STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
100 N. Stewart Street, Suite 200 | Carson City, Nevada 89701
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Meeting Minutes of the Employee-Management Committee
July 11, 2019
(Subject to Committee Approval)

Held at the Nevada State Library and Archives Building, 100 N. Stewart St., Conference Room 110, Carson City, Nevada, and the Grant Sawyer Building, 555 E. Washington Ave., Room 1400, Las Vegas, Nevada, via videoconference.

Committee Members:

Management Representatives	**Present**
Mr. Guy Puglisi - Chair	X
Ms. Jennifer Bauer	X
Ms. Pauline Beigel	
Mr. Ron Schreckengost	
Ms. Jennelle Keith	
Ms. Tonya Laney	

Employee Representatives	
Mr. Tracy DuPree	X
Ms. Turessa Russell	
Ms. Sherri Thompson	
Ms. Sonja Whitten	X
Ms. Dana Novotny	

Staff Present:

Mr. Robert Whitney, EMC Counsel, Deputy Attorney General
Ms. Nora Johnson, EMC Coordinator
Ms. Ivory Wright-Tolentino, EMC Hearing Clerk

1. Call to Order

Chair Puglisi called the meeting to order at approximately 9:00 am.

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 Puglisi opened the meeting with Committee introductions.

Member DuPree stated on the Eckard matter, the employee's issues are against Department of Employee Training and Rehabilitation (DETR) and that he (Mr. DuPree) is currently employed by DETR.

Chair Puglisi stated he did not feel like this was a conflict as the employee currently works for and the grievance was against the Department of Corrections.

Mr. Whitney stated he agreed.

4. Adoption of the Agenda – Action Item

Chair Puglisi requested a motion to adopt the agenda.

MOTION: Moved to approve the agenda.
BY: Member DuPree
SECOND: Member Whitten
VOTE: The vote was unanimous in favor of the motion.

5. Discussion and possible action related to Grievance #6201 of David Eckard, Department of Corrections – Action Item

Chair Puglisi opened the Committee for discussion.

Chair Puglisi stated as he understood the grievance, the employee worked for DETR, there was a separation of service, the employee filed a grievance while employed with DETR and did agency level resolution conference.

Chair Puglisi stated as part of that resolution, the employee was reinstated and told if the requirements of that resolution agreement were met, the employee would not incur a break in service.

Chair Puglisi stated it appeared there was a conflicting opinion on if that agreement was satisfied and the employee's continuous service date was the reinstatement date and the employee is alleging that he met the terms of the agreement.

Chair Puglisi stated the Committee made numerous requests for a copy of the agreement, but the employee had not provided the agreement.

EMC Coordinator, Ms. Nora Johnson stated the employee did provide a copy of the agreement, sent to her email at 10:02 pm the night before the hearing and she had emailed it to the Committee the morning of the hearing.

Ms. Johnson stated EMC Hearing Clerk, Ms. Ivory Tolentino did have copies for the Committee in the south.

Chair Puglisi stated he would allow the Committee a moment to review the agreement.

Chair Puglisi stated the resolution agreement was dated March of 2014 and part of the agreement stated the employee agreed to resign and not rescind his resignation effective May 23, 2014 but now, in January of 2019 there is a conflict regarding the employee's reinstatement date.

Chair Puglisi stated based on that, he did not think the grievance was timely even though he did not feel the Committee had jurisdiction over the matter at all.

Chair Puglisi stated on page 2 of 4 in the grievance, the employee stated there was a 1-month break in service.

Chair Puglisi stated the employee worked at DETR, moved to NDOC, did the agency level resolution agreement.

Chair Puglisi stated if the employee was back in State service between March and June of 2014, he did not see how the Committee had jurisdiction almost 5 years later.

Member DuPree stated the conflict was not when he was reinstated, the conflict was from his original hire date for State service.

Member DuPree stated there was at least 1 year of seniority that was not reflected and that could be significant.

Member DuPree stated he was concerned NDOC contacted DETR for the employee's hire date, rather than contacting DHRM.

Chair Puglisi stated on page 1 of the agreement, bullet points #2 and #3, they agreed the employee would be reinstated on a temporary basis in order for the employee to resign.

Member Bauer asked if anyone had noted the date the employee started at NDOC.

Chair Puglisi stated all he could see was the employee incurred a 1-month break in service based on his statement and his response to step 1.
Member Bauer stated the Committee did not have enough evidence and the Committee may be making assumptions.

Chair Puglisi stated his issue was the timeliness 5 years later.

Member DuPree stated last year during the shift bid, the process was changed to State seniority.

Chair Puglisi stated the employee should have been aware of his hire date and is talking about retirement now as he cashed out his retirement when he left.

Member Bauer stated the substance of the grievance is the employee wants his seniority calculated pursuant to the new Administrative Regulation (AR).

Member Bauer stated the employee has the event date as January 1, 2019 and she believes the new AR was effective January 1, 2019.

Chair Puglisi stated he believed the effective date was December 18, 2018.

Member Whitten stated the notice came out in December of 2018 with an effective date of January 2019.

Chair Puglisi reviewed the timeline and stated; November 20, 2018 was the shift bid update memo.

Member Whitten stated NDOC had to re-do the shift bid, the agency sent a memo that wasn't correct then had to resend a new memo in December.

Member DuPree stated the was why the employee was grieving after 4 years, he wanted the seniority for the shift bid and for that reason, felt the grievance should be moved to hearing.

Chair Puglisi asked if an employee resigns, does the Committee have the authority to change the reinstatement date.

Member DuPree stated no, the reinstatement date would be according to State service and the Committee would have to know what DHRM said.

Chair Puglisi stated per the NDOC memo that seniority for correctional officers would be based on the continuous service date with the State of Nevada, not just Corrections, which will be adjusted for breaks in service.

Member DuPree stated the employee was fighting for every day he could

get because it mattered for shift bid.

Member Whitten stated she felt the reason the employee did not file a grievance before was the AR had not changed until 5 years after the grieved situation.

Member Whitten stated for that reason, she believed the grievance could be moved to hearing so the Committee could hear all the facts.

Member DuPree stated he agreed with Member Whitten.

Member Bauer stated the temporary AR for NDOC number 301 was effective December 20, 2018 and the employee was aware of the event January 1, 2019 and in her opinion, the employee did file his grievance timely as that was when the employee was made aware of the event that created the perceived injustice of the break in service and loss of seniority.

Member Bauer stated for those reasons, she felt the Committee had jurisdiction over this grievance and could move the grievance to hearing and adjust the grievance if appropriate and was in support of moving the grievance to hearing.

Chair Puglisi asked if anyone was ready to make a motion.

Member Whitten motioned to move grievance #6201 to hearing.

Member DuPree seconded the motion.

Chair Puglisi asked if there was any discussion, there was none.

MOTION: Moved to answer grievance #6201 with a hearing.
BY: Member Whitten
SECOND: Member DuPree
VOTE: The vote was 3 to 1 in favor of the motion with Chair Puglisi voting 'nay'.

6. Discussion and possible action related to Grievance #6319 of Micaela Garofalo, Department of Corrections – Action Item

Chair Puglisi opened the Committee for discussion.

Chair Puglisi stated this grievance was complicated and there were two grievances that covered the same circumstances.

Chair Puglisi stated those two grievances were moved to hearing, continuances were requested and granted pending a resolution conference.

Chair Puglisi stated upon his initial review of this grievance, there was a

pending whistleblower complaint filed with the Hearing Officers Division that had since been unsubstantiated and dismissed.

Chair Puglisi stated the crux of the grievance revolved around being reverted from a trial period, which the Committee does not have jurisdiction over.

