



STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
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Meeting Minutes of the Employee-Management Committee
July 12, 2018

Held at the Legislative Counsel Bureau, 401 S. Carson Street, Room 3138, Carson City, Nevada, and the Grant Sawyer Building, 555 E. Washington Ave., Room 4412, Las Vegas, Nevada, via videoconference.

Committee Members:

Management Representatives	Present
Ms. Mandy Hagler—Chair	X
Ms. Pauline Beigel	X
Mr. Guy Puglisi	
Ms. Sandie Ruybalid	
Mr. Ron Schreckengost	
Ms. Jennifer Bauer	X
Employee Representatives	
Mr. Tracy DuPree	X
Ms. Turessa Russell	X
Ms. Sherri Thompson	
Ms. Adria White	X
Ms. Sonja Whitten	

Staff Present:

Mr. Robert Whitney, EMC Counsel, Deputy Attorney General
Ms. Nora Johnson, EMC Coordinator
Ms. Jennifer Herrera, EMC Hearing Clerk

1. Call to Order

Chair Hagler called the meeting to order at approximately 9:00 am.

2. Public Comment

There were no comments from the audience or Committee Members.

3. Committee introductions and meeting overview and/or updates - For discussion only.

Chair Hagler opened the meeting with Committee introductions.

4. Adoption of the Agenda – Action Item

Chair Hagler requested a motion to adopt the agenda.

MOTION: Moved to approve the agenda.
BY: Member Turessa Russell
SECOND: Member Tracy DuPree
VOTE: The vote was unanimous in favor of the motion.

5. Approval of Minutes for May 24, 2018 – Action Item

Chair Hagler asked if there were any minutes the Committee would like pulled for discussion, there were none.

MOTION: Moved to approve the minutes for May 24, 2018
BY: Member Pauline Beigel
SECOND: Member Tracy DuPree
VOTE: The vote was unanimous in favor of the motion.

6. Approval of Minutes for June 21, 2018 – Action Item

Chair Hagler asked if there were any minutes the Committee would like pulled for discussion, there were none.

MOTION: Moved to approve the minutes for June 21, 2018
BY: Member Turessa Russell
SECOND: Member Jennifer Bauer
VOTE: The vote was unanimous in favor of the motion.

7. Discussion and possible action related to Grievance #5478 of Dana Thomas, Department of Public Safety – Action Item

This matter came on for hearing before the Employee-Management Committee¹ (EMC) on July 12, 2018 pursuant to NAC 284.695 and NAC 284.6955, regarding Grievance No. 5478, filed by Dana Thomas (“Grievant” or “Ms. Thomas”). Ms. Thomas appeared at the hearing on this date in proper person. Deputy Attorney General Brandon Price represented the agency/employer, the State of Nevada, Department of Public Safety (“DPS”).

¹ The Committee members present representing a quorum were: Mandy Hagler (Rsk. Mgmt.), Turessa Russell (UNLV), Pauline Beigel (NDOT), Jennifer Bauer (SPCSA), Adria White (UNR) and Tracy DuPree (DETR). Counsel for the EMC, Deputy Attorney General Robert A. Whitney and Deputy Attorney General Tiffany Breinig, EMC Coordinator, Nora Johnson and EMC Hearing Clerk, Jennifer Herrera were also present.

Prior to the hearing DPS objected to some of Ms. Thomas' exhibits, stating that Ms. Thomas had intermixed her arguments with statutes and regulations in her exhibits, and DPS stated that although it had no objection to the statutes and regulation being in Ms. Thomas' exhibits, DPS did object to Ms. Thomas' arguments being submitted as exhibits, as arguments by a party were not evidence. DPS specifically objected to Ms. Thomas' arguments in Exhibit 1, Exhibit 2, page one, Exhibit 3, page one, Exhibit 4, page two, and Exhibit 5, page one. DPS also objected to Ms. Thomas including in her exhibits a grievance that was not at issue in Grievance No. 5478. Ms. Thomas did not oppose DPS' objections, adding that she did not want the portion of the State employee handbook that she quoted in her exhibits removed; DPS' objections were sustained by the EMC Chair.

