did meet the 70%.

18 PARKER: And it wasn't -- so it happened September  
19 10th and then we wait until -- well, until September 21<sup>st</sup> to do  
20 an LOI, which is after the fact. How many testings were missed  
21 before that?

22 MERRILL: Right. Well, there's the testings that  
23 were missed before that certainly. I -- and I think that the  
24 documentation --

25 PARKER: Oh, October --



1 MERRILL: -- says that the agency didn't know until  
2 October. But they didn't provide that documentation. Okay. But  
3 there were -- if there were tests that were missed 'cause  
4 there was clearly an understanding that there should have been  
5 testing done.

6 SCOTT: We can't hear you.

7 PARKER: Sorry. We did -- sorry. Um, so go ahead  
8 <inaudible>.

9 MERRILL: Um, Mechelle Merrill. I was just saying  
10 that it's not clear that the agency knew on September 10th  
11 that they had reached the 70%. And it -- it also appears that  
12 the -- Mr. Chung and Ms. Ringwalt-Denny chose to not test,  
13 though they knew that was a requirement prior to either  
14 September 10th date or the October date. They -- they chose  
15 not to test when they knew testing was an expectation.

16 PARKER: Right. Yeah. I-I think I have an issue  
17 with waiting from August 15th and I just don't know. I know  
18 that there's some discrepancies in the written reprimands as  
19 far as references. So, I don't know that they actually found  
20 out in October. I-I-I wanna see when they actually were  
21 notified, um.

22 MERRILL: And we don't seem to have that.

23 PARKER: We don't seem to have that. And then to  
24 wait until -- an-and I don't know. I mean, and maybe there was  
25 an extreme delay. The fact is that the policy was in place.

1 MERRILL: Policy was in place, yes.

2 PARKER: So, I don't think they violated their own  
3 policy.

4 MERRILL: You said that you think they did?

5 PARKER: I -- no, I don't think --

6 MERRILL: The employees?

7 PARKER: I don't think that the agency violated  
8 their own policy, violated state policy. I don't know. Do --  
9 what do you guys think?

10 MERRILL: Teresa?

11 PARKER: Teresa, Mary Jo?

12 RUSSELL: Do you wanna go first?

13 SCOTT: This is Mary Jo Scott for the record. I  
14 have a question just to get clarity from the agency. Um, Ms.  
15 Sheehy, do you know what the practice or protocol was for the  
16 Department of Business Industry to receive that notice of 70%?  
17 Did the director's office have to contact DHS Analytics  
18 Department or was that something that the Analytics Department  
19 sent to the Sirector's office and in turn sent to you?

20 SHEEHY: Um, what -- what I -- what I was informed  
21 was that we would be re -- B and I would be receiving a report  
22 from DHS.

23 SCOTT: And you don't know when that report was  
24 received? Was -- would it have been received monthly or?

25 SHEEHY: I believe -- my understanding -- what we

1 were, uh, uh, uh, uh, told was that once the report was  
2 started, it would come weekly. So, if an employee tested  
3 during that week, then the following week the report would  
4 identify the employee that got tested. So, they would come off  
5 that list.

6 SCOTT: And did your office have a tracking system  
7 to track those weekly notices?

8 SHEEHY: We did not at the Division level, but B  
9 and I did.

10 SCOTT: Okay. And then I have just one other  
11 question. Um, based on the July 30th policy, August 15th is  
12 when the testing and the masking was to take effect. Why did  
13 you not issue coaching or discipline before the 21st or the  
14 22nd respectively?

15 SHEEHY: There was a little bit of a delay, I  
16 think, when the testing rolled out, um, with the testing  
17 location, the report. And so, the information from the  
18 Director's office was that we were -- we were not to proceed  
19 with any disciplinary action until this testing process got  
20 smoothed out.

21 SCOTT: Okay, thank you.

22 UNIDENTIFIED: Any more comments or questions?

23 HUSBANDS: If I may? I know I'm not supposed to. But  
24 just briefly, I did find Exhibit 16 to Mr. Perry's employee  
25 packet, which was an email from, uh, Deputy Director Budd

1 Milazzo communicating, uh, the effective immediately all B and  
2 I locations, um, have exceeded the 70% vaccination rate. I  
3 think there was just a question as to, um, when was that  
4 announced? We don't know, you know, when they received the  
5 information. I think we just know when it was announced, which  
6 this date is October 19, which clearly postdates the -- the  
7 dates issued.

8 UNIDENTIFIED: And Madam Chair, in looking at Ms.  
9 Ringwalt-Denny's, um, letter of instruction, it says that, um,  
10 she missed testing on August 30th and September 6th.

11 PARKER: Okay. So, the dates would probably be the  
12 same for both, that -- those were the testing schedules for  
13 everybody. Were the testing schedules the same for everybody?

14 SHEEHY: Yes.

15 UNIDENTIFIED: The Fridays were always -- Fridays  
16 were --

17 PARKER: Okay, thank you. Thank you for that 'cause  
18 we had asked for that.

19 HUSBANDS: Sure. I appreciate the leniency.

20 MERRILL: So, Madam Chair, this is Mechelle Merrill.  
21 It appears that, going with what Mr. Husbands said -- that if  
22 agency announced -- assuming that their announcement was close  
23 to when their knowledge of the 70% being October 19th, that  
24 the letters of instructions being September 21st and 22nd of  
25 '21 with 2 Fridays prior to that having missed testing.

1 <inaudible>

2 PARKER: So, Mechelle's just asking me -- I don't  
3 know if you guys could hear. We're just, uh -- for the  
4 recording, uh, she had mentioned that, um, and I concur, uh,  
5 upholding the, uh, the written reprimands with the exception  
6 of, uh -- that's what we're leaning towards with the exception  
7 of Ms., uh, Ringwalt-Denny with incorrect, uh, assertion that  
8 there's a previous discipline, which was already admitted that  
9 it was incorrect. Okay.

10 RUSSELL: Madam Chair? Teresa, for the record.

11 PARKER: Yes, please.

12 RUSSELL: Uh, my contributions to deliberation. When  
13 it comes to the issues for the GINA testing, or the GINA  
14 documentation, the way I read that and understand it, as far  
15 as it prohibiting genetic testing, the genetic testing that is  
16 prohibited relates to more of a DNA genetic of the individual  
17 staff member. Whereas the COVID testing is not testing the  
18 actual genetic of the individual being tested, but for a --  
19 for lack of a better word, a disease or virus that may or may  
20 not be present.

21 PARKER: Correct.

22 RUSSELL: So --

23 PARKER: You're right. And as, um, the grievant in  
24 his own testimony stated the susceptibility to one, which the  
25 COVID testing does not test whether or not you have

1 susceptibility there -- I mean, it's not doing the DNA to see  
2 if you're susceptible to anything. Right?

3 RUSSELL: Right. Teresa, for the record. Yes. That's why  
4 that document is not playing into, in my opinion, the decision  
5 that we will -- we will be making here today. I do, however,  
6 have concerns about the accuracy of the written reprimands.  
7 They -- should it be determined that they're upheld, the fact  
8 that they state prior discipline issued, that is not accurate.  
9 And for something that's -- a document that's going to be  
10 placed in an employee's file, if it's indicating that a policy  
11 directive is violated, that needs to be accurate. I don't have  
12 all of the directives in front of me, but from what I read  
13 through, I don't see that Directive 047 is accurate.

14 PARKER: Right. And -- and I agree. And with the  
15 corrections, that -- I think that's something that we could  
16 actually state that needed to be corrected, too. And because  
17 it also -- it does mention -- I think the primary is -- what  
18 I'm seeing is that it's based on, is the July 30th, 2021  
19 governor of the state of Nevada issue emergency -- oh, wait a  
20 minute. No, it doesn't.

21 UNIDENTIFIED: This is what speaks to --

22 PARKER: Oh, July 30th. Yeah.

23 UNIDENTIFIED: -- the testing.

24 PARKER: Yes. Yes.

25 UNIDENTIFIED: 047 speaks to masking.

1 PARKER: Right.

2 UNIDENTIFIED: So, it was -- but as Mr. Husbands  
3 says, it's in the body of directive from the government.

4 PARKER: But it shouldn't be inaccurate.

5 UNIDENTIFIED: Yes, document

6 MERRILL: Madam Chair? Mechelle Merrill.

7 PARKER: Yes?

8 MERRILL: I wanna ask a question. Am I correct in my  
9 recollection of how HR works, that an individual who's  
10 received, uh, discipline, such as a written reprimand, after,  
11 I believe it's a 6-month period of time, can ask for that to  
12 be removed from their employee file?

13 SCOTT: No. Mary Jo Scott for the record. No, it  
14 won't. A written reprimand will not be removed from the file  
15 unless it's appealed and they, uh -- they win at that appeal  
16 to have it removed. But the LOI in the supervisor's file can  
17 be sought to be removed after a year.

18 MERRILL: Okay. Thank you for the clarification.

19 PARKER: Any more?

20 RUSSELL: Teresa Russell, for the record.

21 PARKER: Yes?

22 RUSSELL: Uh, I didn't hear the full sentence, or I  
23 didn't hear it clearly, about the testing being in the body of  
24 the directive. It's my understanding, and please correct me if  
25 I'm wrong, that all the whereas are for explanation or better

1 understanding. But the actual directive that has to be  
2 followed -- for example, on Directive 047, we have almost 2  
3 complete pages of whereas, but what actually has to be  
4 followed is on page 3. It is here by ordered, and then it  
5 gives section 1, 2, and 3. And so the whereases give more  
6 information as to the why of the order, but they are not  
7 themselves orders.

8 MERRILL: Madam Chair, this is Mechelle.

9 PARKER: Yes?

10 MERRILL: Section 1 of Directive 047 reads the  
11 provision of previous directives are hereby superseded only by  
12 the explicit provisions of this directive. Any previous -- any  
13 provisions not addressed by this directive shall remain in  
14 force as provided by previous directives or regulations  
15 promulgated pursuant to the March 20 -- March 12th, 2020  
16 declaration of emergency. So that seems to support that this  
17 doesn't change the July 30th.

18 RUSSELL: This didn't just come <inaudible>.

19 SCOTT: Yeah, Mary Jo Scott for the record. The  
20 July 30th policy came after this directive. Is that correct?

21 UNIDENTIFIED: That's correct.

22 SCOTT: I believe this came out on July 27th, the  
23 Directive 047, and the policy came out on July 30th.

24 PARKER: Yeah, that's true.

25 UNIDENTIFIED: No. The latest date mentioned on the



1 directive was July 27th, you said?

2 SCOTT: No, I-I could be wrong on the date that it  
3 was issued, but the latest date on the directive is mentioned,  
4 whereas July 27<sup>th</sup>. And then the policy was issued on July 30th.

5 RUSSELL: Teresa Russell, for the record. So, if I'm  
6 understanding correctly, it appears that the committee is  
7 leaning towards upholding the reprimands, but having them  
8 amended to reflect the accurate, um, policy and to cor -- uh,  
9 either correct or change the wording of the September 24<sup>th</sup> --  
10 21st oral warning. Because as far as we can tell, there was no  
11 document or oral warning in here that was received.

12 PARKER: Yep.

13 MERRILL: Madam Chair, I would make a run at it.

14 PARKER: Okay.

15 MERRILL: Okay. Um, Mechelle Merrill for the record.  
16 I, Mechelle Merrill move to affirm the 2 written reprimands  
17 with recognition that Directive 047 does not reference  
18 masking. It was the July 30th '21 policy, which references  
19 masking and with the correction of Ms. Ringwalt-Denny's  
20 written reprimand that states previous discipline was  
21 delivered as it was only an LOI, and not discipline and  
22 therefore deny grievances.

23 UNIDENTIFIED: Both said LOI.

24 MERRILL: Oh, both said loi? Then it would be both.

25 Stab again?

1 SCOTT: Mary Jo Scott for the record. May -- may I  
2 clarify? Did you say then deny the grievance?

3 PARKER: She's -- yeah, she's -- she's gonna update  
4 hers. But yeah. That's what she's -- her motion is stating  
5 deny -- well, no, you -- you -- you approve --

6 WEISS: Member Merrill, why don't you take a few  
7 minutes to -- to write out your thoughts.

8 MERRILL: Thank you, will do. Yeah. Okay. This is  
9 Mechelle Merrill. Mechelle Merrill for the record. I'll try  
10 this again. I, Mechelle Merrill, move to affirm the 2 written  
11 reprimands with recognition that Directive 047 does not  
12 reference testing. It was the policy dated July 30th '21 which  
13 references testing. And with the correction that the oral  
14 warnings noted in both reprimands were actual letters of  
15 instruction, and therefore, deny both grievances. And other  
16 issues raised in grievances are not within the jurisdiction of  
17 the EMC.

18 PARKER: We have a motion.

19 RUSSELL: Teresa Russell, question for  
20 clarification.

21 PARKER: Yep. Yes?

22 RUSSELL: Is there somewhere in the motion  
23 indicating that any change is being made to the written  
24 reprimand?

25 PARKER: Did you say corrections?

1 MERRILL: Yes. I -- Michelle Merrill. I said that,  
2 uh, there was recognition that Directive 047 does not  
3 reference testing. And I said that there was, um, correction  
4 that the oral warnings noted in both reprimands were actually  
5 letters of instruction.

6 PARKER: Did you wanna offer a friendly amendment  
7 or did that make sense?

8 WEISS: Member Merrill, could you read it to us  
9 one more time?

10 MERRILL: Certainly. I, Mechelle Merrill, move to  
11 affirm the 2 written reprimands with recognition that  
12 Directive 047 does not reference testing. It was the policy  
13 dated July 30th of '21, which references testing. And with the  
14 correction that the oral warnings noted in both reprimands  
15 were actually letters of instruction and therefore deny both  
16 grievances. And other issues raised in grievances are not  
17 within the jurisdiction of the EMC. I'm sorry.

18 PARKER: Just waiting to proceed. So, is there a  
19 part that's -- that should be clarified, Teresa, that's  
20 cloudy? Um, I was going to add a friendly amendment to state  
21 that, um, with the cor -- uh, with the correction that the  
22 oral warnings noted in both reprimands be removed as they were  
23 actually LOIs and therefore deny both grievances. And note  
24 that, um -- and just note in the decision that other issues  
25 raised in these grievances are not within the jurisdiction of

1 the EMC.