Chair Puglisi stated one of the other grievances was related to a written reprimand that followed the reversion and essentially, he thought the grievant was alleging she may be being retaliated against.

Chair Puglisi stated he felt the grievant did not get along with the appointing authority, but that person was no longer with NDOC.

Chair Puglisi stated the agency has requested a resolution conference for the other two grievances, and the conflict may no longer exist.

Chair Puglisi stated it would be prudent for the Committee, since the other grievances had been advanced to hearing, the Committee move this grievance to hearing as well.

Member Whitten stated she agreed with the Chair.

Member Bauer stated she disagreed.

Member Bauer stated she thought the substance of this grievance was an interpersonal working relationship issue between a supervisor and employee and regardless of whether the supervisor is still employed with the department, Member Bauer stated she did not feel the Committee had jurisdiction to resolve interpersonal relationships, it should be addressed in other venues.

Member Bauer stated if the grievance was alleging retaliation or hostile work environment, there was another venue for that issue as well.

Member Bauer stated she did not feel moving this grievance forward would be productive.

Member DuPree stated if the Committee was moving two grievances similar to this grievance to hearing, moving this one and hearing them together would be the best use of the Committee's time.

Chair Puglisi agreed and stated he would bundle the three grievances together.

Member Whitten motioned to move grievance # 6319 to hearing and combine it with the two similar grievances.

Member DuPree seconded the motion.

Chair Puglisi asked if Member Whitten would remove the statement to combine the grievances due to potential scheduling conflicts.

Member Whitten restated the motion to move grievance #6319 to hearing.

Member DuPree seconded the amended motion.

Chair Puglisi asked if there was any discussion, there was none.

MOTION: Moved to answer grievance #6319 with a hearing.
BY: Member Whitten
SECOND: Member DuPree
VOTE: The vote was 3 to 1 in favor of the motion with Member Bauer voting 'nay'.

7. Discussion and possible action related to Grievance #6401 of Jesse Haines, Department of Corrections – Action Item

Chair Puglisi opened the Committee for discussion.

Chair Puglisi stated this grievance was a stand-alone issue and not contingent on any other issue.

Chair Puglisi stated the employee believes NDOC should be doing its POST training differently and POST establishes guidelines and parameters for that training.

Chair Puglisi stated the employee concern seemed to be the agency could be held liable for not instituting best practices as determined by a Supreme Court decision.

Chair Puglisi stated he did not feel the employee had suffered any injustice; it was a difference of opinion regarding the training.

Chair Puglisi stated on page 5 of the grievance, bullet number 7, was "please send your suggestions regarding training to the Employee Development Manager, we are always looking to improve the training our staff receives within the resources provided to us by the Legislature."

Chair Puglisi stated the agency solicited feedback outside of the grievance process and the history of this grievant, from his last grievance, stated he knew there was nothing the Committee could do and assumed his grievance would be denied, the employee wanted the grievance to be a matter of public record and this may be a similar scenario.

Member Bauer stated she did not see where the grievant was alleging the department did not follow its own regulation or policy.

Member Bauer stated she did see the employee was alleging the department may need to change its policy, therefore, this grievance would fall under the statute that allows the agency to run its affairs as they see fit.

Chair Puglisi stated he did not feel the Committee had the authority to mandate the agency change its policy or change its training procedures.

Chair Puglisi stated if the agency was following the regulations and statutes as they were written, which it appeared they were, it would fall under NRS 284.020 subsection 2.

Member DuPree stated based on the fact the EMC appeared to have no authority in this matter, he moved the Committee deny the grievance.

Chair Puglisi asked Member DuPree to include the NRS citation.

Member Dupree restated his motion to include NRS 284.020 subsection 2.

Member Whitten seconded the motion.

Chair Puglisi asked if there was any discussion, there was none.

MOTION:	Moved to answer grievance #6401 without a hearing based on lack of jurisdiction and NRS 284.020 (2).
BY:	Member DuPree
SECOND:	Member Whitten
VOTE:	The vote was unanimous in favor of the motion.

8. Discussion and possible action related to Grievance #6484 of Tanya Armendariz, Department of Corrections – Action Item

Chair Puglisi opened the Committee for discussion.

Chair Puglisi stated the employee received a Letter of Instruction (LOI) and a copy of the LOI was provided and the Committee best practice states "the EMC usually will not hear a grievance based solely on a dispute over an LOI. The exception is when an LOI is drafted in such a manner that it appears to be a warning or failure to comply will lead to further discipline."

Chair Puglisi stated the grievant provided screenshots from the updated progressive discipline training in eLearn which outlined the new procedures in NAC for issuing an LOI.

Chair Puglisi stated the fifth slide of the training stated if the employee disputes a documented oral warning or written reprimand they can

submit a grievance but an LOI is a coaching tool and not used for discipline and cannot be grieved as it is not placed in the employees permanent State personnel file.

Chair Puglisi stated NRS 284.020 subsection 2, the agency has the right to manage its affairs as they see fit, would also apply to this grievance.

Member Bauer stated she agreed that statute would apply but also thought based on the letter of instruction not demonstrating further punishable action, the LOI was a coaching tool, therefore, the grievant had not suffered an injustice.

Member DuPree motioned to deny a hearing based on NRS 284.020 subsection 2 as well as the LOI is an instructional tool and not a punitive measure.

Chair Puglisi requested Member DuPree restate the motion to include the agency has not violated any statute or regulation.

Member Bauer asked if the reference was to NRS 284.384 subsection 6 that defines a grievance.

Chair Puglisi stated he felt the motion could include the agency had acted within its authority.

Member Whitten motioned to deny grievance #6484 based on the agency acted within its authority per NRS 284.020 subsection 2 as well as the EMC lacks jurisdiction.

Member DuPree seconded the motion.

Chair Puglisi asked if there was any discussion, there was none.

MOTION: Moved to answer grievance #6484 without a hearing based on lack of jurisdiction and NRS 284.020 (2).
BY: Member Whitten
SECOND: Member DuPree
VOTE: The vote was unanimous in favor of the motion.

9. Public Comment

There were no comments in the North or in the South.

10. Adjournment

Chair Puglisi adjourned the meeting at approximately 9:53 am.

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Meeting Minutes of the Employee-Management Committee
August 8, 2019
(Subject to Committee Approval)

Held at the Nevada State Library and Archives Building, 100 N. Stewart St., Conference Room 110, Carson City, Nevada, and the Grant Sawyer Building, 555 E. Washington Ave., Room 1400, Las Vegas, Nevada, via videoconference.

Committee Members:

Management Representatives	**Present**
Mr. Guy Puglisi - Chair	X
Ms. Jennifer Bauer	X
Ms. Pauline Beigel	
Mr. Ron Schreckengost	
Ms. Jennelle Keith	
Ms. Tonya Laney	X

Employee Representatives	
Mr. Tracy DuPree	X
Ms. Turessa Russell	X
Ms. Sherri Thompson	X
Ms. Adria White	
Ms. Sonja Whitten	
Ms. Dana Novotny	

Staff Present:

Mr. Robert Whitney, EMC Counsel, Deputy Attorney General
Ms. Nora Johnson, EMC Coordinator
Ms. Ivory Wright-Tolentino, EMC Hearing Clerk

1. Call to Order

Chair Puglisi called the meeting to order at approximately 9:00 am.

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 Puglisi opened the meeting with Committee introductions.

4. Adoption of the Agenda – Action Item

Chair Puglisi requested a motion to adopt the agenda.