DPS Accountant Technician Melissa Sabatini ("Ms. Sabatini") was present on behalf of DPS, and State of Nevada, Division of Human Resource Management ("DHRM") Management Analyst IV Keyna Jones ("Ms. Jones") was also present in order to provide testimony in the matter. Ms. Thomas and the witnesses were duly sworn in.

STATEMENT OF THE CASE

Ms. Thomas is employed with DPS as Public Safety Dispatcher III, and has been employed with DPS since 2001. Ms. Thomas has a 40 hour variable work week; Ms. Thomas stated in substance that she has always worked a 40 hour variable work week, and that in reality the number of hours she worked varied daily.

Ms. Thomas argued in substance that if one looked at NAC 284.255, that regulation dealt with payment if her day off fell on a holiday. Ms. Thomas continued on and said in substance the paid day off holiday ("PDOH") was supposed to be up to 8 hours because when an employee had a regular, no variable shift, that employee's holiday pay would be built into the particular code for the type of holiday pay to be received, so that such an employee would not need to code anything on his or her timesheet other than "holiday off," and that the holiday was paid as if it was time off. Ms. Thomas also argued in substance that the entire regulation (NAC 284.255) spoke of PDOH only. The regulation that discussed being paid while working on a holiday, according to Ms. Thomas, was NAC 284.256. NAC 284.256(1), according to Ms. Thomas, was supposed to be PHPRM (paid holiday premium pay) added to an employee's regular shift, and that NAC 284.256(2) was PHPRM added to overtime hours. What this meant was, according to Ms. Thomas, that no matter if it was a regular hour or overtime hour, one would add PHPRM, which was a regular pay, in addition to whatever hours were worked on the holiday by an employee.

Ms. Thomas stated in substance that if a person tried to combine the two regulations (NAC 284.255 and NAC 284.256) or exchange the codes concerning holiday pay, then that would result in taking off the 8 hours

Ms. Thomas would have received automatically if she had not worked on a holiday, and that the holiday an employee worked on would not be counted toward the employee's retirement. PHPRM was still regular pay, Ms. Thomas argued in substance, but PHPRM went towards an employee's retirement. PDOH was regular pay, Ms. Thomas stated in substance, but PDOH did not count towards an employee's retirement.

Ms. Thomas also stated in substance that, with respect to the monetary portion, if one used PHPRM and PDOH added to an employee's hours, that portion monetarily was correct, except that PDOH did not count towards retirement, and one would lose the 8 hours towards retirement that an employee would have otherwise received.

Ms. Thomas added in substance, with respect to the shift differential portion, that the information on "cheat sheets" DPS used did not coincide with the law, because the laws (the NAC's) explained perfectly how holiday pay was to be coded and paid out. Ms. Thomas argued in substance that, with respect to holidays and holiday pay, DPS needed to follow the regulations exactly as written, and that DPS should not combine the regulations that dealt with holiday pay. Ms. Thomas also argued in substance that NAC 284.255 only applied if one of her regular days off fell on a holiday.

DPS noted in substance that Ms. Thomas did not specify in particular what timesheet was at issue in her grievance. DPS stated in substance that it met with Ms. Thomas regarding her grievance and asked her about her allegation that she was not being paid holiday pay correctly, and that Ms. Thomas provided DPS with the timesheet for Pay Period 11, 2017, which covered the Veteran's Day Holiday. DPS stated in substance Ms. Thomas had been scheduled to work 40 hours the week of November 6, 2017, but was not scheduled to work on November 10, 2017. However, DPS indicated that Ms. Thomas did work for 6 hours on November 10, 2017, which was considered a holiday by the State of Nevada for employee pay purposes, and that Ms. Thomas claimed 14 hours PDOH and 6 hours POT (paid overtime) on her timesheet (Ms. Thomas at one time had claimed more hours than this on her timesheet, but that claim was not at issue in Ms. Thomas' grievance). DPS noted in substance that it later determined that Ms. Thomas was entitled to 8 hours PDOH and 6 hours POT, which was what Ms. Thomas was paid.

DPS said in substance that it reviewed the relevant records and consulted with DHRM Central Payroll, and forwarded the information it received from DHRM to Ms. Thomas, who then escalated her grievance.

