



STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
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Meeting Minutes of the Employee-Management Committee
July 13, 2017

Held at the Division of Insurance Building, 1818 College Pkwy, Hearing Room, Carson City, Nevada, and the Grant Sawyer Building, 555 E. Washington Ave., Room 1400, Las Vegas, Nevada, via videoconference and teleconference.

Committee Members:

Management Representatives	Present
Ms. Mandy Hagler–Chair	X
Ms. Pauline Beigel	
Mr. Guy Puglisi	X
Ms. Sandie Ruybalid	
Mr. Ron Schreckengost	
Ms. Jennifer Bauer	
Employee Representatives	
Ms. Donya Deleon	
Mr. Tracy DuPree	
Ms. Turessa Russell	X
Ms. Sherri Thompson	X

Staff Present:

Ms. Dawn Buoncristiani, EMC Counsel, Deputy Attorney General
Ms. Nora Johnson, EMC Coordinator
Ms. Kara Morris, Hearing Clerk

1. Due to technical difficulties, Chair Mandy Hagler called the meeting to order at approximately 9:30 a.m.
2. **Public Comment**

There were no comments from the audience or Committee Members.

3. Adoption of the Agenda – Action Item

Chair Hagler requested a motion to adopt the agenda.

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

4. Approval of Minutes for April 20, 2017 – Action Item

Chair Hagler requested a motion to adopt the minutes.

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

5. Approval of Minutes for April 27, 2017 – Action Item

Chair Hagler requested a motion to adopt the minutes.

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

6. Adjustment of Grievance of William Wharton, #4744, Department of Corrections – Action Item

These matters were heard before the Employee Management Committee (“EMC”)¹ on July 13, 2017 pursuant to NAC 284.695 and NAC 284.6995 regarding Grievance #4744 filed by William Wharton (“Grievant”). Grievant was present and represented himself and the Nevada Department of Corrections (“Employer”) was represented by Deputy Attorney General Kathleen Brady.

The exhibits submitted to the EMC prior to the hearing were marked and entered into the record without objection. The Grievant, Lieutenant Jeremy Bean, and Warden Brian Williams were all sworn and appeared at the hearing.²

¹ The EMC members present at the hearing representing a quorum were as follows: Chair Mandy Hagler (Risk Management), Guy Puglisi (DHHS), Turessa Russell (UNLV), and Sherri Thompson (DETR). EMC Coordinator Nora Johnson, and counsel for the EMC, Deputy Attorney General Dawn Buoncristiani, were also present.

STATEMENT OF THE CASE

Grievant, William Wharton, is employed by the Nevada Department of Corrections as a Senior Correctional Officer at High Desert State Prison. Grievant filed a grievance claiming that employer's processes for the 2017 shift bid which required all officers to first bid for leave in five day blocks and nothing less and only after that is completed may they bid for days less than five was improper.

Grievant claims the process stripped employees of their bidding rights and impermissibly favors senior staff members because all leave would be gone by the time junior members were able to bid and the process would raise sick calls and overtime costs. Employer contends that the shift bid as implemented does not meet the definition of grievance under NRS 284.384, that the employer as the authority to implement the questioned shift bid procedures under NAC 284.539(1) which states that an appointing authority shall determine the time when annual leave is taken after considering the needs of the agency and the seniority wishes of the employee.

DECISION

The Committee reviewed the evidence; considered the statements of the witnesses and the arguments of counsel, and the parties; and deliberated on the record. There being no factual dispute over the implementation of the shift bid, the Committee's deliberation focused on whether the Employer was authorized to implement the questioned procedures.

The Committee noted that the Employer is empowered to take actions to comply with NAC 284.539(1) and that elective officers and heads of departments retain the ability to conduct and manage the affairs of their departments under NRS 284.020.

After discussion, the Committee concluded the Employer had not been shown to have violated any statute or regulation through its implementation of the shift bid procedures and denied the grievance and Grievant's proposed resolution.³

MOTION: Moved to deny grievance based on NAC 284.020 (2), the agency may conduct and manage the affairs of their departments as they see fit.
BY: Member Guy Puglisi
SECOND: Member Sherri Thompson
VOTE: The vote was unanimous in favor of the motion.

7. Discussion and possible action related to Grievance #4919 of Sonnette Caldwell-Barr, Department of Corrections – Action Item

Chair Hagler opened the committee for discussion.

³ Guy Puglisi made the motion that was seconded by Sherri Thompson. The Motion carried unanimously.

Member Russell asked the committee what specific issues they saw in the grievance to verify all members were on the same page.

Chair Hagler stated while the grievance is categorized as working conditions, it appears that the grievant filed a whistleblower complaint and is claiming hostile work environment and retaliation from the employee's supervisors. Chair Hagler stated those issues would have to be pursued in the Federal venue, as the EMC does not hear on hostile work environments or retaliation.

Chair Hagler stated that the grievant's proposed resolution, which is to remove the grievant from her current supervisors and transfer the grievant to a different facility, is a resolution the EMC would not be able to grant.

Chair Hagler stated there is nothing in the grievance that the EMC would have jurisdiction over if the grievance went to hearing.

Chair Hagler referred to a meeting between the grievant and Deputy Director David Tristan in which several issues were raised regarding the qualifications of the grievant's supervisors: Dr. Woods and Dr. Sexton but still did not show where the EMC would have jurisdiction.

Member Puglisi stated that if the elements of hostile work environment and retaliation were removed from the grievance, the agency is running the affairs of its department as it sees fit.

Member Puglisi referenced the step one resolution in which the agency at first agreed to the transfer of the grievant, but was unable to complete that transfer due to a commitment to another employee.

Member Puglisi then stated that the EMC cannot move employees due to lack of jurisdiction and that was all that was left of the grievance to be determined. All other issues in the grievance were Equal Employment Opportunity issues.

Member Thompson stated she agreed with Member Puglisi and did not feel the EMC has the jurisdiction to grant the resolutions proposed by the grievant.

Member Russell stated if the grievance went to a hearing, that it is very unclear what, if anything the EMC would be able to grant.

Chair Hagler asked if the committee was prepared to make a motion.

Member Puglisi moved to deny the grievance based on lack of jurisdiction, per NAC 284.695 (1), and NAC 284.658 (2) which provides relief by Federal law.

Chair Hagler restated Member Puglisi's motion and asked if there was a second from the committee, and Member Thompson seconded.

MOTION: Moved to deny grievance based on lack of jurisdiction, per NAC 284.695 (1) as well as NAC 284.658 (2), which may provide relief by Federal law.
BY: Member Guy Puglisi
SECOND: Member Sherri Thompson
VOTE: The vote was unanimous in favor of the motion.

8. Public Comment

There were no comments from the audience or Committee Members.

9. Adjournment

Chair Hagler adjourned the meeting at approximately 11:30 am.