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

5. Chair Puglisi noted that grievance #6378 had been withdrawn and would not be heard.

6. Discussion and possible action related to Grievance #5979 of Glenda Stewart, Department of Corrections – Action Item

This matter came on for hearing before the Employee-Management Committee[1] ("EMC)" on August 8, 2019 pursuant to NAC 284.695 and NAC 284.6955, regarding Grievance No. 5979, filed by Senior Correctional Officer Glenda Stewart ("Grievant" or "Officer Stewart"). Grievant was represented by Robert Ashcraft of the Nevada Corrections Association. Personnel Analyst II Megan Bottom ("Ms. Bottom") represented the agency-employer, Nevada Department of Corrections ("NDOC"). There was an objection made by Grievant to Exhibit D submitted by NDOC that was overruled. Grievant and Division of Human Resource Management ("DHRM") Keyna Jones ("Ms. Jones") were sworn in as witnesses and testified at the grievance hearing.

STATEMENT OF THE CASE

Grievant stated in substance that NDOC had acted in an arbitrary and capricious manner with respect to Grievant, and was interpreting

[1] The Committee members present representing a quorum were: Guy Puglisi (DHHS), who chaired the meeting; Sherri Thompson (DETR), Jennifer Bauer (SPCSA), Tonya Laney (DMV), Turessa Russell (UNLV) and Tracy DuPree (DETR). Counsel for the EMC, Deputy Attorney General Robert A. Whitney, EMC Coordinator, Nora Johnson and EMC Hearing Clerk, Ivory Tolentino were also present.

regulations, particularly NAC 284.2525, in a manner to suit their own needs when NDOC in September 2018 adjusted Grievant's pay in order to remove paid holiday premium pay ("PHPRM") for the Memorial Day Holiday 2018 from Grievant's pay and returned 8 hours of annual leave to Grievant in the same process.

Grievant stated in substance that it appeared NDOC was saying that because Grievant did not physically work on Memorial Day 2018 it was not required to pay her anything other than holiday pay, and that Grievant's annual leave pay combined with the holiday pay to result in a wash. Grievant noted that there was no code for a wash.

Grievant also argued in substance that nowhere in the NRS' and NAC's was it stated that a State employee could not take annual leave on a State holiday.

Additionally, Grievant noted in substance that after she submitted her request for leave on Memorial Day 2018 her supervisor approved the leave, and then four months later NDOC took pay back from her, which made it appear as though Grievant was being penalized for using annual leave.

Grievant also alleged that NDOC violated regulation by taking pay from her without the necessary written authorization.

Grievant further argued in substance that she was entitled to use annual leave and sick leave when needed or when she chose to do so, and that she was also entitled to paid holidays.

Additionally, Grievant asserted in substance that NDOC violated NAC 284.251(2), (3), (4) and (5).

Grievant noted that in one of NDOC's responses by John Borrowman to her grievance NDOC stated that annual leave was compensated as time worked in lieu of working.

Grievant further stated in substance that she was told that if she submitted an annual leave request for a holiday it would be considered as though she had worked the holiday, and so Grievant said she submitted her time sheet in such a manner, coding for PHPRM.

However, according to Grievant NDOC eventually told her that she could not submit her time sheet with PHPRM coded in the time sheet, as she did not physically work on the Memorial Day Holiday.

According to Grievant, this contradicted NDOC's acquiescence in allowing its employees to use code holiday PHPRM for the President's Holiday in 2019.

Grievant also noted in substance that for NDOC employees who worked 12 hour days on holidays, since the employee only received 8 hours of holiday pay NDOC had allowed its employees to code four hours of annual leave to reach the full 12 hours of the employee's shift; Grievant therefore questioned why she could not be paid for her annual leave and receive holiday pay at the same time if NDOC apparently allowed this to happen in other situations.

Grievant further asked in substance why it was then not acceptable to allow an employee to take annual leave for the entire day without being penalized, and that she was not asking for more money than what she would have otherwise been entitled to, and that what she as asking for would have been no different than if she had worked the Holiday, in which case she would have received 8 hours of PHPRM and 8 hours of holiday pay.

Grievant stated in substance that the end result of the matter was that NDOC returned her annual leave to her, so that it appears that she never took annual leave for the holiday. Grievant pointed out NAC 284.255(5), which states:

A nonexempt employee who is scheduled to work on a holiday shall report any absence from duty and the reason therefor to his or her supervisor or designated representative as prescribed in writing by the agency. An employee who does not work on that holiday and who fails to report his or her absence to his or her supervisor or a designated representative pursuant to this subsection is not eligible to receive holiday pay.

Grievant argued that NAC 284.255(5) provided the only reason that she should not have been paid for a holiday.

Grievant also in substance suggested that perhaps her time sheet could have been coded paid day off holiday with annual leave, as she had not physically worked on Memorial Day 2018.

Grievant also noted in substance that she understood the confusion because when an NDOC employee took a holiday off they were not necessarily required to also take annual leave, but in her case, as she worked at High Desert State Prison, which is a 24 hour, 7 day a week facility, she needed to take annual leave on Memorial Day for coverage purposes.

In response to questioning, Grievant agreed that she had been paid for a 40 hour week, although she had only worked 32 hours the week of Memorial Day, and that she did not know where the 8 hours she did not work but was paid for came from, as it was not coded anywhere, and as NDOC had returned her annual leave.

Ms. Jones testified in substance that NAC 284.255(5) referred to an employee in a State agency who would normally work on a holiday, because it was not a "given" that the employee would receive the day off like other employees who worked 8 a.m. -5 p.m. hours.

Ms. Jones stated in substance that the second sentence of NAC 284.255(5) indicated that an employee was required to report if he or she was going to be off on the holiday and the reason for being off, and that this had to be done in advance.

Ms. Jones added that if the employee failed to comply with this requirement then the employee would not be entitled to receive holiday pay. Ms. Bottom noted that NAC 284.255(5) referred to straight holiday pay, as compared to special holiday pay.

Ms. Jones also explained NAC 284.255(3)(c), which stated:
A: (1) Full-time nonexempt employee with an innovative workweek agreement may earn additional holiday pay on an hour-for-hour basis for any hours he or she works in excess of the holiday pay provided in paragraph (a) and in subsection 2, not to exceed the number of hours in his or her established workday as set forth in his or her innovative workweek agreement.

Ms. Jones stated in substance that if an employee worked an innovative work week and came in to work a holiday then the employee received additional base or holiday pay.

Grievant argued in substance, with respect to NAC 284.255(3)(c), that if an employee did not work on a holiday, he or she would still receive holiday pay if the employee reported to their supervisor that he or she would not appear for work on the holiday.

Ms. Jones further testified that in interpreting NAC 284.255, and after reviewing Grievant's time sheets, she was in agreement that Grievant had been correctly paid by NDOC with the 8 hours of holiday pay, and that it was correct not to have paid premium holiday pay or paid for the annual leave taken by Grievant on the Memorial Day Holiday.

Grievant responded by stating in substance that not all employees automatically received a holiday off, and as a non-exempt employee she had to submit a time sheet noting if she took a holiday off, and questioned why she was not entitled to take annual leave in this situation whether the date the annual leave was taken on happened to be a holiday or not.

Ms. Jones noted in substance that Grievant would be hurting herself if she reported annual leave on a holiday, as it was implied that employees were not required to report annual leave on holidays as all State employees received and were entitled to 11 days of holiday pay.

Ms. Jones further testified that State employees were not required to report anything else on their time sheets (Grievant argued, however, that as a non-exempt employee in order to receive pay for a day she took off she had to report the day off on her time sheet whether it was a holiday or not).

In response to questioning, Ms. Jones testified in substance, with respect to how a pre-approved annual leave request on a holiday would appear in NEATS (Nevada Employee Action and Timekeeping System), that she would reject a time sheet submitted requesting annual leave on a holiday, as the employee would not be required to work on a holiday, and that the preapproval request would show the rejection.

