



STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
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Meeting Minutes of the Employee-Management Committee
August 25, 2016

Held at the Grant Sawyer Building, 555 E. Washington Ave., Room 1100, Las Vegas, Nevada, and the Blasdel Building, 209 E. Musser St., Room 105, Carson City, via videoconference.

Committee Members:

| Management Representatives | Present |
|-----------------------------------|----------------|
| Ms. Mandy Hagler–Chair | |
| Mr. Guy Puglisi | |
| Ms. Claudia Stieber | X |
| Ms. Allison Wall–Co-Vice-Chair | X |
| Ms. Michelle Weyland | |
| Ms. Pauline Beigel | |

| Employee Representatives | |
|------------------------------------|---|
| Ms. Stephanie Canter–Co-Vice-Chair | |
| Ms. Donya Deleon | |
| Mr. Tracy DuPree | |
| Mr. David Flickinger | X |
| Ms. Turessa Russell | X |
| Ms. Sherri Thompson | |

Staff Present:

- Mr. C. Wayne Howle, Chief Deputy Attorney General
- Mr. Greg Ott, EMC Counsel, Deputy Attorney General
- Ms. Carrie Lee, EMC Coordinator
- Ms. Jocelyn Zepeda, Hearing Clerk

- 1. Co-Vice-Chair Allison Wall:** Called the meeting to order at approximately 9:20 a.m.

2. Public Comment

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

3. Adoption of the Agenda – Action Item

Co-Vice-Chair Wall requested a motion to adopt the agenda.

MOTION: Moved to approve the adoption of the agenda.
BY: Committee Member Claudia Stieber
SECOND: Committee Member David Flickinger
VOTE: The vote was unanimous in favor of the motion.

4. Approval of Minutes for June 16, 2016 – Action Item

Co-Vice-Chair Wall requested a motion to adopt the minutes.

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

5. Approval of Minutes for July 7, 2016 – Action Item

Co-Vice-Chair Wall requested a motion to adopt the minutes.

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

6. Discussion and possible action related to Motion to Dismiss of Grievance #4188 of Shawn Hand, submitted by the Department of Health and Human Services, supporting documentation, and related oral argument, if any – Action Item

A Motion to Dismiss was submitted to the Employee-Management Committee (“EMC” or “Committee”) by the agency employer Department of Health and Human Services, Division of Child and Family Services (“DCFS”) which was represented by Personnel Officer III Darren Squillante. Shawn Hand (“Mr. Hand”) was present in proper person. Committee Member Flickinger disclosed he knew Brad Burgess, who was mentioned in the grievance, through training but that would not affect his ability to be impartial. There were no objections.

DCFS stated in substance the EMC did not have jurisdiction to hear the above-mentioned grievance as allegations of workplace violence or harassment are properly reviewed in other venues.

Mr. Hand stated in substance he was instructed by DCFS to follow the grievance process. Mr. Hand further stated in substance he made repeated telephone calls

to the Capitol Police and they investigated his concerns, but Mr. Hand questioned how the Capitol Police could base their decision on facts when they did not have a copy of the witness statement. Co-Vice-Chair Wall indicated in substance the Committee had read the witness statement included in the Employee Packet, but could not answer Mr. Hand's questions.

The Committee deliberated on the issues presented. Committee Member Stieber stated in substance the issues raised in Mr. Hand's grievance had been managed by the appropriate venues and the EMC had no jurisdiction to hear the grievance. Committee Member Flickinger was in agreement, and indicated DCFS was going down the right path in addressing the grievance.

Committee Member Russell questioned in substance where Mr. Hand would go for relief. Co-Vice-Chair Wall was in agreement with Committee Members Stieber and Flickinger, and added in substance the other venues determined the allegations made by Mr. Hand to be unsubstantiated. Committee Member Flickinger indicated in substance the grievance brought up issues DCFS could review. Co-Vice-Chair Wall was in agreement the grievance brought issues to light at DCFS.

Co-Vice-Chair Wall requested a motion.

MOTION: Moved to grant the motion to dismiss because the issues raised in the grievance allowed for other agencies to provide a hearing, and the EMC did not have jurisdiction over the substance of the grievance.

BY: Committee Member Stieber

SECOND: Committee Member Flickinger

VOTE: The motion carried with a 3:4 vote in favor of the motion; Committee Member Russell voted in the negative.

7. Discussion and possible action related to Grievance #4289 of Shawn Hand, Department of Health and Human Services – Action Item

Co-Vice-Chair Wall opened the discussion on Grievance #4289.