With respect to Ms. Thomas' proposed resolution, that DPS compensate employees correctly for holiday pay, DPS noted in substance that Ms. Thomas did not have the ability to file a grievance on behalf of other employees. With respect to Ms. Thomas' request that DPS payroll clerks undergo special training for timesheet entries for shift/variable work week employees, DPS argued in substance that its payroll clerks already

receive training, and that the EMC did not have the authority to mandate DPS employees undergo additional training.

Ms. Thomas, using her Exhibit 5 (which included quotes from the State of Nevada Employee Handbook), read in substance that if an employee was a non-exempt employee he or she was entitled to be paid for 11 holidays per year, and that “in addition,” if an employee worked on a holiday the employee was entitled to straight time for the hours the employee worked on the holiday. Ms. Thomas stated in substance that whatever one was adding to employee pay did not have anything to do with regular pay or overtime pay, and that it was the “in addition to” language that was key. Ms. Thomas stated that over time she had been paid several different ways for holidays, but that she had always received up to 8 hours for not even working on a holiday.

Ms. Thomas argued in substance that the only law for how to code the working on a holiday by an employee was NAC 284.256, and that subsection NAC 284.256(1) was for regular hours, and that PHPRM was to be added to an employee’s regular hours. With respect to NAC 284.256(2), Ms. Thomas stated in substance that this subsection indicated that PHPRM was to be added to overtime. Additionally, Ms. Thomas argued in substance that NAC 284.255 should be used just for when an employee had the holiday off, and was not scheduled to work the holiday. Ms. Thomas also stated in substance that PDOH should be added up to 8 hours if it was an employee’s day off.

Ms. Thomas also argued in substance that she tried to submit her timesheet to DPS with the correct hours and category of hours claimed, but that she was told to change her timesheet. Ms. Thomas also stated in substance that if DPS did not count an employee’s hours correctly its employees would receive unequal pay, and that if an employee worked on a holiday that was his or her scheduled day off the employee was being denied the NAC 284.255 extra pay that the employee should have been paid.

Upon cross examination, Ms. Thomas indicated that DPS informed her that it would be adjusting her timesheet, and that DPS in fact adjusted her timesheet, so that for November 10, 2017, she received 8 hours PDOH and 6 hours of POT.

Ms. Sabatini testified in substance that she had worked for DPS for a year and a half, and also stated in substance that as Management Analyst of the Payroll Section of DPS she was responsible for DPS’ payroll and for sometimes making corrections to DPS employee timesheets. Ms. Sabatini testified in substance that she was familiar with Ms. Thomas’ grievance, and that Ms. Thomas had claimed 14 hours PDOH on her timesheet, but that she was only entitled to 8 hours PDOH through NAC 284.255, and that she told Ms. Thomas this through email. Ms. Sabatini stated in substance that she came to this conclusion through reviewing

the NRS', NAC 284.255, NAC 284.256 and NAC 284.257, and by also contacting DHRM Central Payroll.

Ms. Sabatini explained her understanding of NAC 284.255 and how non-exempt employees were to be paid for holidays when an employee worked a 40 hour work week. Ms. Sabatini stated in substance that if a holiday fell on an employee's regular day off, the employee was entitled to PDOH, and that also took into account the employee had not adjusted his or her work schedule. Ms. Sabatini also testified in substance that if the holiday fell on the employee's regular day off, and the employee did not adjust his or her schedule, and the employee did not work on the holiday, and the employee worked 40 hours prior to the holiday, then the employee would still receive 8 hours of PDOH. Ms. Sabatini also stated in substance that if the employee worked the holiday that was the employee's day off, the employee still received PDOH, and would receive POT for any hours worked on the holiday.

Ms. Sabatini also looked at NAC 284.256, and explained what it provided in terms of employees working on holidays. Ms. Sabatini explained that NAC 284.256 was used if a holiday fell on an employee's regularly scheduled day to work and the employee worked that day, the employee would then code his or her timesheet with PHPRM, and that the system was automatically paying employees for the holidays. Ms. Sabatini also explained what PHPRM meant, and that it was holiday premium pay for working on the holiday that fell on the employee's regularly scheduled day to work. If a holiday fell on a day that an employee was not scheduled to work, then one would use the code PDOH, but if an employee did in fact work on such a day, then the employee would use PDOH, and POT for any hours worked.

