



STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE

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Mark Evans
Chair

Stephanie Canter
Co-Vice-Chair

Mandy Payette
Co-Vice-Chair

Carrie L. Parker
Deputy Attorney General

Robert A. Whitney
Deputy Attorney General

Minutes of the Employee-Management Committee
February 6, 2014

Held at the Nevada Division of EPA, 2030 E. Flamingo Road, #230, Red Rock Conference Room, Las Vegas, NV 89119, and the Bryan Building, 901 S. Stewart Street, Tahoe Conference Room, 2nd Floor, Carson City, Nevada 89701, and will be connected by videoconference. The public is invited to attend at either location.

Committee Members:

Management Representatives	Present
Mr. Mark Evans—Chair	X
Ms. Mandy Payette—Co-Vice-Chair	X
Ms. Bonnie Long	
Ms. Claudia Stieber	
Ms. Allison Wall	X
Ms. Michelle Weyland	
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	X

Staff Present:

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

I. CALL TO ORDER

Co-Vice-Chair Stephanie Canter: Called the meeting to order at 9:00 a.m.

II. Public Comment

Co-Vice-Chair Canter: Asked for public comments. There were none.

III. ADOPTION OF AGENDA

Action Item

MOTION: Move to approve the adoption of the Agenda.
BY: Tracy DuPree
SECOND: Sherri Thompson
VOTE: The vote was unanimous in favor of the motion

IV. COMMITTEE INTRODUCTIONS, MEETING OVERVIEW AND UPDATES

Members introduced themselves and their affiliations.

V. ADJUSTMENT OF GRIEVANCE OF SHARON ANDERSON-LAND, DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF CHILD AND FAMILY SERVICES

Action Item

Co-Vice-Chair Canter: Opened the hearing. She said that prior to the hearing the committee has thoroughly read the packet. She stated it was not necessary to go over the material in the packets. Co-Vice-Chair Canter asked for objections. She explained the grievance process, that there would be opening arguments, each side will present their case followed by closing arguments. She said each side would ask questions and both north and south committees would have the opportunity to ask questions. She said after deliberation and discussion they will have a decision today followed by a written decision in 45 days.

Co-Vice-Chair Canter: Called the witnesses and swore in all the witnesses. She indicated to start with open arguments. **Richard McCann:** Introduced himself and said that he was representing the aggrieved Sharon Anderson. He suggested in the interest of brevity to move forward to the actual testimony. **Shannon Richards, Division of Child and Family Services (DCFS) Representative:** Introduced herself. She indicated a difference of an opinion in terms of a regulation has brought them there.

Richard McCann: Acknowledged received timeline this morning. **Sharon Anderson-Land:** Stated and spelled her name. **Richard McCann:** Asked where Anderson-Land worked. **Sharon Anderson-Land:** Stated that she was an employee of the state of Nevada DCFS. **Richard McCann:** Asked what her present position title was. **Sharon Anderson-Land:** Answered she was a counselor III. **Richard McCann:** Asked if she was a Youth Parole Counselor III. **Sharon Anderson-Land:** Responded in the affirmative. **Richard McCann:** Asked how long she had been employed by Nevada Youth Parole. **Sharon Anderson-Land:** Responded I've been employed for eight and half years.

Richard McCann: Asked for her work history, promotional opportunity. **Sharon Anderson-Land:** Stated when she started. She said she was promoted to senior officer in 2008. **Richard McCann:** Asked if there was in March 2012 a state-wide open recruitment for a unit manager position in the Youth Parole. **Sharon Anderson-Land:** Responded there was. **Richard McCann:** Asked if she had an interest in the position. **Sharon Anderson-Land:** Responded that she did. **Richard McCann:** Asked if she formally applied for the position. **Sharon Anderson-Land:** Responded that she had. **Richard McCann:** Asked if the position would be

a promotion for her. **Sharon Anderson-Land**: Responded in the affirmative. **Richard McCann**: Asked if there was a formal process to rate candidates for the position. **Sharon Anderson-Land**: Responded there was. **Richard McCann**: Asked how many candidates there were. **Sharon Anderson-Land**: Responded that she didn't know. **Richard McCann**: Asked if there was a written test. **Sharon Anderson-Land**: Responded that the written test was part of the application. **Richard McCann**: Asked if there was a personal interview. **Sharon Anderson-Land**: Responded there was. **Richard McCann**: Asked who interviewed her. **Sharon Anderson-Land**: Responded she didn't remember. **Richard McCann**: Asked if after the interview there was a ranking and what rank she had. **Sharon Anderson-Land**: Responded that she was ranked number one.