2           RUSSELL:           Teresa Russell for the record. What I'm  
3 struggling with is a complete denial of the grievance. I --  
4 personally, I think it should be granted in part and denied in  
5 part because we are actually attempting to correct, or update,  
6 the written reprimand and remove part of it because there was  
7 no actual oral warning. But we are -- at least, I believe  
8 we're trying to get the correct emergency directive in here.  
9 And that's where I'm running into an issue, 'cause I'm not  
10 seeing where the directives indicate that testing requirement.  
11 And if that is the violation, then the document that they're  
12 violating requiring the testing should be what's referenced in  
13 the statement of the supervisor.

14           PARKER:           Okay. Did you -- do you want me to make a-  
15 a recommendation on a-another friendly amendment? Can I even  
16 do that?

17           WEISS:           Yes, ma'am. Yes, you can.

18           PARKER:           Okay. Friendly -- I, uh, make friendly  
19 amendment to grant in part and deny in part grievances 8417  
20 and 8419, um, to, um, uphold written reprimands with the  
21 removal of incorrect Directive 047. And only list that this --  
22 that it -- the -- the basis is the policy dated 7-30-21, which  
23 references testing. And furthermore, to correct the reprimands  
24 to re -- uh, to remove oral warnings noted in both.

25           RUSSELL:           Teresa Russell for the record.

1 PARKER: Yes?

2 RUSSELL: Can I get that stated again?

3 PARKER: Yes.

4 RUSSELL: I Think it's going in the right direction.

5 PARKER: Okay. You pushed me in the right  
6 direction. Okay? Um, uh, the amendment is to grant in part and  
7 deny in part grievances 8417 and 8419, to uphold -- that will  
8 uphold the 2 written reprimands with the removal of references  
9 to Directive 047, uh, leaving in the reference to the  
10 violation of policy dated 7-30-21, which references testing,  
11 um, and vaccination. And furthermore, to remove the references  
12 to oral -- previous discipline oral warnings as they were  
13 actually LOIs, letters of instruction. Uh, furthermore we'd  
14 like to note in the decision that the other issues raised in  
15 the grievances are not within the jurisdiction of the EMC.

16 RUSSELL: I'll second that motion. Oh, Teresa for  
17 the record.

18 PARKER: She has to second the amended motion,  
19 right?

20 UNIDENTIFIED: I think she did. She can say that  
21 again.

22 PARKER: Okay. So, the amended -- you're saying  
23 that you second the amended motion. Correct, Teresa?

24 RUSSELL: I guess I'm -- I feel nit-picky, and I  
25 apologize. But the first motion didn't move forward because it

1 was never seconded. So -- but either way, the motion as stated  
2 I will second.

3 PARKER: Okay. Any discussion? All those in favor?

4 MULTIPLE: Aye.

5 RUSSELL: Did you have a question?

6 PARKER: I heard 2 ayes.

7 SCOTT: I did have a question, sorry.

8 PARKER: Oh, I'm sorry. I didn't hear you. Go  
9 ahead.

10 SCOTT: That's all right. This is Mary Jo Scott  
11 for the record. I -- my -- I'm -- I'm just having a little bit  
12 of an issue with upholding the written reprimands, even with  
13 the amendments. Although I understand that the intent was  
14 regarding the testing, and it is mentioned in there in part, I  
15 just believe that it didn't provide the employee the ability  
16 to respond directly to what is being referenced in the written  
17 reprimand. That they -- they would go back and review the  
18 Directive, uh, 047 and it didn't mention testing. So, I  
19 believe there's -- there's -- it's too muddy and that they  
20 didn't have the right, uh -- the employees weren't afforded  
21 the right opportunity to respond, and dispute based on the  
22 information in the written reprimand.

23 PARKER: Are you saying that they didn't have the  
24 opportunity to dispute the LOI? Is that what you're asking?

25 SCOTT: No, I was speaking directly to the written

1 reprimand, um, based on the information written within.  
2 Because, uh, on one in particular -- I don't -- I just have  
3 this one where it states on July 30th, 2021, the governor, um,  
4 of the state of Nevada issued Emergency Directive 047, which  
5 requires all state employees who are not fully vaccinated  
6 against COVID to be tested weekly. And that's wholly  
7 inaccurate as that is not stated in Directive 047. It is  
8 stated in the policy a couple of days later. So, they're being  
9 provided a written reprimand based on information they  
10 couldn't research, based on the information in the written  
11 reprimand.

12 PARKER: So, the directive was the 27<sup>th</sup>, correct?  
13 So, the directive is the 27<sup>th</sup>.

14 SCOTT: The directive is the 27th. The policy is  
15 the 30th. I understand the intent of the discipline. I just  
16 don't believe it afforded the employees respectively to  
17 respond clearly as the written reprimands were not clearly  
18 stated.

19 MERRILL: This is Michelle Merrill. But the letters  
20 of instruction that they received prior to that did clearly  
21 reference the policy of July 30<sup>th</sup>, with enough time for them to  
22 absorb and respond.

23 SCOTT: I agree. But that is coaching not  
24 discipline, and it escalated to discipline. Mary Jo Scott, for  
25 the record. And the discipline does not reference back to the

1 policy, as it did in the coaching. It references Directive  
2 047. It's just unclear for me and, um, we can move forward  
3 with the motion if you like. I -- that's just where my head  
4 is. It's -- it's unclear that the employees had the  
5 opportunity to respond based on what was in their written  
6 reprimand. I understand that the coaching appears correct and  
7 I'm fine with that, but the written reprimand, uh -- I don't -  
8 - I don't believe it was clear enough to uphold.

9 MERRILL: This is Mechelle Merrill. In their  
10 comments today, both seem to indicate that they understood  
11 what the state expected. They made a personal choice.

12 SCOTT: Agreed.

13 PARKER: And Stephanie Parker, for the record, I-I  
14 get what you're saying. If we were saying that it would stop  
15 the written reprimand -- it -- it doesn't sound like any of us  
16 are saying that it would stop the written reprimand. That --  
17 the written reprimand would be written because based on the  
18 coaching notes -- if I go into, um, their prohibitions and  
19 penalties that performance on a job, disregard and/or  
20 deliberate failure to comply with or enforce statewide  
21 Department, Division, or office regulation and policies, the  
22 first offense would be 2 through 5, which I believe is a  
23 written reprimand. Um, so is -- is it that the clarity --  
24 'cause -- 'cause they haven't gone beyond the written  
25 reprimand. So how would they respond? I wanna understand that.



1 I -- and the --

2 SCOTT: I agree.

3 PARKER: Go ahead.

4 SCOTT: Mary Jo Scott, for the record. I agree  
5 about the policies that are outlined in the provisions and  
6 penalties. I agree. And they could respond directly on that.  
7 It was the mention of the Directive 047. So based on the  
8 comments from Merrill and -- and you as well, they -- they did  
9 not follow the policy and they did admit that they did not,  
10 um, follow that policy for testing after the July 30th policy.  
11 So, like -- like I said, I was on -- on the fence based on the  
12 wording. But with the amendment, if -- we can move forward. I  
13 just wanted to wrap my head around it.

14 PARKER: Okay. I-I get it. Thanks.

15 EVANS: Point of order.

16 PARKER: Yes?

17 EVANS: Um, DAG Evans here. So, if I understand  
18 what this discussion is, is that you're trying to make sure  
19 that, um, the content, uh -- the forming content of the order  
20 is accurate. So, you wanna make some corrections to it, but  
21 uphold it. So, sometimes I think it's easier just to speak  
22 plainly, right? And maybe say that, um, if that's what you're  
23 trying to do. I'm just trying to help. That -- that's what I  
24 hear being said. If that's what you're trying to do, then  
25 maybe make that more clear. And -- and if you're trying to

1 make the letter of reprimand accurate, then say that. Say that  
2 you're trying to correct it and what you want it to say  
3 instead. That's all.

4 PARKER: Good.

5 JOHNSON: Um, um, Nora Johnson for the record. Just  
6 before we get any further, there -- there was a motion. There  
7 was a second. Does that need to be followed through before we  
8 make any more amendments or clarifications or any motion?

9 EVANS: I'm gonna defer to DAG Weiss on the point  
10 of order question.

11 WEISS: Yeah. Uh, Deputy Attorney General Weiss.  
12 Um, I would say since there already was a second there needs  
13 to be action on it before we can, you know, amend it any  
14 further.

15 RUSSELL: Teresa, for the record. Is it possible  
16 that the motion can be withdrawn before we vote on it and stay  
17 within proper procedure?

18 WEISS: Yeah, I think the motion -- motion can be  
19 with withdrawn by who we originally posed it.

20 MERRILL: Okay. So, Mechelle Merrill, I would like  
21 to withdraw my first motion.

22 PARKER: I withdraw the amendment.

23 MERRILL: And you withdraw the amendment. So that  
24 leaves us clean, starting fresh. So, I'd like to start over.  
25 Mechelle Merrill. I would like to move to grant in part and

1 deny in part, grievances 8417 and 8419, um, to affirm the 2  
2 rep-reprimands, but to update, for form and accuracy, the  
3 reprimands to reflect that it is not Directive 047 that  
4 references testing, but instead policy dated July 30th '21,  
5 which references testing, and to note the correction that  
6 though it says oral warnings in both reprimands, they were  
7 actually letters of instruction, um, and that should be  
8 reworded. And therefore, deny both grievances and note that  
9 other issues raised in these grievances are not within the  
10 jurisdiction of the EMC.

11 PARKER: Got a new motion.

12 SCOTT: Mary Jo Scott. I'll second the motion.

13 PARKER: Any discussion? All those in favor?

14 MULTIPLE: Aye. Any opposed? Motion carries. Thanks.

15 So, what that means is that, um, within 45 days it -- is it  
16 within 45 days? A-a determination letter will be sent to the  
17 grievants -- to all parties, um, with the final decision. Um,  
18 and yeah, that's it. And we thank you all for being patient  
19 through all the technical difficulties. And that's it. And we  
20 will be taking, uh, a lunch break.

21 UNIDENTIFIED: Thank you.

22 PARKER: And we'll come back and do the -- the  
23 other two. So wanna come back at what, 2:05?

24 UNIDENTIFIED: Sounds good.

25 PARKER: All right. Thank you.

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UNIDENTIFIED: Thank you, guys.

\*\*\* END OF MEETING \*\*\*

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STATE OF NEVADA  
EMPLOYEE-MANAGEMENT COMMITTEE  
MEETING TRANSCRIPT  
JUNE 9, 2022

PARKER: Sorry. 2:07. And we will reconvene, uh, Employee Management Committee meeting Thursday, May 12th. And, um, so we're moving to Agenda Item 5, which is adjustment of grievance and, uh -- of David Robinson, number 7375. Is, um -- I just saw this thing this morning for the first time. Um, and is David Robinson down south?

UNIDENTIFIED: Yes, he is.

PARKER: Okay. You can kind of come on up to the table. And so, Da -- were -- David -- Mr. Robinson, where -- you were here this morning, correct?

ROBINSON: I was.

PARKER: Okay, 'cause I don't mind going over the - the general, uh, structure of how we do the hearings. But, um, I will ask though, um -- initially, though, is there any objection to the packets that were submitted for this case from here?

ROBINSON: No, ma'am. There's not.

PARKER: Okay.

HUSBANDS: No, thank you.

PARKER: Thank you. And I guess for the record, do

1 you want us to restate who's here, Nora? Is that necessary?

2           JOHNSON:           Um, I-I don't believe it is unless, uh,  
3 the DAGs think otherwise.

4           PARKER:           Okay.

5           UNIDENTIFIED:       Same people, so.

6           ROBINSON:         Ma'am?

7           PARKER:           Same people.

8           ROBINSON:         I do have one, uh -- uh, concern about the  
9 packet. Uh, not about the time timing or nothing like that.  
10 I've had plenty of time to look at it. Uh, just half of their  
11 -- half of their opening statement is concerning a, uh -- a  
12 written reprimand that has nothing to do with today's  
13 grievance. Uh, I just think it's inappropriate that, uh, all  
14 discussion concerning that reprimand, uh, is in there.

15          HUSBANDS:         Madam Chair?

16          PARKER:           Yes?

17          HUSBANDS:         Uh, Scott -- Deputy Attorney General Scott  
18 Husbands. I didn't know at the time. I read the grievance. It  
19 was my understanding reading the grievance, it was less, and  
20 almost not, about the written reprimand and more focused on  
21 the ability to carry concealed in the state vehicle. So, uh,  
22 I'm glad that he made that clarification. I simply put it in  
23 there in case he did come today and likewise ask if the  
24 written reprimand be removed or modified or something like  
25 that. But, um -- yeah. If we're just gonna focus solely on the

1 issue of carrying concealed in a state vehicle, uh, I just  
2 wanna make sure he understood I wasn't trying to do anything  
3 untoward. I just -- I wanted to make sure we had that in ther,  
4 in the event that came up.

5 PARKER: All righty. So, do you agree to that, um,  
6 narrowing the scope that this is related only to the CCW, the  
7 carry-carrying of the concealed weapon, and not -- has nothing  
8 to do with the written reprimand -- reprimand, as you were  
9 stating?

10 ROBINSON: Yes, carrying in a vehicle. Yes, ma'am.

11 PARKER: Okay. So, I'll accept the packet with that  
12 caveat that the only items -- the only information utilized  
13 has to do with, um -- that it does not deal with the written  
14 reprimand. You won't be here to, um, do anything related to  
15 the written reprimand. And, um, then I'm just gonna swear you  
16 in, so I -- you're just gonna repeat after me and I'm just  
17 gonna say -- I'm gonna have you state your name the second  
18 item. Okay?

19 ROBINSON: Okay.

20 PARKER: So, I and your name.

21 ROBINSON: I, David Robinson.

22 PARKER: Uh, promise to tell the truth and nothing  
23 but the truth.

24 ROBINSON: Promise to tell the truth and nothing but  
25 the truth.

1 PARKER: Great. Thanks. And are there any  
2 witnesses?

3 ROBINSON: I do not have any, ma'am.

4 PARKER: You do not have any? I know you had some  
5 potentials.

6 HUSBANDS: Just one. Uh, the grievant himself and  
7 then the Administrator of the Division of Industrial  
8 Relations, Ms. Victoria Carreón.

9 PARKER: Oh, okay. Could, um, you come up to the  
10 table? Is that her? Is she up?

11 HUSBANDS: Yes, that's her.

12 PARKER: Is she up there now?

13 HUSBANDS: Yeah.

14 PARKER: Okay. So, I'm gonna swear you in. I didn't  
15 know where, I'm sorry. Um, I'm gonna -- just gonna swear you  
16 in. You're gonna do the same thing. I, um, your name.

17 CARREÓN: I, Victoria Carreón.

18 PARKER: Promise to tell the truth and nothing but  
19 the truth.

20 CARREÓN: Promise to tell the truth and nothing but  
21 the truth.

22 PARKER: Thank you so much. Appreciate it. So, we  
23 are going to, um, start with opening statements. So, Mr.  
24 Robinson?