Committee Member Stieber noted in substance the grievance was similar to Grievance #4188 and was not in the proper venue as the grievance was on a topic that did not fall within the jurisdiction of the EMC. Committee Member Flickinger was in agreement and added in substance the Committee did not have jurisdiction to grant the proposed resolution. Committee Member Russell stated in substance the EMC was not limited to considering the proposed resolution and further stated in substance due to the previous decision on Grievance #4188 the EMC had no jurisdiction to hear Grievance #4289.

Co-Vice-Chair Wall stated in substance she was in agreement with the other Committee Members, and that Grievance #4289 was directed at DCFS not acting on Mr. Hand's complaint. Co-Vice-Chair Wall noted in substance that based on the information in the grievance Mr. Hand's complaint was investigated in another venue and was not within the authority of the EMC.

Committee Member Russell referred to the comments regarding Grievance #4188 where the EMC recognized issues DCFS should review.

Co-Vice-Chair Wall requested a motion.

MOTION: Moved to deny the request without a hearing as the issues raised allowed for other agencies to provide a hearing and the EMC lacked the authority and jurisdiction over the substance of the grievance.

BY: Committee Member Stieber

SECOND: Committee Member Flickinger

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

8. Adjustment of Grievance of Jeremy Peterson, #4260, Department of Corrections – Action item

Co-Vice-Chair Wall opened the hearing on the adjustment of Grievance #4260 filed by Jeremy Peterson (“Grievant”). Grievant was present and represented himself and the Nevada Department of Corrections (“NDOC”) was represented by Personnel Officer David Wright.

NDOC objected to proposed Exhibits 13 and 14 of the Grievant. The remaining exhibits submitted to the EMC prior to the hearing were marked and entered into the record without objection, and Exhibits 13 and 14 were removed from the packet and could be subject to further argument regarding admissibility. Grievant and Associate Warden Bruce Stroud (“Associate Warden Stroud”) were sworn and appeared at the hearing.

Grievant argued in substance he was forced to work forty-five (45) minutes of mandatory overtime on February 14, 2016, without the notice required by NAC 284.242. Grievant further argued in substance he was yelled at by supervisors and was in fear of coming to work on a daily basis because he feared retaliation.

NDOC argued in substance the time Grievant stayed after his shift constituted mandatory overtime under Nevada’s Administrative Code as it was simply manning the post until late relief arrived. NDOC additionally argued in substance that even if time was construed as mandatory overtime, it was justified as the need was caused by an unpredictable emergency which does not require notice under NAC 284.242. NDOC indicated in substance it did not violate statute or regulation by requiring Grievant to remain at his post until relief arrived on the day in question and Grievant cannot establish any violations on the days in question as there was no documentation that posts were closed before the authorizing overtime.

Associate Warden Stroud testified in substance he believed that call offs and inmates in the hospital required nearly twenty (20) staff to work overtime on the day in question and that constituted an emergency under the regulation because of the inability to plan for all eventualities such as call offs and unpredicted illnesses. He also testified in substance there was no defined time when late relief transitioned into mandatory overtime; supervisors were always to use the

voluntary overtime list first, but if an officer was not relieved, the officer was required to stay.

Grievant testified in substance that High Desert State Prison was not following NAC 284.242 by routinely notifying officers less than four hours prior to when they would be required to stay late if relief did not arrive on time. He stated late relief was always paid as overtime and some supervisors would treat late relief as mandatory overtime by removing them from the mandatory overtime list. Grievant also stated in substance he had never refused overtime, but was asking NDOC to improve its policies and consistency so that NDOC complied with NAC 284.242.

The Committee, after having read and considered all of the documents filed in this matter and having heard oral argument, deliberated on the issues presented. Committee Member Stieber noted in substance Grievant requested several changes to policies in his proposed resolutions and these requests were beyond the EMC's jurisdiction. Committee Member Russell stated in substance there was a lack of consistency in NDOC's policies. Co-Vice-Chair Wall stated in substance NDOC was currently reviewing its policies and had the authority to interpret its policies within reason.

Co-Vice-Chair Wall requested a motion.

MOTION: Moved to deny the grievance as the grievant did not meet his burden to establish NDOC violated any policies or law.
BY: Committee Member Stieber
SECOND: Committee Member Flickinger
VOTE: The vote was unanimous in favor of the motion.

9. Public Comment

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

10. Adjournment

Co-Vice-Chair Wall requested a motion.

MOTION: Moved to adjourn.
BY: Committee Member Flickinger
SECOND: Committee Member Russell
VOTE: The vote was unanimous in favor of the motion.