Richard McCann: Asked how many unit manager positions were open. **Sharon Anderson-Land**: Responded one, then two. **Richard McCann**: Asked (inaudible 00:15:18). **Sharon Anderson-Land**: Responded that she was to her knowledge on the recruitment list. **Richard McCann**: Asked how long the position was unfilled. **Sharon Anderson-Land**: Responded the position was open for almost a year. **Richard McCann**: Asked if during that time there was any state-wide recruitment for the position. **Sharon Anderson-Land**: Responded (inaudible 00:16:59).

Richard McCann: Asked how Ms. Anderson-Land learned that a person would fill that position. **Sharon Anderson-Land**: Responded (inaudible 00:17:10). **Richard McCann**: Asked (inaudible 00:17:46). He asked Ms. Anderson-Land if and when she met with Chief Kingera after the announcement he would fill the position. **Sharon Anderson-Land**: Responded shortly after the meeting he came to her office. **Richard McCann**: Asked about the meeting between Ms. Anderson-Land and Mr. Kingera. **Sharon Anderson-Land**: Responded (inaudible 00:19:30). **Richard McCann**: Asked what she did in response to that conversation with Chief Kingera. **Sharon Anderson-Land**: Responded (inaudible 00:21:08).

Richard McCann: Asked Ms. Anderson-Land to state her grievance. **Sharon Anderson-Land**: (inaudible 00:23:32) **Richard McCann**: Indicated grievance in the packet for reference. **Sharon Anderson-Land**: (inaudible 00:27:08). **Richard McCann**: Stated there was an aggressive recruitment process and it's matter of applying the NAC. He asked Ms. Anderson-Land is it was her believe there was a violation of the spirit or intent of 284.404 (inaudible 00:29:56) with an existing list, and a vetted candidate was ready to take the position (inaudible 00:30:24).

Mark Evans: Asked how long Ms. Anderson-Land had been in the Youth Parole Counselor III position. **Sharon Anderson-Land**: Responded that at the time of recruitment she was not a Counselor III. She stated that at the same time there was open position for unit manager and for counselor III and that she had applied for both positions. **Mark Evans**: Asked Ms. Anderson-Land what her understanding of "underfill" as referenced in NAC 284.404. He asked for clarification that the appointment was underfilling the position. **Sharon Anderson-Land**: Responded in the affirmative. **Mark Evans**: Asked if a resolution conference was requested after Ms. Anderson-Land's grievance was taken to level three and did it occur. **Sharon Anderson-Land**: Responded that she did ask for a resolution conference but that she believes (inaudible 00:35:35). She asked for the question to be repeated and then answered there was not a resolution conference. **Allison Wall**: Asked for clarification on the ranking after the interview process. **Sharon Anderson-Land**: Responded that at the end of the application process. (Inaudible 00:37:16). **Shannon Richards (00:40:59)**: asked Ms.

Anderson-Land if she was saying she was denied a promotion because the division decided on using the reappointment process. **Sharon Anderson-Land:** Responded in the affirmative. **Shannon Richards:** Asked if Ms. Anderson-Land knew that the reappointment was non-competitive.

Sharon Anderson-Land: Responded (inaudible 00:41:19). **Shannon Richards:** Called Beverly Ghan.

Mark Evans: Asked Ms. Ghan to state her name, occupation. **Beverly Ghan:** Said she was a personnel analyst in the division of compensation, recruitment and classification for the Department of Administration (DOA). She said she's been a personnel analyst for 15 years. **Shannon Richards:** Asked Ms. Ghan if she was familiar with Ms. Anderson Land's Grievance. **Beverly Ghan:** Responded that she had read through it. **Shannon Richards:** Asked about Ms. Ghan's background with Human Resources. **Beverly Ghan:** Said she was a recruiter and listed her duties among with evaluate applicants, test and create lists to fill vacancies for the state agencies. She said that she has worked with human resources for 20 years.