25 ROBINSON: Okay. And we have -- just a reminder, we



1 have an -- an hour to complete this entire grievance. Okay?

2 So, you wanna be mindful of the time with each section.

3 ROBINSON: Yes, ma'am.

4 PARKER: Opening, presentation, closing, both sides  
5 get to present and then, um -- and also allow enough time for  
6 cross-examination. Okay?

7 ROBINSON: Yes, ma'am.

8 PARKER: All right, thank you.

9 ROBINSON: Uh, good morning -- uh, well, I guess it's  
10 afternoon now. Uh, good afternoon. My name is David Robinson.  
11 Thank you for allowing me to be here today to address the  
12 Employee Management Committee in person. I filed this  
13 grievance because I believe I had not been afforded --  
14 afforded the right given by policy to legally carry a  
15 concealed firearm during my day while conducting my duties as  
16 a State of Nevada Boiler and Pressure Vessel Inspector. My  
17 intent for being here is to provide and show why my  
18 understanding of the Business and Industry, uh, Possessing  
19 Firearms and Dangerous Weapons Policy is reasonable, uh, and  
20 discuss why I feel the way I do about the policy. I do not  
21 believe this policy is, uh, ambiguous. Uh, I believe it's  
22 clear what it is and what it is not allowing. I'm asking that  
23 the committee provide judgment to allow employees such as  
24 myself and others to be able to carry in line with the policy  
25 as written. In my opinion, there is no differing safety

1 circumstances between carrying in an office and carrying in a  
2 vehicle on the way to another authorized location where you  
3 can carry concealed, uh, uh, authorized by our policy. I'm  
4 also looking to have usual and customary work site defined as  
5 when it refers, uh -- uh, as when it refers to a vehicle being  
6 considered as a work site, uh, even though I do not believe  
7 the carrying, uh, in a vehicle should be tied to that  
8 definition. Um, I'm looking forward to the opportunity  
9 answering any of your questions to the best of my ability, and  
10 thank you.

11 PARKER: Thank you. All right, Mr. Husbands?

12 HUSBANDS: Thank you, Madam Chair, members of the  
13 committee. Uh, I will reiterate my thanks, uh, for everyone's  
14 time as I set forth this morning. These are important matters,  
15 and I thank Mr. Robinson, for his time and for everyone  
16 appearing here today as a witness. I would agree with Mr.  
17 Robinson that the policy is -- I believe he said it was not  
18 vague and not ambiguous. Uh, policy at issue is attached as  
19 Exhibit A1 to the employer's hearing packet. It is Department  
20 of Business and Industry Policy 2.82. Uh, the issue we are  
21 dealing with here today is the, uh, right -- scope of the  
22 right afforded to, uh, CCW permit to carry, um, not in the  
23 workplace because that issue is not in dispute. What is in  
24 dispute here is the ability of Mr. Robinson to carry in his  
25 state car. He, um, petitioned, uh, Division of Industrial

1 Relations for a response to his request. The response was  
2 provided. Uh, we will go through the evidence as it relates to  
3 that response. The response is basically that it was not, um -  
4 - he would not be permitted to carry in a state vehicle  
5 because the policy itself accepts the state vehicle, unless,  
6 uh, a state vehicle is an employee's usual and customary work  
7 site. Uh, the Administrator of the Division of Industrial  
8 Relations set forth in detail reasons why she had concluded  
9 that the state vehicle at issue was not his usual and  
10 customary work site. She will testify as to that and testify  
11 as to some of the reasons why, um, carrying in state vehicle  
12 presents an issue for the Division. And at the end, we would  
13 ask that the determination of the Division Administrator be  
14 upheld, and that the policy be interpreted in such a manner as  
15 it does not allow Mr. Robinson to carry his weapon concealed  
16 in a state vehicle. Thank you.

17 PARKER: Thanks. Okay. So, we will go ahead and  
18 move on to case presentation. Um, Mr. Robinson?

19 ROBINSON: Thank you. Uh, I've been a State of Nevada  
20 employee for 23 plus years, uh, specifically the last 4 1/2  
21 with Business and Industry in the Mechanical Compliance  
22 section. Uh, additionally, I've been serving in the United  
23 States Navy for the last 29 years. I've had a concealed  
24 firearms permit for approximately the last 15 years, and I've  
25 had a federal firearms license since 2005. I only mentioned

1 the last few is I do take firearm safety seriously, uh, as  
2 well as my own personal safety and those around me. My  
3 grievance is about determining what is usual and customary,  
4 and when should it apply to a state work vehicle. Uh,  
5 definition of usual -- usual is habitually or typically --  
6 typically occurring or done. And the definition of customary  
7 is according to the customs or usual practices associated with  
8 a particular society, place, or set of circumstances. I'm  
9 arguing here that, uh -- today, that being in my work car from  
10 approximately 8:00 AM to 2:30 PM to conduct my job as an  
11 inspector qualifies as a usual and customary work site. I  
12 filed this grievance because I believe that I've not been  
13 given the fair opportunity to discuss my point of view and  
14 understanding of the policy, nor have a discussion concerning  
15 the written policy giving clear leeway to my situation. Uh,  
16 also, I-I do not believe that carrying a vehicle in a, uh --  
17 carrying a, uh -- a CCW in a vehicle, uh, shouldn't be tied to  
18 that po -- to the policy where it says customary and usual. I-  
19 I think that policy should change, but obviously that's not an  
20 -- an issue for -- for here. Uh, also, I believe that, uh,  
21 that's my usual and customary work site, uh, being in a state  
22 vehicle. And that definition, uh -- and the definition of  
23 workplace, I think that would, uh -- should apply too. I  
24 believe the leeway afforded to the policy has been directly  
25 and completely ignored. I've enclosed by -- my grievance as,

1 uh, Exhibit 3 and it showed that I have been looking for  
2 clarification on the policy from Day 1. I don't believe my  
3 request should have been ignored from my direct chain of  
4 command, and there should have been discussion on what the  
5 policy allows and why. I've also included a couple examples of  
6 situations that -- that have been brought to our attention as  
7 employees concerning Division of Industrial Relations at our  
8 specific location on Sahara. Uh, and those are Exhibit 8. Um,  
9 as I stated above, I take my safety seriously and I would like  
10 to con -- and I would like to continue being afforded the  
11 opportunity to do just that, while not being put in a  
12 situation where I'm in-increasingly taking chances of being  
13 observed with a firearm while being forced to comply with this  
14 interpretation of the policy. On any -- bless you. On any  
15 given day when I come to work, I park in a parking garage like  
16 everyone else in the complex. I go sit in my cubicle and check  
17 emails, voicemails, and do code research and review, uh, or  
18 whatever else I'm doing prior to leaving out in the field to  
19 do inspections. When I'm ready to go do an inspection, I then  
20 must walk out to the parking garage, remove my firearm, place  
21 it in my personal vehicle, then go to my work vehicle to do my  
22 inspections for the day. Upon completion of my field work, I  
23 then come back to the garage, go to my personal vehicle,  
24 remove my firearm before reentering the office building.  
25 Therefore, myself and others are in the -- or, uh, others that

1 are in my situation are required to do this daily if we choose  
2 to carry a concealed firearm for a per-personal protection. No  
3 doubt there will come a day when someone's seen in the garage  
4 placing or removing a firearm in our vehicle, and it'll be  
5 reported as suspicious person or other crime in one way or  
6 another depending on what law enforcement officer responds.  
7 There's been great discussion in my grievance documents about  
8 what specifically my work schedule is, but no way has there  
9 been any discussion about what constitutes an employee's usual  
10 and customary workplace. As a Safety Specialist Boiler Nevada  
11 State Service. It's my job to go out to locations and put eyes  
12 on boilers and pressure vessels that are regulated by the  
13 State of Nevada. Typically, on -- on any day of the week, I  
14 show up to the office, uh, at 7:00 AM. About 8:00 AM I'm  
15 leaving the office and headed out in the field to do  
16 inspections via my work vehicle. I usually return to the  
17 office between 2:00 and 3:00 PM. On the average, I'm out in  
18 the field for 5 to 6 hours daily, some days less, some days  
19 more. Um, other times I work in rural locations such as  
20 Laughlin, Ely, Eureka, Austin, and various other cities around  
21 the southern half of Nevada. This interpretation of policy  
22 forces me to travel to these locations with 0 protection, on  
23 isolated highways and small rural towns and locations. I  
24 believe that the policy affords the opportunity to carry in a  
25 state vehicle, um. And the policy also states that if you

1 comply with the following sections, you're able to carry.  
2 Additionally, uh, I'm told by Brandon Patterson, Victoria, uh,  
3 Carreón, sorry if I pronounced your name wrong, uh, and Terry  
4 Reynolds, that my, uh -- that my vehicle does not qualify as a  
5 usual customary work site because I show up in an office in  
6 the morning and conduct administrative tasks and come back to  
7 the office in the afternoon to conduct administrative tasks. I  
8 do not understand why there has been a section written  
9 in the Nevada policy, which is impossible, uh, to ever be aplo  
10 -- uh, which is impossible to be -- ever be applicable based  
11 on that reasoning. Everyone starts and ends in an office at  
12 some point. I would like to know what the applicable  
13 definition of a vehicle being a usual customary work site is.  
14 I've been asking for that for that from day one. I do not  
15 believe that carrying in a state vehicle should be tied solely  
16 to be -- to be an usual and customary work site. As for the  
17 policy, uh, um, which is Exhibit 7 -- as for the policy -- I'm  
18 not a lawyer, uh, but in my opinion, this is a policy that --  
19 that's designed to limit or negate the responsibility and  
20 liability of the State of Nevada if one of our employees do  
21 something illegal with a firearm or -- or other dangerous  
22 weapon. And that's understood by me. It is also clear that the  
23 policy provides the parameters in which you must obey in order  
24 to carry in the specific location such as workplace vehicles,  
25 et cetera. Section 2A, uh, the policy states that B and I does

1 not authorize carrying, but then the policy says it is  
2 authorized. Section 2D, number 4 states that if the job  
3 requires entering a public building other than the one in  
4 which they work, that they must have written permission if  
5 that public building has a metal detector at each public  
6 entrance or a sign posted to each entrance. Um, how was an  
7 employee able to get from location to location? Uh, it seems  
8 to me it's implied that, uh -- that they're able to travel  
9 from the state vehicle and public ocean -- public location to  
10 public location to do the job that they're hired to do.  
11 Section 3 is the definitions. Workplace, uh -- this is -- this  
12 is the only other reference to state vehicles outside of  
13 Section 2A, and it says that a state vehicle is not considered  
14 a workplace unless the vehicle is your usual and customary  
15 work site, which I've already covered before. Additionally,  
16 uh, all other authorized locations that are part of my duty  
17 should, uh -- should not be disallowed due to the State of  
18 Nevada technicality. Uh, we just want -- we just want to be  
19 safe everywhere we go to do our jobs. Um, at the end of the  
20 day, in a perfect world, I would like myself and others to be  
21 able to work in an environment that they feel safe, legally  
22 carrying concealed if they choose, and in compliance with a  
23 clear policy that allows for an individual who works primarily  
24 from a state-assigned vehicle to not be treated different and  
25 to be able to carry like other employees are able to do. And



1 in today's environment, uh, with an increasing lack of -- of  
2 respect for law enforcement and law in general, incidents  
3 never happen when you want them to or where you want them to.  
4 It's irresponsible to direct our employees to go somewhere  
5 that they feel in danger, um -- uh, excuse me. It's  
6 irresponsible to direct our employees, uh, that if you're  
7 gonna go somewhere that you feel in danger, you can just  
8 request law enforcement presence. This is what was -- what  
9 was, uh, directed by -- by director Carreón in a response to  
10 my grievance. Things never happen where you want to.  
11 Everywhere I go, uh, doing my inspections, uh, I don't feel  
12 unsafe in those locations, but that doesn't mean something's  
13 not gonna happen 5 minutes down the road. I'm looking forward  
14 to the opportunity to answer any of the questions to the best  
15 of my ability and thank you again for the opportunity to be  
16 here.

17 PARKER: Thank you. All righty. Do you have cross?

18 HUSBANDS: I have none. No.

19 PARKER: No cross?

20 HUSBANDS: No.

21 PARKER: Okay. And so, um, time for your  
22 presentation.

23 HUSBANDS: Okay. Um, the only witness I would have  
24 would be the administrator, uh, Victoria Carreón.

25 PARKER: All righty. Proceed.

1 HUSBANDS: Good afternoon, Ms. Carreón. How are you?

2 CARREÓN: Good, thank you.

3 HUSBANDS: Uh, you are -- are you currently employed  
4 by the Department of Business and Industry?

5 CARREÓN: Yes, I am.

6 HUSBANDS: And in what capacity?

7 CARREÓN: I'm the Administrator of the Division of  
8 Industrial Relations.

9 HUSBANDS: Okay. Can you briefly describe your job  
10 duties, uh, as the administrator of the division?

11 CARREÓN: Sure. I oversee all aspects of the agency,  
12 which deals with worker safety issues, as well as the  
13 Mechanical Compliance section, which deals with the safety of  
14 elevators and boilers.

15 HUSBANDS: Okay. And part of your duties, uh, would  
16 be management of employees that work with the division. Is  
17 that right?

18 CARREÓN: That's correct.

19 HUSBANDS: And also, any enforcement of department  
20 policy and any other policies applicable to the division?

21 CARREÓN: Yes, that's correct.

22 HUSBANDS: Are you aware, uh -- you've heard Mr.  
23 Robinson's presentation and you're aware of the policy -- the  
24 B and I policy, that's an issue today?

25 CARREÓN: Yes, I am.

1 HUSBANDS: Okay. And that policy, uh, for the record  
2 is Exhibit A1 to the employer's packet. Uh, what does that  
3 policy provide for?

4 CARREÓN: It addresses issues and concerns created  
5 by personnel in the Department of Industry possessing firearms  
6 and other dangerous weapons in the workplace.

7 HUSBANDS: And it speaks to concealed carry weapons  
8 and It, essentially, authorizes employees to carry concealed  
9 in the workplace subject to certain conditions. Is that -- is  
10 that right?

11 CARREÓN: Yes, that's correct.

12 HUSBANDS: As the administrator of the division, were  
13 you involved in the issues that Mr. Robinson discussed with  
14 the committee just a few minutes ago?

15 CARREÓN: Yes, I was.

16 HUSBANDS: Okay. And you -- we heard that we're only  
17 here today to resolve the issue of whether he is permitted  
18 under the policy to carry a weapon in his -- a concealed  
19 weapon in his state vehicle. Were you involved as the  
20 administrator in responding to that request by him?