Ms. Sabatini also testified in substance that, with respect to NAC 284.256(2), an employee would receive one of the three forms of compensation in that subsection, not all three combined, or more than one, at the same time.

Ms. Sabatini further testified in substance that she contacted Ms. Jones of DHRM Central Payroll via email to be sure her interpretation of the relevant regulations was correct. Ms. Sabatini explained that the substance of her communications with Ms. Jones concerned Ms. Sabatini asking Ms. Jones to interpret the relevant NAC's for her, as DPS had an employee who was questioning her holiday pay. Ms. Sabatini explained in substance that the issue she needed interpretation from Ms. Jones on was that she need to make sure that Ms. Thomas was only entitled to PDOH and POT, and that she should not also receive PHPRM on top of this. Ms. Sabatini stated in substance that Ms. Jones indicated that Ms. Sabatini's interpretation was correct, and that Ms. Jones sent her examples of how to code holiday pay, along with the definition of holiday pay and an old appeal that had went through the EMC that was related to the topic. Ms. Sabatini acknowledged that Ms. Thomas had a different interpretation on NAC 284.256.

Ms. Sabatini stated in substance that she submitted a special pay adjustment on behalf of Ms. Thomas (Agency Exhibit G), and that when she did so she took away 14 hours of PDOH pay and replaced it with 8 hours PDOH, which was the amount of PDOH Ms. Thomas was entitled to. Ms. Sabatini also testified in substance that the payroll system automatically pays employees for holidays, so that if an employee works on a holiday it would count towards the employee's retirement.

Ms. Jones testified in substance that she had worked for DHRM Central Payroll for 18 years, and had been a manager at Central Payroll for 6 years. Ms. Jones stated in substance that she was a Management Analyst IV, and that as part of her employment duties she oversaw Central Payroll and Central Records. Ms. Jones stated in substance that she dealt with anything related to the pay process. Ms. Jones testified in substance that she was familiar with the regulations dealing with holiday pay.

In explaining NAC 284.255, Ms. Jones stated in substance that all non-exempt State of Nevada employees received 11 days of holiday pay per year. Ms. Jones also explained NAC 284.255(2), in that any employee with base hours of 40 hours per week, or 80 hours bi-weekly, would receive 8 hours holiday pay if the employee was in paid status in any portion of the employee's shift immediately preceding the holiday. "Paid Status" meant that the employee was not reporting leave without pay (LWOP) for the entire shift. Ms. Jones also testified that Ms. Sabatini had indeed contacted her regarding Ms. Thomas' grievance.

Ms. Jones testified in substance that she provided Ms. Sabatini with a Memo that was referred to as PERD 59-11 (DPS Exhibit E). Ms. Jones explained in substance that this memo was put out by DRHM, and that it was meant to clarify holiday pay for 10 hour shift employees, and that it included examples agency payroll clerks could use to apply NAC 284.255 and NAC 284.256. Ms. Jones also testified in substance that the PERD 59-11 contained an example that was similar to Ms. Thomas' situation (Employee I).

Ms. Jones testified that she had also been contacted by Sheri Brueggemann ("Ms. Brueggemann") of DPS by email. Ms. Brueggemann told Ms. Jones about Ms. Thomas' contentions, and asked Ms. Jones for an interpretation of how NAC 284.256 worked. Ms. Jones explained in substance that she pulled a past EMC decision which included a memo from the Department of Personnel Director that explained how holiday pay worked when an employee worked a holiday and when an employee did not work a holiday, when it was the employee's regular day to work a holiday and when it was not the employee's regular day to work a holiday, and that she used phrases from that memo when explaining the matter to Ms. Brueggemann.

