



**STATE OF NEVADA EMPLOYEE-
MANAGEMENT COMMITTEE**

100 N. Stewart Street, Suite 200 | Carson City, Nevada 89701
Phone: (775) 684-0135 | www.hr.nv.gov | Fax: (775) 684-0118

**Meeting Minutes of the Employee-Management Committee
(Subject to Committee Approval)**

Date: September 3, 2020

Pursuant to Governor Sisolak's Declaration of Emergency Directives 026 and 029, requirement contained in NRS 241.023(1)(b) that there be a physical location designated for meetings of public bodies where members of the public are permitted to attend and participate, is suspended in order to mitigate the possible exposure or transmission of COVID-19 (Coronavirus). All meetings are held on MS Teams, and recorded.

Committee Members:

Management Representatives	Present
Ms. Pauline Biegel-Chair	X
Ms. Jennifer Bauer	X
Mr. Tracy Dupree	X

Employee Representatives

Ms. Turessa Russell	X
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Staff Present:

Mr. Robert Whitney EMC Counsel, Deputy Attorney General
Ms. Breece Flores, EMC Coordinator
Ms. Ivory Wright, EMC Hearing Clerk

1. Call to Order

Chair Biegel called the meeting to order on Thursday, September 3, 2020 at 11:00 a.m.

2. Public Comment

There were no comments from the audience or Committee Members.

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

Chair Pauline Biegel, Nevada Department of Transportation, opened the meeting by introducing herself.

Jennifer Bauer, Medical Administrator for the Department of Corrections, introduced herself.

Tracy DuPree, Department of Employment, Training, and Rehabilitation, introduced herself.

Turessa Russel, University of Nevada, Las Vegas, introduced herself.

Breece Flores, EMC Coordinator for the Carson City Office, introduced herself.

Ivory Wright-Tolentino, EMC Admin Clerk, introduced herself.

Robert Whitney, Deputy Attorney General, introduced himself.

4. Adoption of the Agenda – Action Item

Chair Biegel entertained a motion to adopt the agenda.

Jennifer Bauer made a motion to adopt the agenda.

Tracy DuPree seconded the motion. The motion passed unanimously.

MOTION: To adopt the agenda.
BY: Member Bauer
SECOND: Member DuPree
VOTE: The vote was unanimous in favor of the motion.

5. Discussion and possible action related to Grievance #7083 Griffith Clark, Department of Health and Human Services, an appeal of a withdrawal of the grievance by Division of Human Resource Management (DHRM) pursuant to NAC 284.693 – Action Item

This matter came on for hearing before the Employee-Management Committee on

September 3, 2020.

Chair Biegel informed the Committee that possible action may include reviewing the appeal and either affirming DHRM's decision to remove the grievance from the grievance process or reversing the decision and reinstating the agreements at the level at which it was withdrawn.

Jennifer Bauer indicated that there could possibly be several concerns raised by the grievance in this process, one being the date on which the ESMT was signed to change the status to permanent. Member Bauer further indicated that there does not appear to be an executed ESMT document signed by the appointing authority and the agency, thus giving the appearance that the agreement was not permanent in the promotion, therefore not giving Mr. Clark rights to grieve a reversion from a trial period or probationary period.

Chair Biegel concurred, reiterating that the resolution had nothing to do with that position at that point, thus indicating that this is not within the purview of the Committee.

Jennifer Bauer supported Chair Biegel's supposition that the proposed resolution is not something the EMC could hear or upon which it could act. Member Bauer opined that the grievant possibly does not understand the role of the EMC with the proposed resolutions that were requested given that these requests were specific to the termination of other employees and monies for a flexible savings account, travel and lodging, and full retirement status.

Tracy DuPree concurred that granting the grievant's request is outside of the purview of the EMC.

Turessa Russell indicated the importance of wording the denial accordingly so as not to have the grievance come forward with something other than the proposed resolution.

Chair Biegel directed members to the top of Page 2 of the agenda, which delineates the options of the EMC: to affirm DHRM's decision or to reverse it rather than to deny the grievance.

Member DuPree made a motion to affirm DHRM's decision to remove grievance No. 7083 from the grievance process.

Member Bauer seconded the motion. The motion carried unanimously.