21 CARREÓN: Yes, I was.

22 HUSBANDS: Okay. And did you prepare any written  
23 correspondence in response to his request?

24 CARREÓN: I did. I prepared a memo dated August  
25 17th, 2020.

1 HUSBANDS: Okay. And for the record that memorandum  
2 is Exhibit B -- I'm sorry.

3 CARREÓN: I think it's A3.

4 HUSBANDS: Yes, thank you. Uh, it's Exhibit, uh, A3  
5 and it is the last 2 pages of -- of A3, pages 1 and 2, a  
6 memorandum dated August 17th, 2022 to David Robinson from the  
7 administrator of the division. So, what was your ultimate  
8 determination? Mr. Robinson's request was to carry a concealed  
9 weapon in his state vehicle. Is that right?

10 CARREÓN: That's correct.

11 HUSBANDS: And what was your ultimate determination  
12 regarding that request?

13 CARREÓN: The determination was that he was not  
14 allowed to carry the firearm in a state vehicle because it was  
15 not his usual and customary work site as provided for in the  
16 department policy.

17 HUSBANDS: Okay. And what were some of the specific  
18 reasons why you determined that his -- he was not allowed to  
19 carry because the state vehicle was not his usual and  
20 customary work site?

21 CARREÓN: Okay. It was determined that the physical  
22 location at 3360 West Sahara is the usual customary work site.  
23 Because that's where he comes to report first thing in the  
24 morning, picks up and prepares any work product that's needed  
25 for the day's inspections, um, that's where he gets

1 instructions from his supervisor, and then once he finishes  
2 with inspections for the rest of the day, comes back to that  
3 physical office location, and that is where he prepares his  
4 reports. And then on days when there are no inspections, that  
5 is the physical office location for the entire day. Um, we  
6 also looked at, um -- although he does go out to some of the  
7 more rural areas, typically he is assigned to, um, the east  
8 area, which is mostly like Henderson, Bulger City, et cetera.  
9 And that takes approximately 30 minutes to drive to those  
10 locations. So really, we thought that the vehicle was really  
11 more of a mode of transportation than the customary work site.

12 HUSBANDS: Okay. Was there anything else that helped  
13 you formulate your determination regarding this request?

14 CARREÓN: Uh, I think that was it.

15 HUSBANDS: Okay. And to the extent there's just any  
16 question, the resolution of his request and your determination  
17 was all made under the terms of this policy, uh, 2.8 -- I lost  
18 it. 2.82, is that -- is that correct?

19 CARREÓN: That's correct.

20 HUSBANDS: Okay. I have nothing further.

21 PARKER: Thank you. All right. So, um, I will ask  
22 you, Mr. Robinson, do you have any cross-examination for Mr.  
23 Husbands?

24 ROBINSON: Uh, I-I have a question. I mean, I, uh --  
25 I-I would kinda like to be given an example when a -- when a

1 state vehicle -- to meet this policy -- this interpretation of  
2 the policy, when a state vehicle can be considered usual and  
3 customary work site, uh, if -- if not working in it 6-60% to  
4 70% of the day, uh, what would meet that, that standard?

5 HUSBANDS: And this is Deputy Attorney General Scott  
6 Husbands. I-I think that the determination was made that, um,  
7 while he has alleged that he does spend 60 to 70% of his  
8 workday, I think the administrator determined that it was  
9 significantly less than that. That the vehicle itself is  
10 simply a mode of transportation from place to place. I don't  
11 know. Um, to me it seems a little bit inappropriate to try and  
12 determine what would be the usual customary work site. The  
13 determination in this case was that the state vehicle at issue  
14 here is not his usual customary workplace. There is no  
15 limitation on his ability to carry in the workplace as set  
16 forth in the applicable, uh, NRS 202 3673. Um, but there is a  
17 policy in place here that does limit his ability to carry  
18 outside that workplace and that's what we're dealing with here  
19 today. So, to answer the question, long -- long and short is I  
20 don't really know. Um, each case would be different. Each fact  
21 -- each set of facts would be different as to when the state  
22 vehicle would be considered a usual customary site.

23 ROBINSON: Well, there's no example of one. That's --  
24 that's -- I mean, that's -- that's the problem. There's been 0  
25 -- there's 0 understanding of the policy. Uh, it's just a --

1 it's just a no, uh, with no discussion. Uh, I think you can  
2 argue whether or not -- if I'm sitting in my vehicle when I  
3 leave work and I go to a work site, I go out and do an  
4 inspection where I'm in a, uh -- in a business, you know, a  
5 boiler room and I come back in my vehicle. I guess you can  
6 argue that I'm not in my car for that entire time, but I'm  
7 working out of my car that entire time. So, I would say if  
8 you're out of the office from around 8:00 AM to --

9 PARKER: Is that your question to him? I'm sorry,  
10 Mr. Robinson, but is that your question about his -- your  
11 cross-examination or is that part of your closing?

12 ROBINSON: Well, I guess that's, uh -- I'm -- I'm  
13 clarifying my question, uh, 'cause he didn't answer my  
14 question. He didn't give me an example. I would -- I would  
15 like to know of an example that could meet that definition,  
16 the application of this policy, uh, because I'm not given one.  
17 Uh, I'd like to be given an example. Can he provide one?

18 PARKER: If you can, you can tell.

19 HUSBANDS: I don't know that I can. I mean, again, it  
20 would depend on the circumstances relevant to

21 ROBINSON: Understood.

22 HUSBANDS: Yeah. I think the issue is just that, in  
23 this case, the state vehicle that's at issue is not his usual  
24 and customary work site. It'd be a little bit inappropriate to  
25 comment on a hypothetical based on facts that are not at issue

1 here today.

2 ROBINSON: It's not a hypothetical. I mean, it's  
3 just, provide a-an example, not a hypothetical.

4 PARKER: And he's answered. So, we're gonna go  
5 ahead and move on to, um -- both have presented, so closing  
6 statement, Mr. Robinson.

7 ROBINSON: Uh, uh, again, I'd like to say thank you.  
8 Uh, thanks for this, uh -- the time for you allowing --  
9 allowing me to speak. It means a lot to me that I've been  
10 afforded the opportunity to be here. Uh, it's been a long time  
11 coming. This has been ongoing since August of 2020. Uh, I'd  
12 like to reiterate that the Business and Industry policy is  
13 clear in its allowance of carrying of concealed weapons. Uh,  
14 others and I understand that the policy is stating that we are  
15 carrying without express consent from the State of Nevada, but  
16 also understand that the State of Nevada is not prohibiting  
17 that carrying, only setting boundaries and not taking any  
18 liability. Uh, in today's day and age, there is no way to  
19 identify when and where issues will -- will arise, whether  
20 it's active shooters or just crime in general. Uh, we would  
21 just like to be afforded the opportunity to our own self-  
22 defense. And being in the state vehicles out, uh -- out doing  
23 our job, we're limited in that capability. Thank you.

24 PARKER: Thank you. Closing statement, Mr.

25 Husbands?



1 HUSBANDS: Thank you. And again, I reiterate what he  
2 said and thank you for your time. Um, and I thank Mr. Robinson  
3 for keeping this brief and -- and moving things along. And so,  
4 I would like to just point the committee to Exhibit A1, which  
5 is the policy at issue, and that's 2.82 Item C. Uh, the  
6 Department recognizes employees carrying concealed weapons in  
7 the workplace. So, workplace in this policy is a defined term.  
8 If we turn the page then to, uh, page 2 of the policy, it is  
9 defined under Section 3, Item B, as any building, office, or  
10 location specifically intended to serve as a place where work  
11 is performed by employee during the course of workday. The  
12 term does not include state vehicles, parking lots, garages,  
13 or vehicle depots, unless those areas constitute an employee's  
14 usual and customary work site. So, where we ended up with this  
15 is that he was suggesting -- the policy itself is -- is clear.  
16 It says that employees are only allowed to carry in the  
17 workplace, that a workplace does not include state vehicle,  
18 except in those cases where the state vehicle constitutes an  
19 employee's usual and customary work site. We heard from the  
20 division administrator who made a determination, at his  
21 request, that the vehicle at issue was not his usual and  
22 customary work site. Uh, her determination, or testimony,  
23 recited the facts as summarized by her in her memorandum, uh,  
24 which is Exhibit A3. It's an August 17th, 2020 memo and lists  
25 out 6 or 7 reasons why she concluded that it was not his usual

1 and customary work site. In essence, it is a mode of  
2 transportation. Um, his own testimony states that he gets out  
3 of the car, leaves the car, does the work that he's supposed  
4 to do in terms of the inspection, and then gets back into the  
5 car and drives to the next inspection site. That is not a  
6 usual and customary work site. It's just basically a mode of  
7 transportation to an inspection site. The administrator  
8 concluded that his usual and customary work site was indeed  
9 his physical office at 3360 West Sahara Avenue, where he is  
10 permitted under the policy 2.82 to -- to carry his weapon  
11 concealed in the workplace consistent with NRS 202.3673. So, I  
12 think the committee may wonder, well, what is the big deal?  
13 Why -- the policy says what it says. The -- the -- his -- his  
14 car is not his usual and customary workplace. And the reason  
15 the policy states -- says what it says, as was alluded to by  
16 Mr. Robinson in his -- in his presentation of evidence, is as  
17 it stands now, because he is not allowed by the division and  
18 the Department to carry his weapon in the state vehicle, he  
19 carries it. He comes to work, presumably armed with his  
20 concealed weapon. He gathers up his work for the day. He  
21 leaves to go into his state vehicle. And prior to entering the  
22 state vehicle, he locks his weapon up in his car. Well, that -  
23 - if he was allowed to carry his weapon in the state car, we  
24 would have that same possible issue at every work site that he  
25 goes to. All of us came here this mornin --g as we came back

1 from lunch, we walked right by the sign on the front of this  
2 building that is the sign that is spoken to an NRS 202.3673,  
3 which states that no weapons are permitted inside the  
4 building. So, what that means for a concealed carry permittee,  
5 is that that permittee may not carry in that public building  
6 when there is a sign posted, unless the employee happens to  
7 work in the public building. So, relative to public buildings,  
8 Mr. Robinson may have an issue if he's carrying his weapon  
9 concealed in the car when he gets out of the car and he goes  
10 in to do an inspection in a public building that's not his  
11 workplace. Um, that's not the public building where he works.  
12 So, he would not be permitted to carry that weapon in the  
13 building. So, he would then have to either turn around, get  
14 back in the car, come back to wherever he keeps the weapon in  
15 his personal vehicle. Or Option B would be to leave the weapon  
16 unsupervised and unattended in the state vehicle, which  
17 presents a liability issue for the State of Nevada. The second  
18 issue may come up -- and I frankly don't know, uh, whether he  
19 performs inspections mostly in public buildings for public  
20 entities or if he also performs inspections for private  
21 entities. My understanding of the CCW rules in the State of  
22 Nevada is that he -- to the extent there is no obligation for  
23 him to notify, uh, the owner of a premises if -- if it's  
24 private property. However, if the weapon becomes visible or if  
25 they find out, then they would have the right to say, I'm

1 sorry. We don't feel comfortable having you in here with that  
2 weapon. We're gonna have to ask that you either disarm  
3 yourself or that you leave the premises with the weapon. And  
4 again, we have the same problem. He would either then have to  
5 return back to where he keeps a weapon securely in his  
6 personal vehicle, or he would have to leave the weapon in the  
7 state car. And neither of those things are a viable option  
8 here. So, for that reason, I believe is why the policy limits  
9 carrying in the workplace. And we would ask that the committee  
10 uphold the administrator's determination that he is not  
11 allowed to carry a concealed weapon in the state vehicle.

12 Thank you.

13 PARKER: Thank you. Okay. So, what we're gonna do  
14 now -- we've had closing statements from both parties, and now  
15 the -- the committee members will deliberate. They may ask  
16 questions of, uh, the parties, uh, the witness. And, um, only,  
17 um, you know, speak up when you're acknowledged by the Chair.  
18 Um, so we're gonna deliberate now. We'll come up, uh -- come  
19 to a decision during this deliberation.

20 MERRILL: Madam Chair, can we ask some questions?

21 PARKER: We can ask some questions. Absolutely.

22 UNIDENTIFIED: I'm sorry to interrupt. I wonder if  
23 we might want to bring the speaker closer. That speaker  
24 <inaudible>. That's what I've heard, yes.

25 PARKER: Not <inaudible> down?

1 UNIDENTIFIED: They're velcro, just watch the cords.

2 PARKER: Oh, I'm not sure how far it will go. Yeah,  
3 'cause it's taped too. Well, yeah. Just move that one. Okay,  
4 I'll speak up. Yeah.

5 UNIDENTIFIED: Oh yeah, there you go.

6 PARKER: Okay, go ahead.

7 MERRILL: I'd like to, um -- Mechelle Merrill for  
8 the record. I'd like to ask Mr. Robinson a few questions, um.

9 ROBINSON: Yes.

10 MERRILL: Do you ever write your reports while you  
11 are at the inspection sites?

12 ROBINSON: Uh, I do my final -- I do my final reports  
13 in the office typically. Uh, we do have the capability to do  
14 it in our vehicle. Um, I tend to, uh, do my finals, uh, at --  
15 at a desk computer where I have a bigger screen, mouse, things  
16 like that instead of working on an iPad. But we do have that  
17 capability. Uh, and sometimes when I -- when I do work out of  
18 town, I do have to -- to work from the iPad, uh, submit  
19 inspections, and conduct and review, and things like that.

20 MERRILL: Um, follow up question. Mechelle Merrill.  
21 Um, how often would you say that you end up writing them in  
22 your car or away from your office?

23 ROBINSON: Not very often. Uh, like I saY, uh,  
24 usually we do a couple -- couple trips north, uh, 2 or 3 times  
25 a year depending on what's going on. And then, uh, you know,

1 Laughlin things, you know, some of the -- the closer outline  
2 locations. But no, the grand majority of the time that I  
3 submit my final reports is in my -- in the office.

4 MERRILL: Um, another question. Mechelle Merrill for  
5 the record. How long is a typical inspection site visit? Is  
6 there an average?

7 ROBINSON: Uh, the average -- I'd probably say, uh,  
8 uh, probably 2 hours is an average. You know, 1 to 2 hours is  
9 -- is probably the normal, uh, one. You know, 2 to 3 hours,  
10 uh, is probably the -- the longer, uh, inspections that we  
11 have. So, we use -- typically do 2 to 3 locations a day.