Furthermore, in response to questioning, Ms. Bottom stated in substance that NDOC employees who wanted to take a day off for a holiday on which the employee was scheduled to work were instructed to leave the employee's time sheet alone and simply use holiday pay.

Grievant questioned whether NAC 284.255(5) actually applied to her situation, as the way she read the subsection it entitled her to request annual leave in writing for a holiday and receive pay for both annual leave and holiday pay.

Ms. Jones responded in substance that she reviewed a prior DHRM memorandum, No 59-11, that discussed holiday pay, and in looking at the examples listed in the memorandum an 8-hour employee not working on a holiday would not need to report leave usage.

Officer Stewart noted that her workday was 12 hours. Ms. Jones explained in substance that Officer Stewart was not being paid for the additional 4 hours that she would have worked on the holiday, and that NAC 284.255(4) did not provide for Officer Stewart to be paid 12 hours for the Memorial Day Holiday.

The EMC deliberated on Officer Stewart's grievance.

Member DuPree stated in substance that the applicable regulations appeared confusing, but he did not see where Grievant had been harmed, and the annual leave she had originally taken for the Memorial Day Holiday was returned.

Member Bauer stated in substance that annual leave was compensation based on time not worked, and that if one looked at what an employee on leave was entitled to with respect to pay in this situation the employee did not work and was already getting paid for time the Grievant did not actually work, so Member Bauer failed to see how NDOC misapplied or violated a regulation in this case.

Chair Puglisi stated in substance that he originally saw Officer Stewart's grievance as involving two issues, the issue of Grievant's annual leave

being reversed and the PHPRM being reversed, and that the PHPRM actually created the overpayment, as an employee needed to actually be working a qualifying shift to receive PHPRM.

Chair Puglisi also stated in substance that he felt the decisions made by NDOC were correct and that Grievant's annual leave was simply "re-banked."

Member Laney stated in substance that although Grievant and her representative had argued that Grievant should not be punished by NDOC for following what was not written, conversely NDOC should not be punished for following the intent of the NRS', for showing no malice and for following the consistency of DHRM Payroll.

Member Laney added in substance that Grievant received the Memorial Day Holiday off and received 8 hours holiday pay, and her annual leave was credited back to her.

Member Laney further stated in substance that if there was any vagueness with the pertinent NAC's the EMC had the ability to make a note to have the NAC's reviewed.

Member Bauer stated in substance that in looking at the language of NAC 284.255(5), the language specified that a non-exempt employee shall report any absence from duty and the reason for the absence to his or her supervisor or the employee was not eligible to receive holiday pay.

Member Bauer noted in substance that the use of reporting did not exist for compensation through annual leave, and that this fact also demonstrated that NDOC had not violated any regulation.

Chair Puglisi added in substance that State employees received 11 holidays and earned 15 days of annual leave each year, and that if employees were paid annual leave, when an employee was paid to be gone, while also receiving holiday pay simultaneously, State agencies likely would not have not budgeted for such events.

Member Thompson commended Grievant and Mr. Ashcraft on their presentation but stated that she did not see where NDOC had violated any regulation.

Member Russell stated in substance that she did not agree with how matters were being handled with respect to holiday pay and the use of annul leave, but she did not find anything in writing indicating that a violation of law had occurred.

Member Bauer moved to deny Grievance # 5979 based on evidence that the employer [NDOC] complied with NAC 284.255 through NAC 284.257. The EMC also recommended that DHRM consider revising regulation or policy for reporting absences from duty on holidays.

Member Bauer's motion passed unanimously.

FINDINGS OF FACT

Based upon the testimony of the witnesses, the arguments made by the parties, the briefs, evidence, and documents on file in this matter, the EMC makes the following findings of fact. All findings made are based upon a preponderance of the evidence.

1. Grievant was a non-exempt State of Nevada employee.
2. Grievant was employed by NDOC as a correctional officer at High Desert State Prison ("HDSP") during the relevant time period.
3. HDSP is a 24-hour facility.
4. Grievant requested annual leave for Memorial Day 2018 (Monday May 28, 2018) approximately one month prior to the Memorial Day Holiday.
5. Grievant's regular schedule called for her to work Memorial Day 2018.
6. NDOC granted Grievant's annual leave request for Memorial Day 2018.
7. Grievant took annual leave on Memorial Day 2018.
8. Grievant, when filling out her time sheet which covered the Memorial Day 2018 Holiday, coded for PHPRM and Holiday pay.
9. Approximately three months after Grievant filled out and submitted her time sheet NDOC adjusted Grievant's time sheet.
10. NDOC adjusted Grievant's pay and removed PHPRM from Grievant and paid her for Holiday pay of 8 hours. NDOC also returned Grievant's annual leave of 8 hours.

CONCLUSIONS OF LAW

1. For this grievance, it was Grievant's burden to establish by a preponderance of the evidence that NDOC was in error when it changed Grievant's time sheet to take away her PHPRM for the Memorial Day Holiday 2018 while paying her 8 hours of holiday pay for the Holiday, while returning her annual leave.
2. A grievance is any act, omission or occurrence which an employee who has attained permanent status feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee. NRS 284.384(6).
3. Officer Stewart's grievance falls within the jurisdiction of the EMC under NRS 284.073(1)(e).
4. The Committee discussed and relied on NAC

282.255-284.257.

5. NAC 284.256 defines PHPRM, and states that an employee receives PHPRM when they are actually working on a holiday that the employee was scheduled to work on.
6. NAC 284.255(2) states:

   Except as otherwise provided in paragraph (c) of subsection 3 and subsections 5 and 7, a full-time nonexempt employee whose base hours are 40 hours per week or 80 hours biweekly is entitled to receive 8 hours of holiday pay for any holiday that he or she is in paid status during any portion of his or her shift immediately preceding the holiday.

7. NAC 284.255(5) states:

   A nonexempt employee who is scheduled to work on a holiday shall report any absence from duty and the reason therefor to his or her supervisor or designated representative as prescribed in writing by the agency. An employee who does not work on that holiday and who fails to report his or her absence to his or her supervisor or a designated representative pursuant to this subsection is not eligible to receive holiday pay.

8. Pursuant to NAC 284.255(2) and NAC 284.255(5), Grievant was entitled to receive 8 hours of holiday pay for the Memorial Day 2018 Holiday, even though she was not physically working at HDSP on the Memorial Day 2018 Holiday.
9. Annual leave for compensation purposes is compensation paid based on time not worked by an employee and based on accruing permissive leave.
10. If Grievant did not work on the Memorial Day Holiday, she was already being paid (via holiday pay) for time not worked.
11. Thus, Grievant was not entitled to holiday pay and compensation for annual leave taken on the 2018 Memorial Day Holiday.

DECISION

Based upon the evidence in the record, and the foregoing Findings of Fact and Conclusions of Law, and good cause appearing therefor, it is hereby ORDERED:

Grievance No. 5969 is hereby DENIED. The EMC also recommends that DHRM consider revising regulation or policy for reporting absences from duty on holidays.

MOTION: Moved to deny grievance #5979 based on evidence that the employer complied with NAC 284.255 through NAC 284.257. The EMC also recommended that DHRM consider revising regulation or policy for reporting absences from duty on holidays.
BY: Member Bauer
SECOND: Member DuPree
VOTE: The vote was unanimous in favor of the motion.

7. Public Comment

There were no comments in the North or in the South.

8. Adjournment

Chair Puglisi adjourned the meeting at approximately 11:16 am.

STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
100 N. Stewart Street, Suite 200 | Carson City, Nevada 89701
Phone: (775) 684-0135 | http://hr.nv.gov | Fax: (775) 684-0118

Meeting Minutes of the Employee-Management Committee
September 5, 2019
(Subject to Committee Approval)

Held at the Nevada State Library and Archives Building, 100 N. Stewart St., Conference Room 110, Carson City, Nevada, and the Grant Sawyer Building, 555 E. Washington Ave., Room 1400, Las Vegas, Nevada, via videoconference.

Committee Members:

Management Representatives	**Present**
Mr. Guy Puglisi - Chair	X
Ms. Jennifer Bauer	X
Ms. Pauline Beigel	
Mr. Ron Schreckengost	
Ms. Jennelle Keith	
Ms. Tonya Laney	X

Employee Representatives	
Mr. Tracy DuPree	X
Ms. Turessa Russell	X
Ms. Sherri Thompson	X
Ms. Sonja Whitten	
Ms. Dana Novotny	

Staff Present:

Mr. Robert Whitney, EMC Counsel, Deputy Attorney General
Ms. Carrie Lee, Acting EMC Coordinator
Ms. Ivory Wright-Tolentino, EMC Hearing Clerk

1. Call to Order

Chair Puglisi called the meeting to order at approximately 11:00 am.

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 Puglisi opened the meeting with Committee introductions.

4. Adoption of the Agenda – Action Item

Chair Puglisi requested a motion to adopt the agenda.

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

5. Discussion and possible action related to Grievance #6409 of Jesse Haines, Department of Corrections – Action Item

This matter came on for hearing before the Employee-Management Committee[1] ("EMC)" on September 5, 2019 pursuant to NAC 284.695 and NAC 284.6955, regarding Grievance No. 6409, filed by Correctional Officer Jesse Haines ("Grievant" or "Officer Haines"). Grievant was in proper person. The agency-employer, the Nevada Department of Corrections ("NDOC"), was represented by Personnel Officer II Megan Bottom ("Ms. Bottom"). There were no witnesses testifying at the hearing.

STATEMENT OF THE CASE

Grievant is a correctional officer at the Northern Nevada Correctional Center ("NNCC") in Carson City, NV. Grievant opened by stating in substance that NDOC needed to provide its employees the notice required by law before it could require its employees to work overtime.

Grievant added in substance that NDOC violated the law (NAC 284.242) requiring that State employees be provided with four hours-notice that

[1] The Committee members present representing a quorum were: Guy Puglisi (DHHS), who chaired the meeting; Sherri Thompson (DETR), Tonya Laney (DMV), Jennifer Bauer (SPCSA), Tracy DuPree (DETR) and Turessa Russell (UNLV). Counsel for the EMC, Deputy Attorney General Robert A. Whitney, Acting EMC Coordinator, Carrie Lee and EMC Hearing Clerk, Ivory Tolentino were also present.

they would be required to work overtime almost every day, and that when an employee protested NDOC threatened the employee.

Grievant stated in substance that was there were previous EMC decisions concerning required notice prior to an employee being required to work overtime that NDOC continued to violate.

Grievant stated in substance that although he was not disciplined for failing to work overtime he had been threatened for refusing to work overtime a few years ago, and in fact had a written reprimand filed against him by NDOC two or three years ago for refusing to work overtime, which was removed as the result of a resolution conference.

Grievant stated in substance that he felt that NDOC switching to 12-hour shifts would be helpful to the situation, and he asked the EMC to fine NDOC $500.00 for not providing him with the required four hours of notice prior to requiring him to work overtime on April 6, 2019.

Ms. Bottom stated in substance that, pursuant to the NAC's, NDOC was required to have certain posts at its facilities staffed, and that she did not believe Grievant had been disciplined for refusing to work mandatory overtime.
Ms. Bottom also stated in substance that the ability to mandate 12-hour shifts was beyond NDOC's control, and that to do so was a legislative decision.

Ms. Bottom noted that since January 2019 NDOC had hired 36 correctional officers at NNCC, and that this had somewhat alleviated the need for correctional officers to work overtime, although Grievant stated that he was required to sign in almost every day on NNCC's mandatory overtime list, and that he had been required to work mandatory overtime one time (in July 2019) after the date he filed his current grievance (April 6, 2019).

The EMC deliberated on Officer Haines' grievance.

Co-Vice-Chair Bauer stated in substance that the EMC could not fine NDOC or mandate that it operate in a certain manner, or operate using 12-hour shifts.

Co-Vice-Chair Bauer also stated that it appeared Grievant suffered an injustice, as it appeared, he was not provided with the required four hours-notice pursuant to NAC 284.242 prior to being required to work overtime on April 6, 2019.

Member Russell noted in substance that she was in favor of reconfirming the decisions previously made by the EMC (Bilavarn and Olague) that deemed signing in on the mandatory overtime list was insufficient to meet the four hour notice requirement pursuant to NAC 284.242, as

NDOC correctional officers signed in on the mandatory overtime list far more than they actually worked overtime.

Member Thompson state in substance that the EMC could not mandate that NDOC operate with 12-hour shifts, nor could the EMC fine NDOC $500.00. Member Thompson also stated in substance that she felt that having correctional officers sign the mandatory overtime list at the start of their shift did not constitute four hours-notice in compliance with NAC 284.242.

Co-Vice-Chair Bauer motioned to grant Grievance No. 6409 in part and deny it in part. Co-Vice-Chair Bauer moved to grant Grievance No. 6409 in part based on consistency with the EMC's previous decisions, 13-19 (Olague) and 14-19 (Bilavarn), and evidence that the NDOC had not complied with NAC 284.242(1). Co-Vice-Chair Bauer motioned to deny Grievance No 6409 based on Grievant's proposed resolution of requiring NDOC to implement 12-hour shifts and a fine of $500.00, due to lack of EMC jurisdiction.

Co-Vice-Chair Bauer's motion was seconded by Member DuPree and carried unanimously.

FINDINGS OF FACT

Based upon the testimony of the witnesses, the arguments made by the parties, the briefs, evidence, and documents on file in this matter, the EMC makes the following findings of fact. All findings made are based upon a preponderance of the evidence.

1. Grievant was a non-exempt State of Nevada employee.
2. Grievant was employed by NDOC as a correctional officer at NNCC during the appropriate time period.
3. On April 6, 2019, Grievant was required to sign NDOC's mandatory overtime list.
4. Grievant was required to sign the mandatory overtime list at the start of his shift, which began at 5:00 a.m. on April 6, 2019.
5. As noted in the Bilavarn (No 14-19) and Olague (No. 13-19) Decisions, Grievant and other correctional officers were not actually required to work overtime each time they signed the mandatory overtime list at the start of their shift.

6. Grievant's shift was scheduled to end at 1:00 p.m. on April 6, 2019.

6. At approximately 11:45 a.m. on April 6, 2019, Grievant was notified that he would be required to work overtime.
7. Grievant in fact worked overtime on April 6, 2019.
8. Grievant requested as a resolution that NDOC provide him four hours-notice when NDOC required him to work overtime.
9. Grievant also requested that the EMC mandate that NDOC move to 12-hour shifts for every post at NNCC, and that the EMC require that NDOC compensate Grievant $500.00 for every time that Grievant

was notified that he was required to work overtime without the required for hours-notice.

CONCLUSIONS OF LAW

1. For this grievance, it was Grievant's burden to establish by a preponderance of the evidence that NDOC violated NAC 282.242 by requiring him to work overtime without providing the required four hours-notice.
2. Grievant also needed to establish that NDOC be mandated to operate at NNCC using 12-hour shifts, and that NDOC be required to compensate him $500.00 each time it required him to work overtime without providing the required four-hour notice to him.
3. A grievance is any act, omission or occurrence which an employee who has attained permanent status feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee. NRS 284.384(6).
4. Officer Haines grievance falls within the jurisdiction of the EMC under NRS 284.073(1)(e).
5. NAC 284.242 states in relevant part:

> **NAC 284.242 Overtime: Authorization.**
> 1. If a nonexempt employee is required to work overtime, the overtime must be authorized pursuant to subsection 10 of NRS 284.180 and communicated to the employee at least 4 hours in advance by the responsible supervisor before being worked, unless an unpredictable emergency prevents prior approval and communication.