Ms. Jones also explained in substance how holiday pay worked under NAC 284.256. Ms. Jones explained that NAC 284.256 addressed when an employee worked on a holiday, and whether the holiday was on the

employee's regular day to work or not, and that the regulation addressed holiday premium pay, which meant pay or comp time at the employee's normal rate for hours designated as worked on a holiday, but not hours considered as overtime pursuant to NRS 284.180. Ms. Jones added in substance that PHPRM was more specifically defined in PERS (Public Employee Retirement System of Nevada) statutes, where PERS said that for any hours worked on a holiday when the holiday was within the employee's normal work week, then the employee would receive PHPRM, but if the holiday was outside of the employee's normal work week the employee would receive POT, in addition to the regular straight holiday pay (PDOH) that the employee would receive under NAC 284.255.

Ms. Jones also explained that NAC 284.256(2) went into further detail about when an employee working on a holiday was entitled to receive PHPRM, and when an employee was entitled to receive POT or comp time, and that this was in addition to the holiday pay that an employee received pursuant to NAC 284.255, which gave the employees the 8 hours holiday pay. Ms. Jones also stated in substance that an employee was not entitled to receive all forms of the compensation under NAC 284.256(2) at the same time.

Ms. Jones, in response to questioning, examined the pay adjustment submitted by DPS, and stated that it showed the correct amount of pay that Ms. Thomas was to receive for working on the Veteran's Day Holiday, and thus DPS paid Ms. Thomas the correct amount of pay for working 6 hours on November 10, 2017. Ms. Jones also testified in substance that State employers were not allowed to deviate from the regulations concerning how to pay their employees holiday pay. Ms. Jones stated that there were instances where employers had the authority to modify employee timesheets, and that this action was allowed by NAC 284.5255(5). A modification of timesheet would occur if, after review of the employee's timesheet, an error was discovered, then the employer was allowed to modify the employee's timesheet in accordance with regulation and agency policy.

Ms. Jones also testified that PERS defined what was considered compensation, and in that definition PERS included PHPRM for an employee who worked on a holiday when the holiday workday was part of the employee's normal shift. Ms. Jones also testified in substance that, with respect to time an employee worked on a holiday counting towards retirement, that hours were reported to the PERS if an employee worked on a holiday and the holiday happened to be a regularly scheduled work day for the employee.

The EMC deliberated on the matter. Committee Member Bauer stated in substance there was evidence that DPS had clearly and consistently applied the regulations concerning holiday pay to its employees, and that DPS has accurately interpreted the regulations related to holiday pay. Committee member Beigel added in substance that she did not see where

DPS had done anything incorrectly with regards to paying Ms. Thomas for her work on the holiday, or with respect to modifying Ms. Thomas' timesheet. The remaining EMC members voiced their agreement with Committee Member Beigel's comments. The EMC voted unanimously to deny the grievance.

FINDINGS OF FACT

Based upon the testimony of the witnesses, the arguments made by the parties, and the briefs, evidence, and documents on file in this matter, the EMC makes the following findings of fact. All findings made are based upon a preponderance of the evidence.

1. Grievant is a Public Safety Dispatcher III with DPS, and was employed as such at the time of her grievance.
2. Grievant was a non-exempt State of Nevada employee.
3. On November 10, 2017, Grievant worked six hours.
4. November 10, 2017 was not a day that Grievant was scheduled to work.
5. November 10, 2017, was considered a holiday for State of Nevada employees.
6. Grievant was in paid status for at least a portion of her shift prior to November 10, 2017.
7. Grievant filled out a timesheet for November 10, 2017, and claimed 14 hours PDOH and 6 hours POT on her timesheet.
8. DPS did not believe that Grievant filled out her timesheet correctly for the time she worked on November 10, 2017.
9. DPS believed that Grievant was entitled to be paid for 8 hours PDOH and 6 hours POT for Grievant working 6 hours on November 10, 2017.
10. DPS reviewed applicable regulations and statutes related to employee pay for working on holidays.
11. DPS wanted to be sure that they were interpreting applicable regulations correctly, and as a result, DPS, through Ms. Sabatini and Ms. Brueggemann, contacted Ms. Jones of DHRM Central Payroll.
12. Ms. Jones reviewed information sent to her from DPS about the matter.
13. Ms. Jones determined, after her review of the information sent by DPS and considering NAC 284.255 and NAC 284.256, that DPS had correctly interpreted applicable regulations.
14. DPS was correct in its determination of the classification of pay for the hours Ms. Thomas worked on November 10, 2017, and in the amount of pay Ms. Thomas was to receive for working on November 10, 2017.
15. A nonexempt employee is entitled to receive one of the following types of compensation for working on a holiday: PHPRM, POT, or compensatory time. An employee is not entitled to receive all three types of compensation simultaneously for working the particular holiday.
16. DPS modified Grievant's timesheet pursuant to NAC 284.5255.