12 MERRILL: So, in -- Mechelle Merrill, additional  
13 question. So in between this, you know, 1-to-3-hour range,  
14 depending upon, I guess, complexity of the inspection, then  
15 you're back in the car in route to the next place?

16 ROBINSON: Yes.

17 MERRILL: Okay. Um, how often, Mr. Robinson, would  
18 you say, are there days when you have no inspections, when  
19 you're just staying at your office, maybe a paperwork day?

20 ROBINSON: We -- we typically plan, uh -- typically I  
21 plan a half a day on Fridays where I'm, uh, usually in the  
22 office, uh, at least half the day, sometimes the entire day,  
23 on Fridays to -- to complete report submission, um, depending  
24 on, uh, the workload for the week.

25 MERRILL: And my last question, and I'm not sure who

1 to ask it to -- Mechelle Merrill for the record. Do we have a  
2 definition of workplace?

3 ROBINSON: There's one in the policy, but it's in, uh  
4 -- but it provides leeway.

5 HUSBANDS: Yeah, it's in, um -- workplace is -- the  
6 policy itself, in Item C, uh, the department recognizes  
7 employees carrying until weapons in the workplace. Uh,  
8 workplace is then defined to be any building, office, or  
9 location specifically intended to serve as a place where work  
10 is performed. Um, the term does not include state vehicles  
11 unless those areas constitute a place of usual and customary  
12 work site. There is not a definition for usual and customary  
13 work site, which is why we --

14 MERRILL: Only drill down so far, yeah.

15 HUSBANDS: Correct.

16 PARKER: All right. Anybody have any questions? I  
17 don't have any questions. I just wanna say thank you for your  
18 service, um.

19 ROBINSON: Thank you, ma'am. I appreciate it.

20 PARKER: I meant to acknowledge that before, and I  
21 wrote it down. I'm sorry. But I do wanna thank you for your  
22 service.

23 ROBINSON: Thank you.

24 RUSSELL: Teresa for the record.

25 PARKER: Yes?

1           RUSSELL:           Um, I'm not sure who this -- would be the  
2 best person to answer this, but is it -- is my recollection  
3 collect -- correct that the vehicle that you're using is  
4 assigned specifically to you, or as the specific employee? Or  
5 are they shared among various or multiple employees?

6           ROBINSON:           It's assigned to me. Uh, there's very few  
7 circumstances when somebody else, uh, would be riding in my  
8 vehicle. Uh, for instance, if, uh -- if a coworker --  
9 sometimes if, uh, say, a coworker is gonna be, uh -- his car's  
10 gonna be in the shop or something like that and I'm not using  
11 my car, uh, then you know, it -- it could be available for  
12 another employee. But primarily, uh -- I can't give you per --  
13 a percentage, but predominantly it's myself that's driving the  
14 vehicle. I don't remember the last time somebody else had been  
15 dri-driving my vehicle.

16          RUSSELL:           So, to equate that, that -- you as an  
17 individual employee -- if you're away from your desk, uh, it  
18 would be reasonable that another employee in your area could  
19 sit down at your desk and use it.

20          ROBINSON:           My desk or my vehicle? Um, I-I think I'm -  
21 -

22          RUSSELL:           I'm trying to compare the two. If you're  
23 away from your desk and you have a computer there --

24          ROBINSON:           Okay.

25          RUSSELL:           Can another employee sit down and sign in



1 at your workspace?

2 ROBINSON: Yes.

3 RUSSELL: Thank you.

4 ROBINSON: It's -- my desk is assigned to me, uh, so  
5 no one should be sitting down on my desk. There's, you know --  
6 I-I have a cubicle. It's got my personal things, stuff like  
7 that, uh, so no one should be sitting at my desk. But  
8 theoretically, somebody can sit down and log on. It's a state  
9 government computer.

10 RUSSELL: Thank you.

11 UNIDENTIFIED: Point of order, there was a question  
12 about definitions of the workplace, and that can also be -- we  
13 could look at NAC 284.0875, which def -- uh, defines premises  
14 of the workplace.

15 UNIDENTIFIED: Thank you for that reference.

16 UNIDENTIFIED: What was it now? NAC 284?

17 UNIDENTIFIED: 2840875.

18 MERRILL: Another question.

19 PARKER: Yes.

20 MERRILL: Mechelle Merrill for the record. Mr.

21 Robinson, how often would you estimate you find yourself in  
22 your inspection route, uh, going into buildings where it is  
23 not lawful for you to have a weapon -- carry a weapon?

24 ROBINSON: Uh, very few. Uh, I-I do -- do inspections  
25 in government buildings and things like that. Matter of fact,

1 I did -- I did the inspection here, uh, maybe 2 years ago. Uh,  
2 so I do go into some government buildings. Uh, predominantly,  
3 uh, my inspections are -- are civilian sector, not -- not  
4 government. But I do do government inspections, uh, justice  
5 departments, you know, all the government buildings in my  
6 locations and stuff like that. For, uh, uh, first inspections  
7 on newly installed equipment, uh, usually us jurisdictional  
8 inspections are doing the inspections on them. Uh, so every  
9 once in a while, uh, probably, uh -- uh, I'd say probably  
10 every other week or so, uh, I'm -- I'm in a government  
11 building. Every couple of weeks.

12 MERRILL: Thank you.

13 RUSSELL: Teresa Russell, for the record.

14 PARKER: Proceed.

15 RUSSELL: Um, would it be accurate to say when you  
16 leave your desk area and go into transit mode, going from one  
17 place to another, you have an accurate idea as to whether or  
18 not concealed carry is allowed at your destination?

19 ROBINSON: Yes, I know exactly. Uh, I would say  
20 probably it's about 95% of the time I know exactly whether or  
21 not it's authorized. So, I mean, obviously if we show up to a  
22 private business and they have signs on the door, you know,  
23 uh, that's -- that's not something I can -- I can manage in my  
24 head before I go there. Uh, but predominantly if I know I'm  
25 going to a government installation, I know it's not gonna be

1 authorized to carry in there unless I have permission to  
2 carry, uh, which, uh, I'm not gonna call every building  
3 facility manager, you know, to try and get permission.

4 RUSSELL: And is it accurate to assume that when the  
5 firearm or weapon is not on your person, but stored in your  
6 personally owned vehicle, it's in -- it's being stored in a  
7 secure manner?

8 ROBINSON: It's -- it's stored in an appropriate  
9 manner. Is that -- I-I guess you'd -- it would depend on what  
10 you, uh -- what that definition is for you. Uh, uh, but it's -  
11 - it's -- it's locked up in a vehicle, not accessible. If  
12 somebody's gonna break into a car, they -- they can break into  
13 a tin box. Uh, so -- but it's locked up appropriately in a  
14 vehicle.

15 RUSSELL: Thank you.

16 SCOTT: Mary Jo Scott, for the record. I have a  
17 question for you, Mr. Robinson, I just wanna get clear. In  
18 your opening statement, you mentioned, um, that you typically  
19 get to the office at 7:00. You leave at 8:00 to go to a work  
20 site, typically return back to the office around 2:00. Is that  
21 correct?

22 ROBINSON: Between 2:00 and 2:30, yes.

23 SCOTT: 2:00 to 2:30, so that's 4 hours there that  
24 would be spent in the office. And then is -- is it correct  
25 that it's about 30 minutes to each location?

1           ROBINSON:           Uh, uh, ish. We get off at 4:00. Uh, I-I  
2 mean, if -- if you're counting numbers, I mean, 7:00 to 8:00's  
3 an hour, and then 2:30 to 4:00 is an hour and a half, so  
4 you're looking at 2 hours. So, 6 of those hours of my day are  
5 spent, uh, doing something other than sitting in my cubicle.  
6 Uh, and normally that's in my vehicle or at an inspection  
7 location out in the field, not at my -- not at my desk.

8           SCOTT:               And you typically do 2 to 3 locations a  
9 day?

10          ROBINSON:           Yes, ma'am.

11          SCOTT:               And just to -- I-I may have missed it. Is  
12 -- did you clarify if it's about approximately 30 minutes?

13          ROBINSON:           Uh, I can't say that. I mean, it could be  
14 5 minutes, it could be an hour. Like I said, it just depends.  
15 My -- my scope -- I-I take care of from Nellis Air Force Base  
16 to Boulder City, uh, on the -- the eastern side -- eastern  
17 side of our city, uh, plus, uh, Laughlin, uh, you know, and  
18 then -- then towns out -- out north. But predominantly I'm in  
19 the valley from -- somewhere from Nellis Air Force Base to  
20 Boulder City. So, uh, I'd -- I'd say 30 minutes is probably on  
21 the long end, on the grand majority, uh, of most travel that  
22 I'm doing.

23          SCOTT:               Okay. Thank you.

24          PARKER:               This is Stephanie Parker, for the record.  
25 I have, uh, a couple of questions just to clarify what you

1 probably just, um, provided, but I was thinking about  
2 something. So, if you have 2 to 3 sites that you go to in the  
3 field, um, and they can take anywhere from 1 to 3 hours, I'd  
4 say -- let's say 2 hours. That's 6 hours. So, 6 out of 8  
5 hours. Then you have 1 1/2 hours that you're, um, at the  
6 office, the 7:00 to 8:00, and then the post when you go --  
7 come back to do the reports. Is that what you were saying?

8           ROBINSON:           If I understand you correctly, yes, ma'am.  
9 I'm back in the office usually around 2:30, so I have about an  
10 hour and a half to do other administrative stuff, reports,  
11 code research, scheduling, voicemails, et cetera.

12           PARKER:           So, would that be like 7 1/2 hours average  
13 -- uh, basically that you are not in a vehicle -- uh, vehicle?  
14 So, doing an inspection or in the office.

15           ROBINSON:           Uh, I mean, I'd say I-I'm physically in a  
16 vehicle, you know, maybe an hour to 2 hours a day, physically  
17 in that vehicle. Uh, but I'm working out of that vehicle, uh,  
18 from the moment I leave my office until the moment I get back  
19 to my office. So, I may not be physically sitting in the  
20 vehicle because my job is an inspector. Uh, but that -- that  
21 vehicle is a limiting factor for -- for -- for me. If I'm --  
22 if I'm legal to carry at a location that I'm going to, the  
23 vehicle is a limiting factor for me. Uh, so -- but yes, I'm uh  
24 -- I'm sitting in my vehicle maybe for an hour to 2 hours a  
25 day. Uh, but I'm working outta my vehicle, you know, about 6

1 hours a day, if that makes sense.

2 PARKER: Yeah. But I guess what I'm trying to  
3 ascertain is, out in the field -- and I don't -- I honestly  
4 don't know what a boiler is.

5 ROBINSON: Yeah, you just say <inaudible>.

6 PARKER: <inaudible> mechanical stuff. I do know  
7 that. But I know you can't drive up to it and go from your --  
8 your vehicle to the curbside, correct?

9 UNIDENTIFIED: In the building.

10 PARKER: It's in a building, yeah. Okay.

11 ROBINSON: Yes, ma'am. It's usually in a basement, up  
12 in the roof somewhere -- somewhere, yes.

13 PARKER: Okay. I'm just trying to get a visual.

14 UNIDENTIFIED: So, he drives from his office, gets -  
15 - goes to his car, drives to the site, goes to into the site,  
16 does his inspection, goes back to the car, goes to his next  
17 inspection. And in the traverse of that duty, he's out of his  
18 office about 6 hours a day.

19 PARKER: But not at the same location.

20 UNIDENTIFIED: Not at the same location.

21 PARKER: That's me -- okay. Because that helps me  
22 answer what reason -- or what customary -- my customer --  
23 customary workspace is if it's the same location. Okay.

24 UNIDENTIFIED: He's all over the place inspecting.

25 PARKER: Okay, thank you. Any other questions or

1 clarifications?

2 UNIDENTIFIED: I see that's the challenge for him.

3 ROBINSON: Ma'am, can -- can I expound on the, uh,  
4 the NAC 284.0875?

5 PARKER: Yes. I'm looking at it. Yep, go ahead.

6 ROBINSON: So, it says, premises of the workplace  
7 defined. It says premises of the workplace means any building,  
8 office, vehicle, or location, or any part thereof,  
9 specifically intended to serve as a place where work is  
10 performed by an employee during the course of the workday. So,  
11 I just wanna expand on that. It wa -- it doesn't just say the  
12 small little definition that was read. It's, uh -- it does  
13 include vehicles and that definition.

14 PARKER: Thanks. And that's what I'm kind of having  
15 an issue with is because you don't perform works in your car.  
16 I'm reading that too in the longer definition. You perform  
17 your work at the work site, so at the, uh, different buildings  
18 is what I'm hearing you say.

19 UNIDENTIFIED: But may I --

20 ROBINSON: I do con -- I do conduct some work in my  
21 car, but -- but yes. I understand what you're saying.

22 MERRILL: Mechelle Merrill. So he could do work in  
23 his car if he chose to. He has the technology to do so, he  
24 said. And the other thing I'm thinking is that, as a state  
25 employee when you are driving in your state vehicle from place

1 to place -- for example, if you got in a fender bender, you  
2 are still covered by the state's insurance, worker's comp,  
3 because you are in work status. So, I guess the inference I'm  
4 making is that he is doing his job, which requires him to be  
5 in the vehicle to get from place to place. He's not sitting at  
6 his desk in his office, um, which to me speaks to, you know,  
7 he -- if that much time in his day is spent away from the  
8 office, then he -- he kind of has 2 work sites. You know, he's  
9 doing his work here, but he has a work site here, too. And I'm  
10 thinking that, you know, if he has a conceal and carry permit,  
11 he is lawfully allowed to carry a weapon and it says you can  
12 do so in your workplace. I struggle because, though he's not  
13 always working out of his car, being in his car or that matter  
14 of conveyance as part of his work 'cause he needs that car to  
15 get to the inspection sites.

16 PARKER: So, I get that. And -- and so the -- the  
17 work that he performs in the car, other than the transport,  
18 would account for 1 1/2 hours?

19 MERRILL: No.

20 PARKER: The reports or -- or is it a total of, uh,  
21 1 hour in the, um, morning that you go to the office? So, the  
22 -- and I think you said the reporting afterwards was like 1  
23 1/2 hours, correct? In the afternoon.