MOTION: Moved to affirm DHRM's decision to remove grievance No. 7083 from the grievance process
BY: Member DuPree
SECOND: Member Bauer
VOTE: The vote was unanimous in favor of the motion.

6. Discussion and possible action related to Grievance #7102 Patricia-Mae Ezidiegwu, Department of Health and Human Services – Action Item

This matter came on for hearing before the Employee-Management Committee on September 3, 2020.

Chair Biegel informed the Committee that possible action may include reviewing the request for consideration to determine if the grievance can be answered without a hearing, if the matter is based upon an EMC's previous decision, or does not fall within the EMC's jurisdiction.

Chair Biegel indicated that this grievant has two grievances, agenda items 6 and 7.

Jennifer Bauer informed the Committee that she does not see anything in this grievance where the grievant has alleged anything that would be under the jurisdiction of the EMC and rather it appears that another venue would be more appropriate for the allegation and the complaint.

Robert Whitney indicated that NAC 284.696, unlawful discrimination, is the NAC to which the Committee should refer when determining whether or not the grievance falls under the jurisdiction of the EMC. DAG Whitney further indicated that if the Committee does not feel that the grievance falls within the jurisdiction because there's a hearing provided through the federal process, then the definition of grievance itself can be used as outlined in NAC 284.658.

Turessa Russell concurred that this grievance could not move forward.

Chair Biegel made a motion to deny Grievance No. 7102 based on the fact that it does not meet the definition of a grievance per NAC 284.658.

Member Bauer offered some revisions to the motion.

Chair Biegel revised the motion to answer grievance 7102 without a hearing based on the EMC's lack of jurisdiction per to NAC 284.658 and pursuant to NAC 284.696, a remedy may be available through other venues.

Member Bauer seconded the motion. The motion carried unanimously.

MOTION:	Moved to answer grievance No. 7102 without a hearing
BY:	Chair Biegel
SECOND:	Member Bauer
VOTE:	The vote was unanimous in favor of the motion.

7. Discussion and possible action related to Grievance #7103 Patricia-Mae Ezidiegwu Department of Health and Human Services – Action Item

This matter came on for hearing before the Employee-Management Committee on September 3, 2020.

Chair Biegel indicated that possible action may include reviewing the request for consideration to determine if the grievance can be answered without a hearing if the matter is based upon EMC's previous decision or does not fall within the EMC's jurisdiction.

Jennifer Bauer indicated that there is nothing substantially different in this grievance than in grievance 7102. Member Bauer further indicated the existence of allegations of racial discrimination, sex discrimination, hostile workplace harassment, intimidation, offensive conduct, provocation, and retaliation, all of which are more appropriate in another venue than the EMC.

Member Bauer made a motion to answer grievance 7103 without a hearing based on the EMC's lack of jurisdiction per to NAC 284.658 and pursuant to NAC 284.696, a remedy may be available through other venues.

Member Russell seconded the motion. The motion carried unanimously.

MOTION: Moved to answer grievance No. 7103 without a hearing
BY: Member Bauer
SECOND: Member Russell
VOTE: The vote was unanimous in favor of the motion.

8. Discussion and possible action related to Grievance #7175 Kristina Craig, Department of Health and Human Services – Action Item

This matter came on for hearing before the Employee-Management Committee on September 3, 2020.

Chair Biegel indicated that possible action may include reviewing the request for consideration to determine if the grievance can be answered without a hearing if the matter is based upon an EMC's previous decision or does not fall within the EMC's jurisdiction.

Turessa Russell questioned if the core issues on this issue are affected because the work performance standards are not on the updated form.

Chair Biegel indicated that the core issues are not affected by this issue.

Jennifer Bauer concurred with Chair Biegel.

Chair Biegel explained her understanding that the grievant is stating in this grievance that she was being asked to perform duties not included in her job description.

Turessa Russell indicated her uncertainty if the Committee should go into percentages, which were not included on the newer form.

Chair Biegel indicated her belief that the Committee did not need to go into percentages.

Jennifer Bauer asked for confirmation that all existing work performance standards were due to be placed on the new form by 06/30/2020.

Chair Biegel confirmed that for those starting new positions after June of 2020, the new form should have been used. Chair Biegel further indicated that this grievant did start

after that date and therefore should be on the new form. However, Chair Biegel indicated that the grievance is in relation to an evaluation but no evaluation was included in the packet and the person has been let go.