17. DPS modification of Grievant's timesheet was appropriate under the circumstances.
18. DPS compensated Grievant by paying her 8 hours PDOH and 6 hour POT.

CONCLUSIONS OF LAW

1. For this grievance, it was Grievant's burden to establish that she was entitled to 14 hours PDOH and 6 hours POT. It was also Grievant's burden to establish that DPS incorrectly modified her timesheet under the circumstances as presented.
2. The EMC has the final authority to "adjust grievances." NRS 284.073(1)(e).
3. A grievance is any act, omission or occurrence which an employee who has attained permanent status feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee. NRS 284.384(6).
4. Ms. Thomas' grievance falls within the jurisdiction of the EMC under NRS 284.073(1)(e).
5. Pursuant to NAC 284.255 and NAC 284.256, when a non-exempt State employee works either 40 hours weekly or 80 hours bi-weekly, and the employee worked on a holiday that fell on the employee's regularly scheduled day to work, then the employee was entitled to PHPRM, assuming that the employee has not adjusted his or her work schedule, and assuming that the employee was in paid status for any portion of the employee's shift immediately preceding the holiday.
6. Pursuant to NAC 284.255 and NAC 284.256, when a non-exempt State employee worked either 40 hours weekly or 80 hours bi-weekly, and the employee worked on a holiday when the employee was originally scheduled to have the holiday off, then the employee was entitled to PDOH, and also to POT for any time the employee worked on the holiday, assuming the employee was in paid status for any portion of the employee's shift immediately preceding the holiday.
7. Pursuant to NAC 284.256, a non-exempt employee who worked on a holiday was entitled to receive PHPRM, POT or comp time, and that this was in addition to any other holiday pay that an employee was entitled to receive pursuant to NAC 284.255; however, the employee was not entitled to receive all forms of compensation (PHPRM, POT and comp time) simultaneously for working on a holiday.
8. Pursuant to NAC 284.5255(5), a supervisor or person responsible for the coordination of payroll for an agency may change an entry on an employee's timesheet in accordance with agency policy.
9. Pursuant to NAC 284.5255(5) when an agency changes an employee's timesheet the agency must notify the employee of the change.
10. Ms. Thomas was entitled to PDOH, and not PHPRM, because she was not scheduled to work on November 10, 2017.
11. Ms. Thomas was also entitled to POT for the 6 hours she actually worked on November 10, 2017.

12. DPS correctly modified Ms. Thomas' timesheet pursuant to NAC 284.5255(5) in order to reflect that Ms. Thomas earned 8 hours PDOH and worked 6 hours, and so earned 6 hours POT.
13. DPS notified Ms. Thomas pursuant to NAC 284.5255(5) of the modification to her timesheet.
14. A PHPRM code is reported to PERS for retirement purposes, while neither a PDOH code nor a POT code are reported to PERS for retirement purposes.

Member Bauer moved to deny grievance #5478 based on evidence provided that clarified the State's consistent and accurate application of NAC 284.250, NAC 284.255 and 284.256.

Member Bauer also stated based on testimony provided, training is already being held at the State agency and at the State level.

MOTION: Moved to deny grievance #5478 as the agency did not violate NAC 284.250, NAC 284.255 and 284.256 and that the referenced NAC's were applied consistently.

BY: Member Jennifer Bauer

SECOND: Member Adria White

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

8. Discussion and possible action related to Grievance #5711 of Anthony Cannon, Department of Health and Human Services – Action Item

Chair Hagler stated she would allow the Committee a few minutes to review the packet.

Chair Hagler opened the Committee for discussion.

Member DuPree stated the grievant was upset that the agency did not use a secure email to respond to his issues, the agency sent the email to the grievant's 'g-mail' account.