6. The EMC did not have jurisdiction to mandate that NDOC switch to 12-hour shifts at NNCC.
7. The EMC had no jurisdiction to require that NDOC pay Mr. Haines $500.00 compensation each time it required him to work overtime after failing to provide him with the required four hour notice pursuant to NAC 284.242(1).
8. NDOC failed to comply with NAC 284.242 on April 6, 2019, because having Grievant sign the mandatory overtime list at the start of his shift did not constitute four hours-notice that he would be working overtime.

DECISION

Based upon the evidence in the record, and the foregoing Findings of Fact and Conclusions of Law, and good cause appearing therefor, it is hereby ORDERED:

Grievance No. 6409 is hereby GRANTED in part and DENIED in part. Grievance No. 6409 is granted in part based on consistency with the

EMC's previous decisions, 13-19 (Olague) and 14-19 (Bilavarn), and evidence that the NDOC had not complied with NAC 284.242(1). Grievance No 6409 is denied in part based on Grievant's proposed resolution of requiring NDOC to implement 12-hour shifts at NNCC and pay a fine of $500.00 each time it failed to comply with NAC 284.242(1), due to lack of EMC jurisdiction.

MOTION: Moved to grant grievance #6409 in part and deny in part.
BY: Co-Vice-Chair Bauer
SECOND: Member DuPree
VOTE: The vote was unanimous in favor of the motion.

6. Discussion and possible action related to Grievance #6210 of David Eckard, Department of Corrections – Action Item

This matter came on for hearing before the Employee-Management Committee[2] ("EMC)" on September 5, 2019 pursuant to NAC 284.695 and NAC 284.6955, regarding Grievance No. 6201, filed by Correctional Officer David Eckard ("Grievant" or "Officer Eckard"). Grievant was in proper person. The agency-employer, the Nevada Department of Corrections ("NDOC"), was represented by Personnel Officer II Megan Bottom ("Ms. Bottom"). There were no objections to the exhibits by either party, and there were no witnesses testifying at the hearing.

STATEMENT OF THE CASE

Grievant is a correctional officer at High Desert State Prison ("HDSP") at Indian Springs, NV. Grievant stated in substance that he began working for the State of Nevada, Department of Employment, Training and Rehabilitation ("DETR") in 2011 and worked for DETR for approximately two years and four months.

Grievant stated in substance that he quit working for the State/DETR for a month but had a resolutions conference with DETR after he quit and was reinstated, and then he transferred from DETR to NDOC.

Grievant argued that NDOC was not applying all of his years of service with the State, as NDOC was not counting the two years and four months that Grievant was employed with DETR towards his seniority with NDOC, so that there was a break in his service.

[2] The Committee members present representing a quorum were: Guy Puglisi (DHHS), who chaired the meeting; Sherri Thompson (DETR), Tonya Laney (DMV), Jennifer Bauer (SPCSA), Tracy DuPree (DETR) and Turessa Russell (UNLV). Counsel for the EMC, Deputy Attorney General Robert A. Whitney, Acting EMC Coordinator, Carrie Lee and EMC Hearing Clerk, Ivory Tolentino were also present.

Grievant in substance asked that the EMC require NDOC to consider his years of State service prior to April 28, 2014.

Grievant noted that NDOC, in its Administrative Regulation ("AR") 301, was basing its seniority for purposes of shift bidding on an employee's years of continuous State service without any break in employment with the State.

Grievant testified that his start date with NDOC was April 28, 2014, and that his last day with DETR was April 25, 2014.

Ms. Bottom argued that Grievance No. 6201 was really not an NDOC issue, and that the matter was really a grievance Officer Eckard had with DETR.

Ms. Bottom added that NDOC could not control continuous service dates, that those dates were all part of Human Resources' ("HR") Data Warehouse and were related to how terminations and reinstatements were coded.

Ms. Bottom stated in substance that NDOC had hired Grievant, and that he showed as a "new hire" on April 28, 2014 (However, later during the hearing Ms. Bottom corrected this statement and stated that it appeared Grievant was hired by NDOC as a transferee), and not as a reinstated employee or a transfer in, which would have allowed NDOC to have considered Grievant's previous service time.

Ms. Bottom also stated in substance that NDOC could not change the way that another agency moved an employee out of the State system, and that NDOC was not part of the resolution Grievant had with DETR.

Ms. Bottom also testified in substance that Grievant's paperwork showed, when he started with NDOC, that he was considered a rehire, which meant that there was no continuous service to be considered.

Ms. Bottom also pointed out that DETR was saying that Grievant had quit for a month before he was reinstated, which was why his continuous service date began in 2014 and not 2011.

It was noted by the EMC that Grievant's status upon starting employment with NDOC would not matter except for the fact that NDOC performed its shift bidding based on the State service time of its employees.

Grievant testified that he was unsure of what date the State HR Data Warehouse had as his hire date, but that it should have been in September 2011, as that was when he was hired by DETR.

Grievant also testified in substance that he believed his continuous service date was March 3, 2014.

Grievant stated that DETR had agreed to reinstate him to his original hire date, but that had not been done.

It was suggested by Member DuPree that Grievance No. 6201 be held in abeyance until it could be determined the information the HR Data Warehouse had concerning Grievant's hire date.

Chair Puglisi noted that such a motion would need to be made by one of the parties.

Ms. Bottom stated in substance that she had no concerns with Grievant's hire date; rather the relevant question appeared to be what Grievant's continuous service date was.

Ms. Bottom stated that her argument was that Grievant quit to withdraw his PERS, and then returned to State service.

Ms. Bottom noted that Grievant wanted his continuous service date to go back to 2011 and not have a gap of time in 2014, but that this was out of NDOC's control, as the events leading to this result had occurred prior to Grievant becoming an NDOC employee.

Member Thompson questioned Grievant as to whether he noticed what date on his hire/transfer paperwork had been used, to which Grievant responded that he did not know.

Chair Puglisi noted that Grievant's first hire date with the State was September 19, 2011, and that he resigned from DETR in February 2014. During the month off Grievant stated that he went to a resolution conference. On April 25, 2014, after Grievant's reinstatement with DETR (March 3, 2014), he resigned from DETR and transferred to NDOC.

Grievant testified in substance that he had contacted DETR and spoke with its Human Resources Director, who Grievant alleged told him two different things.

Grievant stated that DETR's Human Resources Director told him that he had a one month break in service and that he had removed his PERS, which was the defining break in service, so that was why Grievant was not entitled to his service years prior to 2014 being applied to NDOC.

Grievant stated that when he put this information in his grievance when addressing NDOC Warden Brian Williams his grievance was returned to him with information indicating that what DETR Human Resources had told him was not the case, and that DETR Human Resources had told NDOC that Grievant had not followed through with the settlement agreement.

In response to questioning, Grievant stated that he terminated State service on February 1, 2014, and removed his PERS contributions.

Grievant stated in substance that his termination was more for issues arising in the workplace and the resulting stress than any other reason. Grievant also stated that he was reinstated by agreement with DETR to March 3, 2014.

Grievant noted however, that it was agreed upon in the resolution conference with DETR that he would be reinstated with his full-service years and the same pay grade and step he had prior to his termination of service.