Shannon Richards: Asked Ms. Ghan to describe the recruitment process. **Beverly Ghan:** Said that it is up to the agency to determine how best to fill a vacancy either promotional, open competitive. She said the agency will then request recruitment and then an announcement is posted. She said they evaluate the applicants, test the qualified applicants, create a list, and send to the hiring agency. **Mark Evans:** Said that the recruitment process described was for a competitive appointment and asked if at any time the hiring agency could decide to make a non-competitive appointment. **Beverly Ghan:** Responded that they could. She said that her department would not necessarily be included in a hiring agency's decision to make a competitive or non-competitive appointment. She said that up to the point of selecting a candidate the agency has the right to choose how they best want to fill the position whether through transfer, reappointment, etcetera.

Tracy DuPree: Asked how long a list will be active. **Beverly Ghan:** responded that a ranked list, of more than five people, has a one year eligibility. **Shannon Richards:** Asked about the reappointment regulation. **Beverly Ghan:** Responded that the reappointment was a non-competitive means of filling a vacancy with a current employee that has either held the position or a comparable position before. **Shannon Richards:** Asked if the DCFS ever contacted Ms. Ghan regarding the reappointment of Ann Fehr. **Beverly Ghan:** Responded that to her knowledge they were not contacted about the reappointment. **Shannon Richards:** Asked that while there is an active list could a division opt to for a reappointment. **Beverly Ghan:** Responded that the division would not have to return to the list. **Shannon Richards:** Asked if it would be appropriate to approach an employee to discuss interest in reappointment. **Beverly Ghan:** Responded that she did not see problem with approaching an employee regarding interest in a position. **Shannon Richards:** Asked about the reappointment regulation as it deals with "underfill". **Beverly Ghan:** Said that 3 and 4 are not related and defined underfill. She said that in regards of the regulation no mistake was made with the reappointment of discussion. **Shannon Richards:** Said she had no more questions for the witness.

Co-Vice-Chair Canter: Asked if there were any questions. **Richard McCann:** Asked Ms. Ghan if the ranked list expired May of 2013. **Beverly Ghan:** Responded affirmative. **Richard**

McCann: Said the appointment was in June. He asked if during the year that the position was posted Ms. Fehr expressed interest. **Beverly Ghan:** Responded that she didn't know. **Richard McCann:** Asked if Ms. Fehr was post certified. **Beverly Ghan:** Responded that she didn't know. **Co-Vice-Chair Canter:** overruled. **Shannon Richards:** Called Steve McBride.

Mark Evans: Asked him to state name and occupation. **Steve McBride:** Said he was the deputy administrator for juvenile services DCFS. **Shannon Richards:** Asked how long had Mr. McBride worked for DCFS. **Steve McBride:** Responded that he worked for DCFS for more than 13 years. **Shannon Richards:** Asked if he was familiar with the grievance. **Steve McBride:** Responded affirmative. **Shannon Richards:** Asked if he was involved in the hiring process from 2012. **Steve McBride:** Responded in the affirmative. **Shannon Richards:** Asked about the unit manager positions that were opened. **Steve McBride:** Confirmed that they had two open unit manager positions at the time. **Shannon Richards:** Asked if another unit manager position open. **Steve McBride:** Responded in the affirmative. **Shannon Richards:** Asked if the division requested and open recruitment to fill that position. **Steve McBride:** Responded they didn't, because the amount of change in leadership positions they were looking for someone with experience. He said they had given a manger in Elko until the end of the year to consider a transfer.

Shannon Richards: Asked Mr. McBride about Chief Kingera's considering to reappoint Ann Fair to the unit manager position. **Steve McBride:** Said he supported the decision. **Shannon Richards:** Asked (inaudible 01:03:41). **Shannon Richards:** Asked if Ann Fair was offered the position through reappointment process. **Steve McBride:** Responded in the affirmative. **Shannon Richards:** Asked if the reappoint was beneficial. **Steve McBride:** Responded that the reappoint was beneficial because it balances a new management team with someone with experience.

Richard McCann: Asked if Mr. McBride he knew whether Ms. Fehr expressed interest in the position when it was first posted in the open recruitment process. **Steve McBride:** Responded that he didn't know. **Richard McCann:** Asked if Ms. Fehr has been post certified. **Steve McBride:** Responded that she is not certified. **Richard McCann:** Asked (inaudible 01:06:22). **Steve McBride:** Responded that she was reappointed at grade 42 for unit manager. **Richard McCann:** Asked what grade did she have before the reappointment. **Steve McBride:** Responded that she was as Clinical Program Planner at grade 38.

