



STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
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Meeting Minutes of the Employee-Management Committee
July 23, 2015

Held at the Blasdel Building, 209 E. Musser St., Room 105, Carson City, Nevada; the Grant Sawyer Building, 555 E. Washington Ave., Room 1100, Las Vegas, Nevada; and the Nevada Department of Transportation, 1401 E. Aultman St., Conference Room, Ely, Nevada, via videoconference.

Committee Members:

Management Representatives	Present
Mr. Mark Evans–Chair	X
Ms. Mandy Payette–Co-Vice-Chair	
Ms. Bonnie Long	
Ms. Claudia Stieber	
Ms. Allison Wall	
Ms. Michelle Weyland	X
Employee Representatives	
Ms. Stephanie Canter–Co-Vice-Chair	X
Ms. Donya Deleon	
Mr. Tracy DuPree	X
Mr. David Flickinger	
Ms. Turessa Russell	
Ms. Sherri Thompson	

Staff Present:

Mr. Robert Whitney, EMC Counsel, Deputy Attorney General
Ms. Carrie Lee, EMC Coordinator
Ms. Jocelyn Zepeda, Hearing Clerk

- 1. Chair Mark Evans:** Called the meeting to order at approximately 9:10 a.m.

2. Public Comment

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

3. Adoption of the Agenda – Action Item

Chair Evans requested a motion to adopt the agenda.

MOTION: Moved to approve the adoption of the agenda.
BY: Committee Member Tracy DuPree
SECOND: Committee Member Michelle Weyland
VOTE: The vote was unanimous in favor of the motion.

4. Approval of Minutes for March 12, 2015 – Action Item

Chair Evans requested a motion to approve the minutes.

MOTION: Moved to approve the minutes.
BY: Committee Member Michelle Weyland
SECOND: Committee Member Tracy DuPree
VOTE: The vote was unanimous in favor of the motion.

5. Approval of Minutes for June 18, 2015 – Action Item

Chair Evans requested a motion to approve the minutes.

MOTION: Moved to approve the minutes.
BY: Co-Vice-Chair Stephanie Canter
SECOND: Committee Member Michelle Weyland
VOTE: The vote was unanimous in favor of the motion.

6. Adjustment of Grievance of Russell Lyons, #3497, Department of Corrections – Action Item

Grievant Russell Lyons (“Mr. Lyons” or “Grievant”) was present in proper person. The agency employer Department of Corrections (“NDOC”) was represented by Personnel Officer II Brian Boughter (“Mr. Boughter”).

Prior to the grievance hearing a Motion to Dismiss made by NDOC was heard by the Committee. NDOC argued that Administrative Regulation (“AR”) 301, which Mr. Lyons referred to in his grievance, did not apply to the facility where Mr. Lyons worked, the Ely Conservation Camp (“ECC”). Additionally, NDOC argued that Mr. Lyons never said he had received any disparate treatment, and that in fact there was no disparate treatment of Mr. Lyons. Thus, NDOC argued, the Committee did not have the authority to grant Mr. Lyon’s proposed resolution.

Mr. Lyons in substance argued that his supervisor had decided on his own to change an Operational Procedure (“OP”) without following procedure, that such behavior was a continuing issue, and that such action caused hostility and stress

in the working environment at ECC. Mr. Lyons stated in substance that AR 301 did not apply to ECC because it is a smaller facility, and that the NAC and NDOC's employee handbook stated that leave should be based on seniority, not rank.

Chair Evans opened the discussion on the Motion to Dismiss. Co-Vice-Chair Canter stated in substance that the Motion to Dismiss mentioned that the Committee had no authority to grant Grievant's proposed resolution and that AR 301 did not apply to ECC. If that was the case, Co-Vice-Chair Canter continued, why was AR 301 in use, being disseminated at ECC and changes being made to it. Co-Vice-Chair Canter stated that the hearing on the grievance should go forward, but not necessarily be granted, so Grievant would have the opportunity to be heard and NDOC could provide clarification. Committee Members Tracy DuPree and Michelle Weyland were in agreement. Chair Evans indicated that the EMC did not have jurisdiction, and that the best hope for resolution would be to make Grievant's supervisor and chain of command aware of the situation. Co-Vice-Chair Canter indicated that Grievant was not aggrieved, but the Motion to Dismiss didn't address that.

Chair Evans requested a motion.

MOTION: Moved to deny NDOC's Motion to Dismiss Mr. Lyons' grievance based on the fact that at the first level of the grievance response NDOC defended AR 301, and that it was not even mentioned until the second level of the response to the grievance that AR 301 did not apply to ECC.

BY: Co-Vice-Chair Stephanie Canter

SECOND: Committee Member Michelle Weyland

VOTE: The motion passed with a 3:1 majority vote. Co-Vice-Chair Canter and Committee Members Tracy DuPree and Michelle Weyland voted in favor, and Chair Mark Evans voted against.

After the vote, Chair Evans opened the hearing on the adjustment of the grievance. Both parties submitted exhibits; there were no objections to the exhibits. Mr. Lyons, Mr. Boughter and ECC Warden Renee Baker ("Warden Baker") were sworn in prior to testifying.

Mr. Lyons testified that he has been a Correctional Officer for 17 years, 14 of which had been at the Ely Conservation Camp. He stated in substance that his grievance really went back to 2010, and that it never seemed to have been addressed even though he reported violations of rules and regulations. Mr. Lyons further testified that a great deal of stress and hostility were created in the work environment when his supervisor, Lieutenant William Noah ("Lieutenant Noah"), decided to change an OP on his own without following the proper procedure and had Warden Baker sign off on the changes.