Grievant stated that the exact date on which his service years were to start was not in the settlement agreement with DETR, but he reiterated that such a course of action had been agreed upon at his resolution conference.

Chair Puglisi noted in substance that when an employee left State service on his or her own and drew their PERS the employee started over if he or she returned to State service, and normally there was a new continuous service date because there was a break in State service.

Co-Vice-Chair Bauer stated that regardless of the reason, Grievant had at least a one-day break in State service without the repayment of his contributions.

Co-Vice-Chair Bauer stated that this one-day break would create a new continuous service date when Grievant returned to State service.

Co-Vice-Chair Bauer noted in substance that in order to remove his PERS contributions Grievant had to terminate from State service, which ended his State employment, and that even if Grievant was reinstated a day later a new employment relationship was created when he was reinstated.

Member Russell stated in substance that if the official record stated that Grievant was reinstated, and not discharged, and then rehired, then Grievant would have been reinstated. Member Russell also noted that in this case the official record said Grievant had transferred to NDOC.

Ms. Bottom testified in substance that on February 1, 2014, HR Data Warehouse, said concerning Grievant, “termed to pull PERS,” and that Grievant was not reinstated with the State until March 3, 2014.

Ms. Bottom also argued that a reinstatement would not have anything to do with a continuous service date, and that reinstatement just meant that Grievant was reinstated to the same position at the same pay he had previously held before his break in employment.

Ms. Bottom stated in substance that Grievant's continuous service date was March 3, 2014.

Ms. Bottom also noted that it would be problematic if NDOC considered Grievant's previous years of State service, as State employees not uncommonly left State service only to return to State employment at some point in the future.

The EMC deliberated on Officer Eckard's grievance.

Member DuPree stated in substance that a break in services was a break in service, and that when an employee had a break in service the employee had to start over with respect to his or her service years.

Member Laney stated her agreement with Member DuPree's position, noting that Grievant in fact did take at least a one-day break in service, and so the employee left State service and the date on which Grievant returned to State service was his new hire date.

Member Laney added in substance that she saw no other option than for the EMC to deny the grievance. Member Thompson agreed.

Co-Vice-Chair Bauer noted that NAC 284.0525 defined "continuous service" as service that was not broken by a separation except for those separations listed in NAC 284.598.

Co-Vice-Chair Bauer also stated in substance that breaks in continuous service under NAC 284.598 included military leave for active service, a layoff, and a separation as a result of a permanent disability arising from a work-related injury.

Member Laney added that she did not see a violation of NAC 284.598 or NAC 284.0525 in the grievance.

Co-Vice-Chair Bauer noted that in looking at the definition of a grievance as an injustice suffered by an employee out of the employment relationship, in this case the employment relationship currently was with NDOC and its application of AR 301.02, and so she was leaning towards denying the grievance based on evidence that NDOC had complied with its own regulation.

Member Russell stated that she was leaning towards denying the grievance based on AR 301.02, page three, which stated that seniority for shift bidding purposes was calculated based on an officer's continuous date of service, and that continuous date of service was defined by date of hire without breaks in State service.

Member Russell also stated that she was going back to Exhibit 2, Grievant's settlement agreement, with DETR page three, Paragraph 19,

which stated that there were no oral agreements and/or representations made that would be considered outside of the settlement agreement.

Member Laney moved to deny Grievance No. 6201, as NDOC followed AR 301.02(2), and as the EMC determined there had been a break in Grievant's service as defined by NAC 284.0525 and NAC 284.598. Co-Vice-Chair Bauer seconded Member Laney's motion, which carried unanimously.

FINDINGS OF FACT

Based upon the testimony of the witnesses, the arguments made by the parties, the briefs, evidence, and documents on file in this matter, the EMC makes the following findings of fact. All findings made are based upon a preponderance of the evidence.

1. Grievant was a non-exempt State of Nevada employee.
2. Grievant is currently employed by NDOC as a correctional officer.
3. Grievant started his State service with DETR on September 19, 2011.
4. Grievant left State service on February 1, 2014. As part of leaving State service Grievant removed his PERS contributions.
5. Grievant was reinstated with DETR pursuant to a settlement agreement on March 3, 2014.
6. Grievant's last day with DETR was April 25, 2014.
7. Grievant began employment with NDOC on April 28, 2014.
8. Grievant was hired by NDOC as a transferee.

CONCLUSIONS OF LAW

1. For this grievance, it was Grievant's burden to establish by a preponderance of the evidence that NDOC failed to follow AR 301.02(2).
2. A grievance is any act, omission or occurrence which an employee who has attained permanent status feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee. NRS 284.384(6).
3. Officer Eckard's grievance falls within the jurisdiction of the EMC under NRS 284.073(1)(e).
4. AR 301.02(2) states that "[a]nnual shift bidding is based on each Officer's seniority. Seniority is calculated based on the officer's continuous date of service as defined by NAC 284.025. Pursuant to NAC 284.632 continuous service date is defined as date of hire without break in service."
   NAC 284.0525 states: "[c]ontinuous service" means service which is not broken by a separation except for those separations listed in NAC 284.598."
5. NAC 284.598 states:
   The following are not breaks in continuous service:

1. Military leave for active service if the person returns from leave within 90 calendar days after an honorable discharge from military service.
2. A layoff if the employee is reemployed within 1 year after the date he or she was laid off.
3. A seasonal layoff if the employee is reemployed within 1 year after the end of the previous seasonal appointment.
4. A separation as a result of a permanent disability arising from a work-related injury or occupational disease, if the employee is reemployed within 1 year after the date on which he or she sustained the permanent disability as determined pursuant to NAC 284.6013.

6. Grievant had a break in service on February 1, 2014, when he quit State service and removed his PERS contributions. This action would have been a separation from State service, and none of the events listed in NAC 284.598 that are not considered a break in a State employee's continuous service were applicable.
7. Grievant was unable to demonstrate that the settlement agreement with DETR which reinstated him also provided that his continuous service date would be September 19, 2011.

DECISION

Based upon the evidence in the record, and the foregoing Findings of Fact and Conclusions of Law, and good cause appearing therefor, it is hereby ORDERED:
Grievance No. 6201 is hereby DENIED. Grievant failed to demonstrate that NDOC failed to follow AR 301.02(2), as the EMC determined there had been a break in Grievant's State service as defined by NAC 284.0525 and NAC 284.598.

MOTION: Moved to deny grievance #6201.
BY: Member Laney
SECOND: Co-Vice-Chair Bauer
VOTE: The vote was unanimous in favor of the motion.

7. Discussion and possible action related to Grievance #6290 of Katie Jones, and Grievance #6296 of Samuel Butler, Department of Corrections – Action Item

This matter came on for hearing before the Employee-Management Committee[3] ("EMC)" on September 5, 2019 pursuant to NAC 284.695 and NAC 284.6955, regarding Grievance # 6296, filed by Samuel Butler

[3] The Committee members present representing a quorum were: Guy Puglisi (DHHS), who chaired the meeting; Sherri Thompson (DETR), Tonya Laney (DMV), Jennifer Bauer (SPCSA), Tracy DuPree (DETR) and Turessa Russell (UNLV). Counsel for the EMC, Deputy Attorney General Robert A. Whitney, Acting EMC Coordinator, Carrie Lee and EMC Hearing Clerk, Ivory Tolentino were also present.