24 ROBINSON: So -- so I can give you a specific  
25 example, ma'am, of what I -- what I do in my vehicle. So, if I



1 -- when I get to a work site, I go do my inspections. I come  
2 back out to my car, I sit in my car, I sit there and fill out  
3 my work notes. So, I take notes -- detailed notes and stuff on  
4 my inspection sheets of what I saw, things like that that I  
5 looked at, parameters and stuff for the equipment. So, I  
6 clarify my notes and stuff like that while I'm sitting in my  
7 car. I also make contacts, you know, answer voicemails on my  
8 cell phone. I, uh, pull up, uh, overdue inspection list to  
9 find out if -- if I only have one inspection, uh, scheduled  
10 for that day and I'm done early, I can pull up inspect -- you  
11 know, overdue inspection schedules and then go to another  
12 location like that. So, I-I do work in my car as well, on my  
13 iPad. Uh, but like I said, that's not predominantly where I do  
14 my work as a field inspector. My job is to go inspect  
15 equipment, but I have to get there. I have to find out what's  
16 overdue and things like that. But the 1 hour in the morning  
17 and the approximate hour and a half in the afternoon is  
18 specifically in my cubicle, uh, at the office, checking  
19 emails, checking voicemails, doing some scheduling, you know,  
20 things like that. And inputting inspection -- you know, final  
21 inspections. Not inputting inspection notes and things like  
22 that, but actually doing my final inspection submission into  
23 our -- our jurisdictional online system.

24 RUSSELL: Teresa Russell for the record.

25 PARKER: Yes, proceed.

1           RUSSELL:            Uh, so if I'm understanding you correctly,  
2 it would be accurate to say that your final reports, which to  
3 me would be your final work product, it's not possible to get  
4 that final report without having your notes that you're making  
5 out in the field.

6           ROBINSON:           Yes.

7           RUSSELL:            And without getting out into the field,  
8 you can't do your inspections.

9           ROBINSON:           Correct.

10          RUSSELL:            So, the focus on the final work product to  
11 me is misleading. Are we still -- are we at --

12          PARKER:            We're okay 'cause we're not timed. It's  
13 only the -- the grievants that are, um -- the grievance, uh,  
14 process that's timed. You're good.

15          RUSSELL:            Okay. Thank you. What -- where I'm leaning  
16 is that shifting from inspection to the work for someone  
17 that's doing maintenance or repairs, not necessarily for the  
18 state, they had their original, um, point of origin being at  
19 an office or, um, workhouse -- or I mean a warehouse type  
20 thing for a facility that has multiple buildings and the  
21 maintenance staff are leaving their office going to building  
22 A, B, C, or D, and then they're going back to their building,  
23 to me is the same as somebody leaving their office or  
24 building, getting into the car, and then working in and out of  
25 that car. Because if I'm understanding correctly, when you

1 leave the office, you're not necessarily going to inspection 1  
2 then going back to the office. And then going to inspection 2  
3 and then going back to the office.

4 ROBINSON: Correct.

5 RUSSELL: You're going to multiple locations and  
6 without going from point A to point B, doing the actual  
7 inspection that the location changes from each inspection,  
8 you're still in the vehicle moving from point A to point B. To  
9 me, that -- going back to NAC, I-I'm seeing the vehicle as a  
10 workspace. And the fact that a single vehicle is assigned to a  
11 specific employee. Not like if my work location had an motor  
12 pool, I go to motor pool, check out a car, like a rental car,  
13 go to my destination, come back, turn it back in, and then  
14 another staff member can go check out the same car. I'm seeing  
15 a different -- the word isn't coming out. D -- a difference in  
16 it. To me there's a distinction between the 2.

17 UNIDENTIFIED: Good point. An extension to your  
18 office would still be your office.

19 UNIDENTIFIED: And in my -- in our world, we  
20 sometimes have traveling offices where, my office may be in  
21 Carson City, but if I have to go to another office traveling,  
22 that are just people that's for the day. And that's where I --

23 RUSSELL: Can you repeat that so we can hear it down  
24 here please?

25 MERRILL: Sure. Um, Mechelle --

1           RUSSELL:           Thank you.

2           MERRILL:           I was just saying -- it's Mechelle. I was  
3 just saying that in my world, um, much like what you were  
4 referencing in your world, that, um, we have traveling  
5 offices, uh, in recognition of the fact that there are staff  
6 that may, uh, need to work out of an office that isn't their  
7 regular duty location for a day or more, um, and need -- and  
8 need a place to be. So, we call them traveling offices. And  
9 um, though it's not my desk, it's not my office, my things  
10 aren't there, that's my office for the day. And this somehow  
11 feels similar to me.

12          PARKER:           So, Teresa, you got a motion then?

13          RUSSELL:           When I -- work on it. I'm not a hundred  
14 percent sure if we're on the same page for decision and  
15 determination.

16          PARKER:           Okay.

17          MERRILL:           Can I ask another question? Mr. Robinson,  
18 if you --

19          ROBINSON:          Yes, ma'am.

20          MERRILL:           This is Mechelle Merrill for the record.  
21 If you knew -- because I'm sure you -- you see your schedule  
22 in advance. You probably know today what you're doing tomorrow  
23 and -- or at least you do that morning. If you know that  
24 you're going to a building that you can't take your firearm  
25 with you, would you just leave it in your car? Or knowing that

1 tomorrow there's stops at government buildings that you can't  
2 take it to, would you just not bring it with you that day?

3           ROBINSON:           Uh, yes, ma'am. Uh, for instance, I'm not  
4 carrying today, so, uh, my -- my weapon was left at home.  
5 Yeah, depending on what -- depending on what I'm doing exactly  
6 it, uh -- it, uh -- if I know I'm gonna be in nothing but  
7 government buildings, uh, or if I have an inspection that's  
8 gonna take 6 hours in a government building, yes. I just leave  
9 my vehicle -- or I leave my weapon at home or -- or in my car  
10 at the parking garage -- my personal car, not -- not a state  
11 vehicle.

12           MERRILL:           Understood, thank you.

13           RUSSELL:           Is that acceptable for our circumstances?  
14 Or does there need to be more to it?

15           WEISS:            I would make it more specific to this  
16 individual grievance as opposed to a confirmation about  
17 definitions.

18           RUSSELL:           Okay.

19           WEISS:            I-I would add a little to this in the  
20 situation, if that's okay.

21           UNIDENTIFIED:       Can I ask a question?

22           PARKER:            Yes.

23           UNIDENTIFIED:       Um, being new to the, the committee,  
24 um, does the board know the legal standard that they apply to  
25 the question? Is there a legal standard that you apply? Who

1 has the burden of proving what deference the agency receives?

2 RUSSELL: How does that work?

3 UNIDENTIFIED: Is there a standard? In other words,  
4 if the agency makes a decision --

5 WEISS: It's better.

6 UNIDENTIFIED: -- to be more restrictive than the  
7 act, what deference does the committee give that decision? How  
8 do you look at --I'm not suggesting anything. I just, I-I  
9 think that in a close case you should at least be considering  
10 the legal standard and the deferential, you know, standard.

11 PARKER: And <inaudible>. Does that answer that  
12 thought? No, um -- yeah, I think that the only thing we can do  
13 is --

14 UNIDENTIFIED: <inaudible> given that guidance.

15 PARKER: Yeah. We've never been given that guidance  
16 at all, or that's never been mentioned. But I will state that,  
17 I mean, we can't -- I don't think that we have the authority  
18 to have -- to ask the agency to change their policy if they  
19 put something in policy. I think, and correct me if I'm wrong,  
20 but this question is whether -- whether or not -- what  
21 constitutes a workplace. That's the only thing that we are --  
22 and -- and so it's based on the testimony from --

23 JOHNSON: Um, Nora Johnson for the record.

24 PARKER: Go ahead.

25 JOHNSON: Thank you. Um, our -- our typical standard

1 is it's the grievant's burden of proof to prove that they've  
2 been grieved in some form or another. Um, again, as -- oh, it  
3 is the grievance burden of proof to show that there's been an  
4 injustice. Um, again, as Ms. Parker stated, nobody's a lawyer.  
5 We don't really follow, uh -- we don't have, you know, legal  
6 standards -- legal precedence. We leave anything that could be  
7 applied possibly up to the DAGs as it falls and relates to  
8 statute. Usually if a-an agency wants to be more restrictive,  
9 it can be cited as lack of jurisdiction based on, um, NRS  
10 284.02072. But the agency does have the right to run it as  
11 they see fit. Um, but with within all of those other  
12 parameters, nobody here has a law book to guide them through  
13 specific -- specific standards.

14 PARKER: And our decisions don't set precedent.

15 RUSSELL: Teresa, for the record.

16 PARKER: Yes?

17 RUSSELL: I apologize. I may not have heard  
18 everything that's being said, but I have a motion.

19 PARKER: Okay, go ahead.

20 RUSSELL: I'm gonna make a motion to gran --t grant  
21 grievance 7375 per NAC 284.0875. Grievant's usual and  
22 customary workplace does include his state vehicle.

23 PARKER: And I would offer a friendly amo -- uh,  
24 amendment just to include in -- in this specific case and not  
25 to set precedence, 'cause we don't. And that's what we've done

1 in the past. Would you accept that friendly amendment?

2 UNIDENTIFIED: Madam Chair, can you repeat that?

3 PARKER: Yes. I would add the friendly amendment  
4 that it's in, um, this specific case to Mr. Roberts, um, and  
5 it does not set precedence or just -- I just wanna add that  
6 this in no way, shape, or form sets precedence for future.

7 RUSSELL: You wanna write it down <inaudible>?

8 PARKER: 'Cause it is only for the grievant.

9 UNIDENTIFIED: Yeah. Madam chair, uh, member  
10 Russell's motion in-include, uh -- specifically says this  
11 grievant.

12 PARKER: Did it?

13 UNIDENTIFIED: It was this -- this grievant's usual  
14 and customary workplace. Um, it's not -- doesn't look like  
15 it's giving any sort of, uh, definition of opinion.

16 PARKER: Okay. No, I-I withdraw my amendment. So,  
17 we have a motion. Do we have a second?

18 MERRILL: I would second that.

19 PARKER: That Mechelle?

20 MERRILL: Yes. This is Mechelle Merrill. I would  
21 second that.

22 PARKER: Any discussion? All those in favor?

23 MULTIPLE: Aye.

24 PARKER: Okay. Any opposed? Motion carries. So, um,  
25 Mr., um, Robinson, you'll receive -- all parties will receive



1 a determination letter in 45 days. And again, this is only  
2 stating what is considered a workplace. Again, we don't have  
3 authority to, uh, advise an agency as to what policies that  
4 they implement. And just wanna make sure that was clear that  
5 that was your question here today.

6 ROBINSON: Thank you for your time, ma'am.

7 PARKER: Thank you.

8 ROBINSON: Thank you all very much for your time.

9 PARKER: Okay, we'll move on to number 7.

10 Adjustment of grievance of Steven Stubia, 8418. Is that you?  
11 Thank you for being so patient. Thank you for being so  
12 patient. If you wanna come on up. And the witness has already  
13 been sworn in and you're swearing in carries forward to this  
14 case as well. That's okay, right? Um, and, um, Mr. Stubia,  
15 I'll swear you in. You -- you're very familiar with the  
16 proceeding? Okay. Um, so I'm just gonna swear you in. So, I,  
17 state your name.

18 STUBIA: I, Steve Stubia.

19 PARKER: Swear to tell the truth and nothing but  
20 the truth.

21 STUBIA: Swear tell the truth and nothing but the  
22 truth.

23 PARKER: Thanks. So first we will get started with  
24 -- oh yes, one thing I -- so is there any objection to the  
25 packet -- packets that have been presented today for either

1 party? So, we'll go ahead and start with opening statements.

2           STUBIA:           Thanks for having me and hearing my case  
3 here. Um, hopefully this'll be short and sweet. Um, basically  
4 I-I've worked for a mechanical section doing elevators, kinda  
5 opposite of the last guy doing boilers. I did the elevator  
6 side. Part of doing elevators, you had to get a QEI, Qualified  
7 Elevator Inspector, certificate. So, went to class -- state  
8 sent me the class and got certificate. The state ended up not  
9 paying on time for me to get -- take my class. So, it delayed  
10 my QEI certification. So, a difference of the 23<sup>rd</sup> -- 22nd of  
11 September to when they did enact the -- the, uh, rate  
12 increase to October 7th. So, I'm just here to show that, you  
13 know, <inaudible> and it was the three weeks of not getting  
14 that rate adjustment. That's basically it.

15           PARKER:           Okay, awesome. Mr. Husbands, your opening  
16 statement, please.

17           HUSBANDS:         Yes, thank you. Um, thank you Mr. Stubia  
18 for your time. And you were patient in waiting here for most  
19 of the day. And again, to reiterate the thanks to the  
20 committee members, uh, chair and committee members, witnesses,  
21 the attendees. Uh, this is -- we seem to have gone through  
22 these in order of dwindling complexity and a dwindling amount  
23 of time. But in any event, uh, this is simply a matter of  
24 compliance with NAC 284.4375, which applies to auto  
25 progression. This is an auto progression issue. Uh, Mr. Stubia

1 has correctly stated as an elevator inspector, he would be  
2 entitled to an auto progression to the extent that he holds  
3 the QEI certificate. So really, it's a matter of just why -- I  
4 guess, really, the evidence will discuss why the certificate  
5 was received when it was received. Essentially, there were 2,  
6 um, employees who were set to take the test. Only one of which  
7 ultimately took the test. That caused a delay in having to go  
8 back and -- and get a new invoice reflecting only that one  
9 employee, Mr. Stubia. And therefore, he received the  
10 certificate when he received the certificate, upon payment by  
11 the state of whatever the certificate fee was. The issue  
12 really comes down to, he couldn't have auto progressed until  
13 he actually possessed the certificate. So, to the extent that  
14 he's asking for the pay adjustment to go back to the September  
15 22nd date that he took the exam, he couldn't have done the  
16 work, um, which he's entitled to do by holding the  
17 certificate, without the certificate. So, he would be paid to  
18 be doing work that he basically couldn't do without the  
19 certificate is my understanding. So, for that reason, the  
20 state would ask to just affirm -- deny the grievance and keep  
21 consistent with the -- with how the adjustment was made on the  
22 date -- on the date in which it was made.