Co-Vice-Chair Canter: Asked if there were any questions in the North. **Mark Evans:** Asked what would happen if Ms. Fehr doesn't become post-certified. **Steve McBride:** Responded that he knows that is required, but doesn't know what the remedy will be if she doesn't pass the certification. **Mark Evans:** Said he had no further questions. **Co-Vice-Chair Canter:** Dismissed the witness.

James Kingera: Stated his name and spelled it. **Shannon Richards:** Asked about Mr. Kingera's present occupation and background. **James Kingera:** Responded Chief (inaudible 01:08:45). **Shannon Richards:** Asked if Chief Kingera knew if Ms. Fehr had attained post-certification. **James Kingera:** Responded that she had not. **Shannon Richards:** Asked if Ms. Fehr was in the process of obtaining certification. **James Kingera:** Responded (inaudible 01:09:27). **Shannon Richards:** Asked what the requirement was for unit manager position. **James Kingera:** Responded (inaudible 01:09:37). **Shannon Richards:** Asked when he knew the reappointment process was available. **James Kingera:** Responded February 2013.

Shannon Richards: Asked when Chief Kingera talked with Ms. Fehr about becoming unit manager. **James Kingera:** Responded (inaudible 01:10:40). **Shannon Richards:** Asked if Chief Kingera consulted with Steve McBride. **James Kingera:** Responded that he did in late January or early February. **Shannon Richards:** Asked about conversation between Chief Kingera and Ms. Fehr. **James Kingera:** Responded (inaudible 01:13:05). **Shannon Richards:** Asked what happened after that. **James Kingera:** Responded (inaudible 01:14:23). He said the personnel department (inaudible 01:14:45). **Richard McCann:** asked Chief Kingera if he learned of the reappointment process February 2013. **James Kingera:** Responded that it was either late January or early February. **Richard McCann:** Asked (inaudible 01:16:24) and asked why talk to Ms. Fehr about a process he wasn't sure of. **James Kingera:** Responded that he was looking into the reappointment process and knew he needed to fill the position. (Inaudible 01:16:55). **Richard McCann:** Asked if Ms. Fehr made her interest known based on Chief Kingera's research and recruitment. **James Kingera:** Responded he asked if she was interested in filling a position he needed to fill. **Richard McCann:** asked (inaudible 01:18:27). **Co-Vice-Chair Canter:** Asked if there were questions and there being none dismissed the witness. She asked for the concluding statements.

Richard McCann: Said that it was a matter of interpretation. He stated that it's a learning experience for all regarding the reappointment process. He said while it's not a matter of whether Ms. Fehr is qualified, she is not position certified. He said he doesn't doubt she'll meet the requirements in the allotted time, but there are a lot of questions. He said from Ms. Anderson-Land's perspective why not her, and why this process. **Shannon Richards:** Stated there is competitive and non-competitive process.

Mark Evans: Said why this may have looked inappropriate to Ms. Anderson-Land from the conversation she had with Chief Kingera. He stated that Ms. Ghan explained very well that an agency can at any time in the process choose to make a non-competitive hire. He said the agency not only showed they didn't do anything wrong they also explained why they went with the reappointment. He said this wasn't directed at the employee but motivated by the division's need for an experienced management team. **Mandy Payette:** Said that she agreed she didn't think there was any active recruitment or misconduct with regard to the unit manager position. She said that the agency didn't fail to follow a NAC in the reappointment process. **Allison Wall:** Agreed with Mark and Mandy. **Co-Vice-Chair Canter:** Said that she agreed along the same line that it was nothing out of the ordinary to approach someone in the office about an open position. She said that it wasn't active recruitment.

MOTION: Move to deny the grievance, because the agency made the appointment legally pursuant to NAC 284.404 and there was no convincing evidence presented that the reappointment was done improperly.
BY: Mark Evans
SECOND: Sherri Thompson
VOTE: The vote unanimous in favor of the motion.

VI. PUBLIC COMMENT

Co-Vice-Chair Canter: Called for public comment. **Richard McCann:** made a personal comment about Lauren Risinger retiring and wanted make record of his appreciation and respect for her and the service provided. **Mandy Payette:** Said she would second that. **Mark Evans:** Said he thinks they all would second that. He added an appreciation for good relations

between association representatives and human resources, because the regulations are confusing.

Co-Vice-Chair Canter: Asked if there were any other comments.

VII. ADJOURNMENT

MOTION: Move to adjourn the meeting

BY: Stephanie Canter

SECOND: Sherri Thompson

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