Jennifer Bauer confirmed that the Step 3 response from the agency indicates that the grievant failed to attain permanent status as psychiatric nurse IV.

Chair Biegel indicated that on page 5, the grievant alleges that the job posting did not match the job duties, an evaluation had both false and inaccurate information, work performance standards that were changed six months into a job, and lack of training. Chair Biegel further indicated her inclination to not send this grievance to hearing because it would fall under the purview of the agency to run its business as it sees fit.

Tracy DuPree indicated that the grievant was on probation did get demoted back to her old position and pointed out that the EMC regulations state that the EMC has no jurisdiction over someone on probation for a new job.

Jennifer Bauer asked for confirmation that although the EMC did not have a fully executed copy of the work performance entered, the Committee does have a copy signed by the grievant on January 7, 2020 as well as the March 6, 2020 response to the grievant's request for review of report on performance.

Chair Biegel confirmed that this was correct.

Jennifer Bauer indicated that regardless of the form that the work performance standards were on, the employee did receive work performance standards and that there was a response to request for review. Member Bauer also indicated that this is not necessarily relevant in that although the work performance standards review is good business practice, the state regulations do not hold an agency accountable.

Chair Biegel concurred that the agency should be doing those things that the grievant claims were not being done and indicated that although the grievant did not have the correct work performance standards, this was outside the purview for the Committee.

Turessa Russell indicated her concern about the possibility of employees on probationary status losing rights in terms of evaluations but concurred that this was outside of the purview of the Committee.

Jennifer Bauer indicated that the grievant noted in her complaint that trial reversion is not the issue. However, Member Bauer continued, her complaints are something that cannot be acted upon during an employee's trial period. As such, Member Bauer indicated that she sympathizes with the grievant, but because the employee was on trial period, the grievant does not have the ability to file a grievance or use the grievance procedure per NAC 284.458.

Chair Biegel suggested adding NAC 284.658 into the motion given that it defines grievance.

Member Bauer made a motion to answer Grievance No. 7175 without a hearing based on the fact that complaints made by the grievant occurred during a trial period.

Pursuant to NAC 284.658, a permanent employee who is serving a trial period does not have the right to file a grievance using the grievance procedure set forth in NAC 284.658 and NAC 285.697.

Member DuPree seconded the motion. The motion carried unanimously.

MOTION: Moved to answer grievance No. 7175 without a hearing
BY: Member Bauer
SECOND: Member DuPree
VOTE: The vote was unanimous in favor of the motion.

9. Discussion and possible action related to Grievance #6575 Rona Gladden, Department of Health and Human Services – Action Item

This matter came on for hearing before the Employee-Management Committee on September 3, 2020.

Chair Biegel indicated that possible action may include reviewing the request for consideration to determine if the grievance can be answered without a hearing if the matter is based upon EMC's previous decision or does not fall within the EMC's jurisdiction.

Jennifer Bauer indicated that this appears to be a grievance regarding a personal conflict between coworkers rather than between an employee and management and as such, this would be a mediation issue rather than a grievance issue.

Turessa Russell indicated that the grievance appears to be a possible hostile work environment, and this is outside of the jurisdiction of the Committee.

Chair Biegel suggested that the mediation route might be better than the hostile work environment route in this case.

Tracy DuPree concurred that the EMC is not the appropriate venue for this grievance and that mediation would be a better route.

Jennifer Bauer stated for the record that she is a certified mediator for the Division of Human Resource Management and that she fully supports that program. Member Bauer further commended the excellent work of voluntary mediators.

Member Bauer made a motion to answer Grievance No. 6575 without a hearing based on the fact the grievance does not meet the definition set forth in NAC 284.658; further the Employee Management Committee encourages the grievant to seek mediation available through the Division of Human Resource Management

Member Russell seconded the motion. The motion carried unanimously.

MOTION: Moved to answer grievance No. 6575 without a hearing
BY: Member Bauer
SECOND: Member Russell
VOTE: The vote was unanimous in favor of the motion.

10. Public Comment

Chair Biegel opened the floor to public comment.

There was no public comment.

11. Adjournment

Chair Biegel adjourned the September 3, 2020 meeting of the Employee Management Committee at 12:08 p.m.