23 PARKER: So, we'll move on to uh, case  
24 presentation.

25 STUBIA: Okay. Um, so I'm gonna start off with --

1 from what he said about being able to do the work without the  
2 QEI. I was already doing the work 'cause I did pass the state  
3 test. There's a state test and a QEI test. After you pass the  
4 state test, you can go out and do inspections. So, I was  
5 already doing the work long before I passed this test. So that  
6 -- that's a moot point there. Um, I'm kinda basically just  
7 gonna run through my exhibits right now and kind of explain  
8 why they're there and what they stand for. So, in my  
9 grievance, um, Victoria had said that -- my supervisor, uh --  
10 Exhibit 1, page 1, but my, uh, supervisor had sent a memo  
11 saying to progress me on the 8th. This document here shows he  
12 did -- he actually said to progress me on the 20th, which  
13 would've been Monday following the test, but his supervisors  
14 told him he had to change it. So, he went and changed it to  
15 the 8th. And the 8th is actually when I did receive my  
16 certificate, but only because the fees weren't paid for the  
17 class. So, like I said, no fault on my own. But he did  
18 recommend to get my progression on the 20th, not on the 8<sup>th</sup>.  
19 But since they asked to change, he changed it. So that's what  
20 that paper shows, that he did and he ended up giving that to  
21 me. The next page is, uh, Thomas Thompson. I took the test  
22 with him in the class. It's a week-long class and you take  
23 your test on Friday. I took the class with him. Apparently, he  
24 passed it, um, and he got his certificate on September 22nd.  
25 So that would've been the same day I would've gotten a

1 certificate, 'cause we did all the tests at the same time. So  
2 that's -- I have that for that. Next one, Exhibit 3, is an  
3 email that I had sent. There's a long chain there. Um, Sandy  
4 Denaza, who gives you the QEI certification, asking why it was  
5 delayed, why I didn't get it until the 8<sup>th</sup> -- or 7th. And she  
6 basically states in there because it wasn't paid. States  
7 sometimes take longer to pay. Normally, we don't let you come  
8 to the class unless it's paid, but because it was the state,  
9 we went ahead and let you attend the class. And I didn't know  
10 it wasn't paid until I kept going where's my certificate? Hey,  
11 what -- what's the results? Where's the results? And then  
12 finally I called on Friday and they said, oh well you guys  
13 haven't paid. Call us back on Monday and we can figure it out.  
14 You know, that was already a week of not being paid. So here's  
15 the original invoice, which was only me on the invoice, dated  
16 8-19, right? August 19<sup>th</sup>, and I went September 13th. So that  
17 was a month -- almost a month that it should have been paid. A  
18 month would've been plenty of time to pay this before I went  
19 to the class. So, clerical errors within the organization may  
20 have slowed it down, stopped it, however. But, like I said, no  
21 fault on my own. Um, Exhibit 5 is just more email from Denaza  
22 when they finally gave me my certification. Exhibit 6, page 2  
23 is my travel packet to go attend this class. And in the travel  
24 packet it shows the dates of the -- the class and the test.  
25 Um, Victoria ended up signing it and dating it on August 19th.

1 So, it was already in progress in August, so it should have  
2 been paid. Um, and I -- there was another guy who was supposed  
3 to go and what that played a role in this, I don't know 'cause  
4 I don't schedule his stuff. So, I don't know what the whole  
5 story was with that. And then the rest of it's the grievance  
6 packet that I was told to include. And then on page 3 of 6 in  
7 the grievance packet, um, Victoria had put in there -- on part  
8 of the grievance, the new grade and step will be 37-6. Well,  
9 actually I'm not a 37-6. They dropped me a grade. So, I'm a  
10 37-5. So, I would like to be put back to that 37-6 like she  
11 said in the paperwork as well. <inaudible> That's all I have.

12 PARKER: Mr. Husbands, do you want to cross?

13 HUSBANDS: Uh, no, thank you.

14 PARKER: Okay, you may present your case.

15 HUSBANDS: Okay. I just have one witness and um,  
16 it'll be the same as the last grievance. The administrator of  
17 the Division of Industrial Regulations Victoria Carreón. As  
18 the administrator of the division, can you describe your --  
19 some of your job duties, please?

20 CARREÓN: Sure. I oversee the division of -- sorry  
21 there's an echo. Um, I oversee the Division of Industrial  
22 Relations, which is responsible for workplace safety issues  
23 and includes the mechanical compliance section, which is  
24 responsible for inspecting the safety of boilers and  
25 elevators.

1 HUSBANDS: Okay. And you just listened to Mr.  
2 Stubia's presentation of his grievance. What is it -- what is  
3 your understanding based on that presentation as to what he is  
4 seeking?

5 CARREÓN: Um, he's seeking a change in the date that  
6 his, uh, promotion was effective.

7 HUSBANDS: Okay. And the types of expenses that we're  
8 talking about, these class fees or testing fees, the state  
9 usually pays those fees?

10 CARREÓN: Yes, it does.

11 HUSBANDS: And how are those invoices processed and  
12 paid?

13 CARREÓN: Um, well those invoices are sent as soon  
14 as, uh, the registration comes through and then um, the state  
15 pays them. In this case, there were 2 different registrations  
16 that were sent and then one of them was canceled. Um, and  
17 there is an Exhibit D in the employer's packet and the  
18 original invoice is a few pages in. Um, you'll see that  
19 there's 2 different invoices both dated August 19th, 2021. The  
20 first invoice that you see in Exhibit D is, um, just for Mr.  
21 Stubia to take the test. That was \$1,295, but that wasn't the  
22 original invoice. The original invoice is a few pages after  
23 that and includes 2 people, Mr. Stubia and as well as another  
24 person, also dated August 19th for \$2,590. So, what happened  
25 was that, um, there was a cancellation for the other employee

1 but there was only the 1 invoice. So, in order for um, our  
2 fiscal section to actually pay the invoice, the invoice had to  
3 be amended. And that amended revised invoice, as you can see,  
4 wasn't received and approved to pay until September 29th.  
5 There's a notation on there. It says approved to pay 9-29-2021  
6 Sherry Bixler. So, although the invoice is dated 8-19, that  
7 revised invoice was not received on 8-19. And as soon as it  
8 was paid -- as soon as, um, our fiscal section received the  
9 revised invoice, it was paid promptly and posted by the 4th of  
10 October. And then on October 7th, that's when the QEI  
11 Certificate was granted to Mr. Stubia.

12 HUSBANDS: Okay. And upon his receipt of the QEI  
13 Certificate is -- that's when the change to his compensation  
14 was made?

15 CARREÓN: Correct. So, then there was an, um -- a  
16 memo that I signed recommending that his promotion be  
17 effective back dated to October 7th.

18 HUSBANDS: Okay. And why then, um, if you could  
19 explain to the committee, couldn't you have processed the  
20 change -- so, he passed the test. And then there was a period  
21 of time in which -- from that time until the time you got the  
22 certificate, why couldn't you have processed the change with  
23 him having to pass the test?

24 CARREÓN: Um, the reason is in the class  
25 specification, which is part of Exhibit A1. Um, you'll see the



1 second page of the class specification. In the middle of it,  
2 it says minimum qualifications and then it says special  
3 requirements. So, the first special requirement is regarding a  
4 driver's license. But the second special requirement says for  
5 the safety supervisor and safety specialist, the Qualified  
6 Elevator Inspectors Certificate is required at the time of  
7 application and as a constitution of continuing employment.  
8 So, in order to be promoted to a Safety Specialist, you do  
9 have to have a valid QEI at that time. And so that is why the  
10 date we didn't really have a choice. The date had to be the  
11 date that he actually had the certificate. And I think that we  
12 have a copy of the certificate in here and it is dated October  
13 7th.

14 HUSBANDS: Okay. And just to clarify then, that comes  
15 down to a matter of the regulation I discussed in my opening,  
16 NAC 284.4375. Is that correct?

17 CARREÓN: That's correct.

18 HUSBANDS: And he would be required under that  
19 regulation to meet the minimum qualifications set forth in the  
20 class specifications in order to achieve the auto advancement,  
21 correct?

22 CARREÓN: That's correct. And it's A -- Exhibit A4  
23 that actually has the actual QEI Certificate and the date on  
24 there is October 7th.

25 HUSBANDS: Okay. I have no further questions. Thank

1 you.

2 PARKER: Thank you. And would you like to cross?

3 We'll move on to closing statements.

4 STUBIA: Let's see. So, like I said earlier,  
5 basically in my opening statement, uh, the only reason -- or  
6 the only way we found out that it hadn't been paid is because  
7 I was calling to ask for my results 'cause it had been longer  
8 than what they had said. And that's when the paperwork started  
9 rolling, on the 29<sup>th</sup>, is when I had called to try and find out  
10 where my -- my QEI was. I'm not disputing that on my  
11 certificate it says the 7th, but it wouldn't have been if it  
12 would've been paid for before I attended the class like it  
13 should have been, um, at no fault of my own. If I -- if I  
14 would've known that it was gonna go through all of this, I  
15 would've paid it and got reimbursed later, you know. And then  
16 I would've had it on the -- the 22nd or 23rd. Um, so I'm just  
17 asking here to get that moved back to the 22nd or 23rd and to  
18 bring my step and grade back to the 37-6, not the 37-5 that  
19 they moved me to. And that's all I have.

20 PARKER: Thank you. Mr. Husbands?

21 HUSBANDS: Thank you. Um, thank you again for your  
22 time. Um, I think I'll keep mine fairly brief and just to say  
23 that the requested relief, um, as I understand it, would  
24 basically put the committee in the position of having to  
25 rewrite the minimum qualifications for the class

1 specification, which as the administrator pointed out on page  
2 2 of Exhibit A1, um, the second bullet point, requires, in  
3 order for him to auto progress, to hold the QEI Certificate.  
4 So, if we were to -- if the committee were to grant his  
5 relief, they would -- the committee would essentially be  
6 writing that requirement out of the minimum qualifications,  
7 which I don't think is something that the committee has  
8 authority to do. For that reason, we would, um, stand, ask for  
9 the committee to affirm the result and the auto progression  
10 date of October 7th. Thank you.

11 PARKER: Thanks. All right, we're gonna go ahead  
12 and open it up for deliberation. So, we may be asking you  
13 questions. You already know this. Everybody knows this. Um, so  
14 we'll kinda discuss amongst ourselves. Do you have any  
15 questions?

16 MERRILL: Lots.

17 PARKER: Okay. And you guys too, jump in. Let's  
18 take turns asking questions 'cause we may think of other ones  
19 as we do that.

20 MERRILL: Mechelle Merrill for the record. Mr.  
21 Stubia, what step were you prior to taking your test?

22 STUBIA: I was a 34-6.

23 MERRILL: 6? You were a step 6?

24 STUBIA: Yes, I was a 34-6. And then once they gave  
25 me that step to a 37, they dropped me -- or that grade to a

1 37, they dropped me a step to a step 5. So, I went from a 34-6  
2 to a 37-5.

3 MERRILL: Are -- are those equivalent?

4 STUBIA: No. No. 'Cause once you get your QEI, you  
5 get your grade bumped.

6 MERRILL: Yeah.

7 STUBIA: You, you know, progress.

8 MERRILL: And so --

9 STUBIA: But I was lowered a step, which to me --  
10 steps are your years, right? You get a step every year.

11 MERRILL: Well, do you know why they --

12 STUBIA: They said it was part of their policy that  
13 that's what they do. I don't know. You know, that -- I'm an  
14 elevator inspector, you know. But according to Tori and this  
15 paperwork, it was a 30 -- supposed to be a 37-6.

16 MERRILL: 37-6.

17 STUBIA: So, I'm going off of what she put in  
18 writing.

19 MERRILL: Well, it says it on the grievance itself.  
20 It says it right there.

21 PARKER: I was looking -- I was looking in the  
22 emails. Okay.

23 MERRILL: It says the administrator signed the memo  
24 on October 21st. The new step and grade will be 37-6.

25 PARKER: Okay.

1 MERRILL: It's attachment 4. Um, another question.  
2 Mechelle Merrill. Why September 20th if your certificate  
3 should have said September 22<sup>nd</sup>?

4 STUBIA: So, the way they said, you know --  
5 hearsay, I understand. But the way they said that it always  
6 worked was you took your test on a Friday, and technically I  
7 passed the test on that Friday, and you got your grade bumped  
8 that following Monday. That's why the supervisor put it for a  
9 Monday, right? I'm trying to be more on the fair side and say  
10 the 26th 'cause that's when everybody else got their results,  
11 right? So, I would assume I would've got my results the same  
12 day everybody else would've if my bill would've been paid.  
13 Right?

14 MERRILL: So, on the grievance it says Mr. Stubia's  
15 proposed resolution is quote, "I would like my grade bump to  
16 be retroactive from September 20th."

17 STUBIA: Okay. And I was just going off the memo,  
18 is what it was, the memo that the supervisor wrote, which  
19 would've been that following Monday. And everybody got their  
20 results on the Wednesday, which would've been the 22<sup>nd</sup>.

21 MERRILL: So, are we saying on the 22<sup>nd</sup> or 20<sup>th</sup>?

22 STUBIA: I'm good with either one. Either one. 22<sup>nd</sup>  
23 would be the right way, right? 'Cause that's when the results  
24 really would've come out.

25 MERRILL: Right. And -- thank you.

1           SCOTT:           Mary Jo Scott for the record. I just  
2 wanted to make the comment and clarify that you can't have  
3 more than a 2-step increase for promotion. So, it would be  
4 appropriate for the 37-5 because that would be a 2-step in-  
5 crease from the 34-6. So that is all that they can offer  
6 you. I just wanted to clarify that.

7           PARKER:           So, this is Stephanie. Can you tell me  
8 where that is Mary Jo?

9           SCOTT:           It's in the compensation schedule, and  
10 where it is in um, regulation, I'll have to look it up.

11          PARKER:           Okay.

12          UNIDENTIFIED:        Um, so if I heard you right, a 2-  
13 step?

14          SCOTT:           Only 2 steps. So, from 34-6 to 37-5 is a  
15 2-step increase. Can't be more than 10%.

16          MERRILL:           This is Mechelle Merrill. Can I ask, uh,  
17 Administrator Carreón a question? Were other --

18          CARREÓN:           Sure.

19          MERRILL:           Were others that tested at the same time  
20 and got the bump, were they compensated at that same 37-5  
21 level?

22          CARREÓN:           Well, Mr. Stubia was the only state  
23 employee for the State of Nevada who took the test that day.  
24 And wherever your step is going to be is gonna be based on  
25 where you are in the scale at that time. Um, so I think, you

1 know, each person's situation is gonna be a little unique. I  
2 do wanna say, um, I don't have -- I don't have access to HR  
3 Data Warehouse at this moment, but I know that there are  
4 others in here who might and might be able to actually confirm  
5 what his step actually is. I do believe it is the 37-6, but  
6 um, I can't confirm that right now. But maybe others who are  
7 here and can look it up might be able to help us.

8 STUBIA: I can answer your question a little bit as  
9 well. So, my situation's different because I came from OSHA,  
10 so I already had steps and grades. So, it's different than  
11 somebody just coming right into elevators, right? Because  
12 you're gonna start off at a 34-1, right? I didn't start off at  
13 a 34-1 'cause I came from another agency. So, my -- my  
14 situation's different.