Member DuPree stated it disturbed him that the agency did not understand the 's' in 'https' meant 'secure'.

Member DuPree stated there is a difference in a secure state website for transmitting personal information and a 'g-mail' account.

Member Bauer stated the grievance was on the agenda not for a hearing, but for a decision whether the Committee puts the grievance forward to hearing, and she was unsure what an actual hearing would resolve for the grievant.

Member Bauer stated it appeared the proposed resolution is just for the grievant to be provided with information and/or policies that authorize the release of confidential information.

Member Bauer stated it appeared the agency may have resolved the issue in the four steps of the grievance, she was unsure what a hearing would accomplish further than the previous steps.

Chair Hagler stated she agreed.

Chair Hagler stated through the steps in the grievance process, the agency clarified the only information in the email was the grievant's title and his name.

Chair Hagler stated the grievant gave the agency the g-mail address to send back the findings letter and was not sure why the grievant grieved the issue.

Member Russell stated the only resolution the Committee may be able to provide, should the matter be moved to hearing, is educating the grievant.

Member Russell stated because the grievant was not satisfied with the agency responses at grievance steps 1 through 3, there must be information missing or there is a miscommunication between the grievant and the Committee and the grievance should be moved to hearing, however, Member Russell clarified she was not making a motion.

Member Beigel stated she agreed with moving the grievance forward to hearing.

Member Beigel stated the grievant still felt grieved but was unsure if the Committee could resolve the issue.

Member Beigel stated it looked like the issue had been explained to the grievant but the Committee may need to educate him, and the grievant would get to have his case heard.

Chair Hagler asked if anyone was ready to make a motion.

Member DuPree moved that the grievance be moved to hearing because the grievant needs to have his issues heard.

Member Russell seconded the motion.

The vote was a tie with three members voting 'aye' and three members voting 'nay'.

Chair Hagler stated with a tie, the Committee should have some further conversation on the grievance.

Chair Hagler asked if the Committee was moving the grievance forward just to allow the hearing, in that the Committee has jurisdiction over the grievance.

Chair Hagler stated her concern was, she did not see where the agency violated an NAC or an NRS.

Chair Hagler stated the grievant stated *in* his grievance he gave the email address to the agency to send the letter to, but now he is grieving the letter was sent to that email.

Chair Hagler stated that is why she voted 'nay', that it was concerning if you ask for information to be sent to that email, but then say it's not secured.

Chair Hagler asked if the Committee would like to have further conversation as to why they should move it forward, other than just having the hearing.

Member Russell stated she did not believe the purpose of the Committee is only to determine whether or not an agency has violated a policy, regulation or statute.

Member Russell stated there have been times where the end result of a hearing, even though the Committee was unable to grant a grievance or proposed resolution, was to educate the employees and the agencies.

Member Russell stated in this case, the communication has not been successful between the agency and the grievant.

Member Russell stated with the addition of getting further information that may not be in the paperwork, the Committee may need to better educate or fill in the communication gap between the party that feels they are grieved and the agency.

Chair Hagler stated she understood where Member Russell was coming from and that she would agree.

Chair Hagler stated she felt like the parties had already resolved the issue.

Chair Hagler stated the response at step 2 from Steve Fisher stated the agency agreed with Ms. Duley's response at step 1 and support Ms. Duley's resolution, which was 'the documents and information from the Division of Welfare and Supportive Services (DWSS) Human Resources and the grievant's supervisory chain of command would be communicated to the grievant through his work email address, in person or by mail and that the resolution has already been implemented and would remain in place going forward'.

Chair Hagler stated the grievant did not refute the resolution in his response and the grievance was submitted to the agency at step 3.

Chair Hagler stated if the grievance has already been resolved and the Committee brings it to a hearing, what is the Committee going to resolve.

Member Beigel stated the grievance may appear to be resolved in the paperwork but the Committee doesn't have all the facts and it would be hard to say if there is an actual policy or procedure implemented to prevent this from occurring again.

Chair Hagler opened the Committee for another motion whether to move this grievance to hearing.

Member DuPree moved to move the matter to a hearing stating that whether the Committee knows if the agency did something wrong or not, everyone deserves to have their issues heard.