Mr. Lyons stated that Exhibit Six showed a grievance he filed back in December 2013, and that at that time he was denied two leave requests because Lieutenant Noah had decided to change the leave policy, and that furthermore, the second page of Exhibit Six indicated that the subject had come up in 2010. Mr. Lyons

further stated that at that time (2010) he had contacted Carla Crevling, NDOC Personnel Officer III, and asked if there was some way that an AR could be written for camps with 19 or less employees.

Mr. Lyons further explained in substance the procedure to request leave at NDOC, and testified that NDOC put up a seniority list in November of each year which could be contested. The employee would request leave and then the sergeant or lieutenant would review the request and determine if the time which the employee requested was available based upon seniority.

Mr. Lyons also noted that AR 322 (Exhibit Four) on bids for annual leave for correctional officers was governed by AR 301. Mr. Lyons testified that Paragraph Five of AR 322, Section B, said that leave for correctional officers subsequent to the bidding process could be accommodated depending on the availability of the relief factor. Mr. Lyons further stated in substance that if one looked at AR 301 (Exhibit Five) it stated that officers may be awarded their bids based on seniority and on other listed conditions. Mr. Lyons noted that AR 301 said that lieutenants, sergeants and trainees were not allowed to participate in shift bidding with full-time correctional officers and senior correctional officers. Mr. Lyons testified in substance that Lieutenant Noah had written his OP (301) to allow leave bidding by rank, not seniority, and that went directly against AR 301.

Mr. Lyons stated that Exhibit Two contained OP 301 which had been followed in the past, and which was the OP Warden Baker had signed off on. Mr. Lyons further stated that when the matter came up in November 2014, he brought the issue up with his sergeant and that the sergeant had replied that they were going to do things the way the Lieutenant wanted. However, Mr. Lyons said in substance that later Warden Baker made Lieutenant Noah go back and use the previous version of OP 301 which she had approved and in which leave was based on seniority, not rank.

Co-Vice-Chair Canter in substance asked if the OP that was changed in November 2014 was ever signed off by the Warden, or was the OP dated February 2013 still in effect. Mr. Lyons responded in substance that the OP dated November 2014 was never signed off on and that the February 2013 OP was in effect.

Mr. Lyons said in substance that he continued on with his grievance because Lieutenant Noah's response (in Exhibit 1) to his grievance indicated to him that the Lieutenant would continue in the future to try and change the OP in question. Mr. Lyons also stated in substance that another reason he continued with his grievance was because that he felt Lieutenant Noah's failure to follow the procedure of getting staff input when writing the OP was an abuse of authority, and that the Lieutenant had engaged in such action a couple of years before.

Mr. Lyons' proposed resolution included having NDOC address Lieutenant Noah's alleged behavior so that he would not continue to engage in the alleged behavior. Mr. Lyons also said that he would like to see NDOC create an

Administrative Regulation that dealt specifically with camps so that there would be no confusion by employees and so that everyone was on the same page.

Warden Baker testified that leave requests were submitted in November of each year and that leave was awarded based on years of service, not rank, and that she had specifically spoken to Lieutenant Noah about that fact. Warden Baker also testified in substance that she believed she was aware of the OP Lieutenant Noah had written after the fact, and couldn't recall if she had signed an OP that provided for leave selection by rank, but that when Mr. Lyons brought the matter to her attention she had the Lieutenant change the OP back to what it had been.

Warden Baker testified that AR 301 did not govern camps such as ECC. Furthermore, Warden Baker testified in substance that AR 301 said that shift bidding was for major institutions with 20 or more employees because if an institution had less than 20 employees it could become difficult to do shift bidding. Furthermore, Warden Baker stated in substance that AR 301 does talk about camps because it says it won't govern camps, and in response to questioning, stated in substance that the warden could decide how leave requests at conservation camps would be processed. Warden Baker indicated in substance that it was actually a "plus" that conservation camps do have a policy in place concerning leave requests because they are not required to. Warden Baker stated in substance that she recognized there were ongoing problems at the Ely Conservation Camp concerning leave requests, and that it was very difficult to schedule vacation at the camp.

The Committee considered the evidence and arguments of counsel and the parties and deliberated on the record. It was stated in substance by Co-Vice-Chair Canter that Mr. Lyons ultimately was not aggrieved because his leave request was approved, but that it was disappointing that he had to go through the process of bringing a grievance every year because of Lieutenant Noah's actions. Co-Vice-Chair Canter also noted that NDOC might not be behind Lieutenant Noah, and that perhaps if he did not understand his boundaries NDOC management could make them clear to him. Co-Vice-Chair Canter continued, and stated in substance that it was unnecessary to have an AR specifically for conservation camps, that the OP was clear, and had it been followed there would have been no issues. The other Committee Members stated in substance that they also believed that another AR for conservation camps was unnecessary. It was also stated in substance by EMC Chair Mark Evans that although NAC 284.539 gave agencies flexibility to deviate from making leave decisions based on seniority there still needed to be a legitimate reason to do so.

Chair Evans requested a motion.

MOTION: Moved to deny the grievance because the Grievant was not aggrieved; although there was confusion with alternate proposed leave policies, the policy that had been approved was the policy that was followed.

BY: Co-Vice-Chair Stephanie Canter

SECOND: Committee Member Tracy DuPree

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

7. Public Comment

There were no comments from the audience or Committee Members.

8. Adjournment

MOTION: Moved to adjourn.

BY: Committee Member Tracy DuPree

SECOND: Co-Vice-Chair Stephanie Canter

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