15 MERRILL: So, they may have different steps than  
16 you?

17 STUBIA: Yeah, 'cause they're coming in at 34-1,  
18 where I came in at 34-4 or 34-5 or something like that when I  
19 came into the elevators.

20 PARKER: And so, I just wanna clarify, you said  
21 that he's al -- you believe that, um -- this is Stephanie for  
22 the record. Um, Ms. Carreón, you said that for the, uh, record  
23 that you believe he's at a 37-6 right now?

24 CARREÓN: That is my recollection, but I'm hoping  
25 that somebody else can actually confirm so that we have the

1 actual

2 PARKER: <inaudible> year later.

3 STUBIA: No, it -- I go to a 6 in October or  
4 September, depending on what the decision is here today.

5 PARKER: Okay.

6 CARREÓN: Yes? 37-6? Okay. All right. I have  
7 confirmation from HR staff who are here on site that they  
8 looked it up and he is 37-6.

9 UNIDENTIFIED: You said not more than 10%?

10 SCOTT: In the NAC it doesn't -- it just states --

11 UNIDENTIFIED: 3 or more grades <inaudible> 37.

12 SCOTT: Mary Jo Scott for the record.

13 PARKER: Yes?

14 SCOTT: It is NAC 284.172, Subsection 1. It states  
15 if the employee moves 1 or 2 grades above his or her former  
16 grade, he or she must be placed at the same step in the new  
17 grade as the step held in his or her former grade. If the  
18 employee moves 3 or more grades above his -- his or her former  
19 grade, the employee must be placed at a step which is  
20 equivalent to an increase of 2 steps above the step held in  
21 his for -- in his former grade.

22 CARREÓN: So, I believe he was actually a 34-7 and  
23 then became a 37-6.

24 UNIDENTIFIED: Perfect.

25 CARREÓN: Is that correct?



1 SCOTT: So, that makes sense. Yeah, thank you.

2 PARKER: Will you just let us know when you confirm  
3 that?

4 STUBIA: Yeah.

5 PARKER: Okay.

6 STUBIA: And she may -- she may be right. She may  
7 be right on that.

8 PARKER: And that is what we'll bring you to is 37-  
9 6. So, um -- so it sounds like -- so the state had a  
10 special arrangement, even though it should have been paid  
11 -- but at the time that he should have -- that he went to  
12 the training, the state had a special arrangement but --  
13 and there was an invoice August 19th, which I would think  
14 should be paid within 30 days. But I see that one of the  
15 persons canceled, but of course that's not within his  
16 control. Did do that second -- I did see that but -- I'm  
17 sorry, and you did do the work? You said you were con-  
18 ducting the work after that anyway?

19 STUBIA: Yeah, I was on -- on the on-call list and  
20 doing basically everything I do now, probably a month or  
21 two before I took QEI. I had passed the state test.

22 PARKER: 'Cause you had passed the state test. So,  
23 in essence, the agency had overwritten had overwritten  
24 'cause he was already doing -- the classification  
25 documentation, anyway, 'cause he was already doing the

1 work anyway.

2 STUBIA: Just wasn't getting paid for it.

3 PARKER: Right.

4 STUBIA: 'Cause I was still at the 34.

5 PARKER: Yeah. So, we're talking from the 22nd to  
6 the 7th. That's 15 days. Oh, you were <inaudible>. Any  
7 questions or comments down there?

8 RUSSELL: Teresa for the record. I'm kind of running  
9 into an issue with the double standard. It's being  
10 stated, uh, since the test -- state test was passed, the  
11 work was being performed at the higher level by the  
12 grievant. But the state won't recognize -- the state and  
13 the agency won't recognize the certification until the  
14 documentation is received to properly compensate the  
15 employee. But the delay has nothing to do with the  
16 employee, and basically, the state is receiving the  
17 benefit of the employee being able to attend the class  
18 without payment being received before class attendance.  
19 I'm having an issue with this.

20 PARKER: Mm-hmm <affirmative>.

21 JOHNSON: Madam chair? Nora Johnson --

22 PARKER: Yes?

23 JOHNSON: Nora Johnson for the record. Since  
24 everybody here is on this end, I did go into the HR Data  
25 Warehouse to get a copy of his current standings. So, I'm

1 just gonna give one to each of you.

2 PARKER: And he confirmed it, too.

3 JOHNSON: Okay. I just make sure that everybody down  
4 here saw it, too.

5 PARKER: Go ahead, Teresa. Sorry.

6 JOHNSON: Sorry Teresa.

7 RUSSELL: Well, that's okay. That was primarily my  
8 issue is the double standard of having the employee, or  
9 the grievant, do the work. Well, if the grievant's not  
10 qualified to do the work, why is he doing the work?

11 PARKER: Yeah.

12 RUSSELL: But technically he is qualified except for  
13 the piece of paper being in the right place.

14 SCOTT: I have a question. This is Mary Jo Scott  
15 for the record. For the grievant, Mr. Stubia, can you  
16 tell me when you started working, um -- or doing -- once  
17 you started working as a Safety Supervisor but yet were  
18 not auto progressed? You said you were still doing some  
19 of those tasks. Can you tell me when you started doing  
20 that?

21 STUBIA: I couldn't give you an exact date, but it  
22 wasn't Supervisor, just to be clear.

23 SCOTT: Oh, sorry. Yes, representative.

24 STUBIA: Yeah, so I was a representative. I took my  
25 state test probably 6 months in to my year and then I got

1 on the on-call list. So, I was out doing accidents and  
2 stuff like that and then doing inspections. So, 6, 8  
3 months into that year. So probably a couple of months --  
4 3 months before I got my QEI.

5 SCOTT: Okay. Thank you.

6 CARREÓN: Madam Chair? I don't know if it'd be  
7 appropriate, but I do have some clarifying information on  
8 the class specification.

9 PARKER: Okay. Who is this? I-I don't even know  
10 who's speaking.

11 CARREÓN: I'm sorry. This is uh, Victoria Carreón,  
12 the administrator. Um, so on that classification, just a  
13 little below the special requirements, um, Mr. Stubia was  
14 talking about earning his State Nevada Elevator  
15 Certificate. So that's actually required at the time  
16 you're a representative. So, it says for the safety  
17 representative, which he was, incumbents must obtain and  
18 maintain a state of Nevada elevator inspection  
19 certificate of competency within 12 months of appointment  
20 and as a condition of continuing employment. So that's  
21 actually something you do as -- when you are a  
22 representative, which he did and fulfilled. So, they're  
23 really just -- just wanted to clarify that that is part  
24 of the regular course of being a representative.

25 UNIDENTIFIED: Uh, point of order. Um, I wonder if

1 the board wants to consider NAC 284.1944.

2 UNIDENTIFIED: Did you say 284.1944?

3 UNIDENTIFIED: Sub 4.

4 UNIDENTIFIED: Thank you.

5 UNIDENTIFIED: Oh, okay.

6 PARKER: That's a good one. So, if the merit pay  
7 increase is delayed solely because of an administrative  
8 or clerical error, the increase must be made effective on  
9 the date on which the increase was properly due. And I  
10 think that's what we're deciding here. It was properly  
11 due the Monday after. Um, if -- I mean, clerical error,  
12 if -- if they waited a year, it doesn't mean you wait a  
13 year to give him what he was due because he had  
14 performed. He had -- he had completed what he was  
15 supposed to do. The state had not -- the agency had not  
16 completed what they were supposed to do.

17 SCOTT: Madam Chair? Mary Jo Scott for the record.  
18 It is speaking directly to a merit increase.

19 PARKER: That's what this is. That's what, um --  
20 yeah so that wouldn't be -- yeah. Oh --

21 SCOTT: No, that's -- I don't see that as the  
22 same. Auto progression is not the same as a merit  
23 increase.

24 PARKER: Yeah.

25 SCOTT: I do not believe this NAC applies.

1 PARKER: It does not. That was acknowledged, right?

2 Thank you, though.

3 SCOTT: Thank you.

4 RUSSELL: Teresa Russell for the record.

5 PARKER: Proceed.

6 RUSSELL: Um, I'm not as well versed in HR. Why --  
7 would the similar situation not apply if it was relating  
8 to a clerical error? Technically, he was once the --

9 SCOTT: I don't see it as a clerical error. I see  
10 that the institution where the training was done provided  
11 a billing that was erroneous. The state requested a  
12 clarified final billing for only the grievant's testing.  
13 They submitted it, received it on September 29<sup>th</sup>, and it  
14 was posted to the state financial system on October 4<sup>th</sup>.

15 RUSSELL: Okay.

16 SCOTT: So, the turnaround is an expected and a  
17 rather quick turnaround.

18 RUSSELL: But -- Teresa for the record. But --

19 MERRILL: Mechelle Merrill --

20 RUSSELL: When it comes to -- I'm sorry?

21 MERRILL: This is Mechelle Merrill. But in your --  
22 in what you said, isn't it the state's error?

23 SCOTT: No, I did not. Mary Jo Scott. I did not  
24 say it was a state's error.

25 MERRILL: No, I'm asking.

1 SCOTT: I said it was the institution that was  
2 training. They -- they remained -- they had 2 original  
3 people that were going to test and one dropped off. And  
4 only the state employee, Mr. Stubia tested. But they were  
5 billed for both of those and so they had to request a  
6 final corrected billing. And once they did, they received  
7 it on September 29<sup>th</sup>. And then they turned around and  
8 posted it and paid it by October 4th.

9 PARKER: Well, this is Stephanie Parker. I just  
10 wanna state that the agency stated that they got asked --  
11 they got a new billing. It's not erroneous. There were 2  
12 people registered, 1 person dropped, so it was not -- it  
13 was not the training facility's error. The money was due  
14 before the class was taken. You shouldn't have even been  
15 able to go to the class. That was already, I think -- I  
16 don't think anybody disputed that. It was invoiced August  
17 19<sup>th</sup>, so it probably should have been paid by then. Um,  
18 yeah, I don't -- I don't wanna put this on the training  
19 facility 'cause it clearly is not the training facility's  
20 error. No, nor is it the grievant's, from what I can see.

21 RUSSELL: Teresa Russell for the record. Due to the  
22 fact that the issue is coming down to a matter of a few  
23 days or weeks -- the fact that the certificate was  
24 actually earned and issued on a specific date, in my  
25 opinion, that's when the title progress -- or the grade

1 and step inquiry should be effective.

2 MERRILL: Um, this is Mechelle Merrill for the  
3 record. I motion to grant grievance number 8418 and  
4 backdate the promotion of Mr. Stubia to 9-22-21, giving  
5 him an additional 15 days of compensation at grade 37-  
6 step 6.

7 RUSSELL: Teresa for the record. I'll second.

8 PARKER: Okay, the motion and a second quick. You  
9 guys are quick. Um, any discussion? All those in favor?

10 MULTIPLE: Aye.

11 PARKER: Any opposed?

12 UNIDENTIFIED: I oppose.

13 PARKER: Okay, motion carries. So, Mr. Stubia  
14 you'll receive a decision letter in 45 days.

15 STUBIA: Okay.

16 PARKER: Um, right and that's -- go ahead.

17 STUBIA: Something that kind of goes with that now.  
18 So, my auto progression date was October 7th. Is that now  
19 gonna be October 22<sup>nd</sup>?

20 PARKER: So, it changes your progression date.  
21 Isn't that what yours says? Change your auto progression  
22 date to September 20.

23 STUBIA: 'Cause right now it's October 7th because  
24 of that certificate.

25 MERRILL: It's to back date the promotion to 9-22.



1 STUBIA: So, my progression date will back date as  
2 well to the 22nd.

3 MERRILL: Right.

4 STUBIA: Okay.

5 UNIDENTIFIED: Does that need to be clarified?

6 UNIDENTIFIED: <inaudible> hear the motion again.

7 PARKER: Did you guys hear that?

8 UNIDENTIFIED: Mechelle -- Sorry, member Merrill,  
9 could you read the motion one more time?

10 MERRILL: Certainly. This is Mechelle Merrill. I  
11 motion to backdate the grievant's promotion to September  
12 22nd of '21, granting him additional 15 days at grade 37-  
13 step 6. Actually, I read the wrong side, which did not  
14 have the name and the number of the grievance on. Would  
15 you like to do it again?

16 UNIDENTIFIED: Yes.

17 MERRILL: How about that? I motion to grant  
18 grievance number 8418 And back date the promotion of Mr.  
19 Stubia to 9-22-21, giving him an additional 15 days of  
20 compensation at grade 37-step 6.

21 PARKER: Okay. Any other questions? Let's see here.  
22 So, that con -- that concludes our agenda items. And, uh,  
23 let's see. So, we'll go to public comment. And I'll just  
24 say a disclaimer, I didn't do it this morning 'cause I  
25 didn't have my verbiage. The committee has repeat -- oh

1 no <inaudible> sorry. Oh, I do have it. No voter action  
2 may be taken upon a matter raised during public comment  
3 until the matter itself has been specifically included on  
4 agenda item as an item in which action may be taken.  
5 Comments will be limited to 5 minutes per person and  
6 persons commenting will be asked to begin by stating  
7 their name for the record. Is there any public comment in  
8 Northern Nevada? I'll start -- start up here first.  
9 Hearing none, we'll move down to Las Vegas. Any public  
10 comment?

11 UNIDENTIFIED: No, there does not appear to be.

12 PARKER: Okay. So <inaudible> so I'll entertain a  
13 motion to adjourn.

14 MERRILL: I move -- this is Mechelle Merrill. I move  
15 to adjourn.

16 PARKER: Thank you all. Thank you everybody.

17 UNIDENTIFIED: Thank you.

18 UNIDENTIFIED: Thank you, everyone.

19 PARKER: The shredder will be busy.

20 UNIDENTIFIED: Yes. My day --

21 UNIDENTIFIED: Poor Nora, look at her.

22 JOHNSON: Well, using the laptop for notes affects  
23 the audio. So, I'm silently writing.

24 UNIDENTIFIED: She's writing for

25 JOHNSON: Our notes for the entire

1 PARKER: You were good 'cause I was like, how did  
2 she recap all that?

3 UNIDENTIFIED: 'Cause she's like super quick with  
4 that.

5 PARKER: Do you do shorthand?

6 UNIDENTIFIED: Do you want --

7 JOHNSON: No, but it looks like a hot mess, doctor's  
8 prescription pad. I --

9 UNIDENTIFIED: And you're gonna have to type them  
10 in.

11 JOHNSON: Yeah. I am 100% the only person that can  
12 read them.

13 UNIDENTIFIED: What about if you muted your  
14 computer?

15 \*\*\* END OF MEETING \*\*\*

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