Member Russell seconded the motion.

The vote was a tie with three members voting 'aye' and three members voting 'nay'.

Chair Hagler stated the Committee is there to hear a grievance, in this case the employee felt he was grieved because he felt that personal information was sent

out, the agency addressed there was no personal information, it was just the grievant's name.

Chair Hagler stated the grievant stated in his step 1 response his concern was there may be another Anthony Cannon, but the letter did go to his email.

Chair Hagler stated there is no violation of an NAC or NRS, and reiterated the agency sent a letter to an email per the grievant's request.

Chair Hagler stated while she realizes the Committee is there to allow an employee to come forward, the Committee also has a responsibility for the agencies and the employees as well.

Chair Hagler asked (rhetorically) is the Committee going to send a grievance to hearing just to have them come in and say the grievance has already been resolved?

Member Beigel stated the agency said the grievance is resolved but the grievant must not feel it is resolved since he pushed the grievance forward.

Chair Hagler stated it seemed the Committee wanted to push the grievance forward just so the grievant could 'have his day in court', but generally when looking at an agendized item, it's because the Committee feels like the agency violated an NAC or an NRS, which the grievant does not indicate; the grievant is saying the agency sent a letter in an email, to the address provided by the grievant, then stated the email address was unsecured.

Member DuPree stated the agency did 'screw up a little bit' because the Human Resource person asked the Department head which email address to send the letter to and was directed to send it to the 'g-mail' address in question.

Chair Hagler stated the grievant sent the agency a request for the findings letter via email; the agency sent the letter, via email back to the original email the request was sent on and asked what has the agency violated.

Chair Hagler asked what the resolution would be if the agency has already resolved the issue.

Chair Hagler stated the grievance referenced WAM and Mr. DuPree replied that is Welfare Administrative Manual and that is not what the Committee does.

Chair Hagler stated the grievant was not saying there was any personal information, just that the email went to an Anthony Cannon and there could be multiple Anthony Cannons', but it was his email he provided to the agency and the request for the findings letter was requested on that email.

Member DuPree stated the email address was among email addresses the agency had for the grievant.

Chair Hagler stated the grievance read, 'you sent an email to me from acwss@gmail to request the findings letter. In response to your request and at my direction, Ms. Meads sent the findings letter to the email you used to make the request'.

Member DuPree requested to call another vote on the previous motion.

Chair Hagler stated she would entertain a motion whether or not to move the grievance forward to a hearing.

Member White moved not to move this grievance to hearing as the agency did not violate any NRS or NAC, and simply replied to the email sent by the grievant.

Member Bauer seconded the motion.

Chair Hagler asked if there was any discussion on the motion.

Member Russell stated she had an issue with limiting the scope of the Committee to NAC's and NRS's.

Member Russell stated WAM is a set of policies and or procedures for the agency this grievance is coming from, whereas when the Committee hears grievances from the Department of Corrections, the Committee considers their Administrative Regulations (AR's).

Chair Hagler stated Member Russell was correct, however the issue is how could the grievant be grieved if he requested information on an email and the agency responded to the email the grievant sent.

Member Beigel stated she knows there are some things you are not allowed to send via email, they have to be sent by regular email or hand delivered.

Member Beigel stated she did not know if this email was one of those items and without going to a hearing, she wouldn't know.

Chair Hagler asked Mr. Whitney since there was a motion and a second, if the Committee should be opened up for a new motion or should the Committee vote on the way it was presented.

Mr. Whitney stated the proper procedure would be to vote on the way it was presented.

Mr. Whitney stated that as the vote has been made already, the only thing that could be done is a member that was in the majority could make a motion for reconsideration.

MOTION: Moved to not move this grievance to hearing as the agency did not violate any NRS or NAC, and simply replied to the email sent by the grievant.

BY: Member White

SECOND: Member Bauer

VOTE: The vote was 4 to 2 in favor of the motion, with Member Russell and Member Beigel voting 'nay'.

9. Public Comment

There were no comments from the audience or Committee Members.

10. Adjournment

Chair Hagler adjourned the meeting at approximately 1:13 pm.