("Grievant" or "Mr. Butler"). This grievance was heard by the EMC simultaneously with # 6290, In re Grievance of Katie Jones ("Ms. Jones"). Mr. Butler and Ms. Jones were both nurses at NDOC's Northern Nevada Correctional Center ("NNCC") in Carson City, NV at the time their grievances were filed. Joshua Hendrickson ("Attorney Hendrickson") represented Mr. Butler and Ms. Jones. The agency-employer, Nevada Department of Corrections ("NDOC"), was represented by State of Nevada, Senior Deputy Attorney General Theresa Haar ("DAG Haar"). NDOC Chief of Nursing Services Theresa Wickham ("Ms. Wickham") was sworn in and testified at the hearing. DAG Haar objected to Grievant's Exhibit 4, as it was unclear when it was originally provided to the correctional nurses, or who it was actually provided to. The objection was overruled.

STATEMENT OF THE CASE

It was noted by Chair Puglisi that Attorney Hendrickson had argued in his pre-hearing statement that the EMC should decide the grievances without a hearing pursuant to NAC 284.695 based on the EMC's decision in the Prost Grievance (Decision # 23-18), as that decision was a prior decision concerning similar facts and circumstances.

However, Chair Puglisi stated in substance that the reason the EMC had not done so was because the EMC could not just take for granted that the Prost Grievance was identical to Mr. Butler's and Ms. Jones' grievance.

Attorney Hendrickson argued that the relevant facts and law in the current grievances were the same as in the Prost Grievance, in that NDOC required its employees to perform work before and after the start of their shift without pay.

Attorney Hendrickson stated in substance that for the same reasons the EMC recognized in Prost, and to ensure consistency in the EMC's decisions, the EMC should grant the grievances at hand.

Attorney Hendrickson further stated that the only new argument presented by NDOC in the present grievances was that the State was immune from claims under the Fair Labor Standards Act ("FLSA").

Attorney Hendrickson argued that regardless of whether NDOC was required to pay its employees in compliance with Federal law it was still required to pay its employees for all work performed under Nevada law, so Federal immunity would not change the result.

Attorney Hendrickson also argued in substance that the State had waived its immunity to the FLSA pursuant to NRS 41.031(1).

Attorney Hendrickson added in substance that the State was required to pay its workers for work performed just as any other employer would be required to do.

Attorney Hendrickson also argued in substance that there was no dispute concerning the nurses' work schedules.

Attorney Hendrickson stated in substance that he did not believe there was any dispute that correctional nurses performed during their work the tasks specified in his brief prior to reporting for their regularly scheduled shift, such as signing in and picking up keys, being ready to respond in case of an emergency as the nurses crossed the prison yard, receiving briefings from the outgoing nurses, and then the reverse of those activities when the nurses ended their shift.

Attorney Hendrickson added that there was no dispute that the nurses were not paid for these activities, and that the nurses had the right to be paid for this work.

DAG Haar argued in substance that the FLSA did not apply to Nevada employee claims, as Nevada had not waived its sovereign immunity with respect to the FLSA, which was consistent with the U.S. Supreme Court decision in *Alden v. Maine* cited in her pre-hearing statement, and that nothing in NRS Chapter 41 changed the fact that Nevada had not waived its immunity with respect to the FLSA.

DAG Haar also noted that in looking at NRS 281.100 it could be seen that it did not apply to Grievants' situation, as NRS 281.100(3)(b)(2) stated that it did not apply to employees who elected to work a variable 80-hour work schedule.

DAG Haar also noted that NRS 281.100(3)(b)(5) indicated that the section did not apply to professional employees, and that nurses were considered professional employees under NRS Chapter 632.

DAG Haar stated that if one looked at the duties of correctional nurses, the series concept, nurse duties included identifying patient healthcare needs, preparing nursing plans, coordinating health services and providing emergency medical treatment.

None of those essential job functions required keys to perform, DAG Haar noted.

DAG Haar also argued that signing in at the gatehouse and passing through metal detectors had no direct nexus to nursing duties, and that every NDOC institution had an operations procedure that required all non-custodial staff to sign in at the gatehouse and go through a metal detector.

DAG Haar stated in substance that this procedure was for the safety and security of people entering an institution so that an institution maintained an accurate count at all times of non-custodial staff who were in the facility in the event of an incident such as a riot.

DAG Haar stated that the argument had been raised that during the time that the nurses walked from the gatehouse to the nurses' station a situation could arise where the nurses would be required to respond to an emergency, but that NDOC had a mechanism that allowed employees to seek overtime pay in such situations (a Doc 1000), and that nurses were routinely compensated for work performed during and after shift through the use of the Doc 1000.

DAG Haar also argued that the EMC should not use the Prost Decision as binding precedent, as NDOC failed to appear at that hearing and did not provide statements or argument at that time.
In summation, DAG Haar asked that the EMC deny Mr. Butler's and Ms. Jones' grievances.

Chair Puglisi asked about Exhibit 4, a memorandum dealing with nurses having the option of taking an unpaid 30-minute lunch, which would have allowed the nurses time for the other activities that the nurses said were occurring but for which they were not being paid.

Chair Puglisi asked if the nurses were exercising their option of taking an unpaid lunch, or if they were taking a paid lunch and working straight through their shift.

Mr. Butler testified that the nurses were told to be present on site at all times, and that they were supposed to work through their lunch, and that an unpaid lunch was never an option for them.

Ms. Jones added in substance that in reality the nurses would have no time to leave the facility with a 30-minute lunch, as it took about 15 minutes to leave/check out of NNCC.

Member Laney asked the nurses what would happen if they did not sign the log at the gatehouse until the start of their shift time, and if the nurses would be considered late if they did so.

Ms. Jones stated that she was aware NDOC used the log for recording purposes, and that she thought that some people had been disciplined for not signing in on the carpeted area, and not the gatehouse.

According to the Grievants, the carpeted area was a 7-15-minute walk from the gatehouse.

Ms. Wickham testified stating that the sign in logs at each building were for accountability of where NDOC staff were located in the event of a riot or hostage situation and were not timekeeping mechanisms.

Ms. Wickham stated at NNCC the nurses walked across the yard until they reached the building they were assigned to, where the nurse would sign in in case something such as a hostage taking situation occurred, so

that when the highest ranking NDOC officer looked at the sign in log he or she could account for everyone in the particular area.

Attorney Hendrickson argued in substance that the only guidance in Nevada law dealing with whether the nurses should be compensated was found in NRS 281.100.

Attorney Hendrickson noted that NRS 281.100(3) provided certain exceptions that applied to certain employees.

Attorney Hendrickson noted that NRS 281.100(3) exempted certain categories of employees from the 40-hour limitation set forth in subsection NRS 281.100(1) and recognized that some employees work a variable work shift with no more than 80 hours in a two-week period, and that if those employees work over 80 hours they are still entitled to overtime.

Attorney Hendrickson argued that NRS 281.100(2) was relevant because it provided guidance as to the specific activities that constituted the start of employment for the purpose of determining compensation. This NRS section provided that the period of daily employment referenced in section NRS 281.100 started from the time an employee took charge of any equipment of the employer.

Attorney Hendrickson stated in substance that he thought the key event for determining when daily employment began was the employee picking up and taking charge of the keys.

Attorney Hendrickson added that although there was Nevada law on this subject perhaps it was appropriate to look at corresponding Federal law in order to provide more clarity and guidance as to what the impact of the activity on the start of the workday would be.

According to Attorney Hendrickson, the Federal law asked whether an activity was integral and indispensable to the carrying out of an employee's duties. One of the considerations, according to Attorney Hendrickson, was whether the employee needed the equipment in order to perform his or her job safely and effectively.
Attorney Hendrickson further argued that nurses
could not perform their daily tasks safely and effectively without having the keys.

Mr. Butler testified in substance that typically the nurses walk into the gatehouse, they give the officer on duty their bags, the officer searched the bags, then the nurses passed through a metal detector, after which they passed through another door controlled by an officer, and then the nurses were required to sign into a log book, and then picked up their keys. After signing in Mr. Butler testified that the nurses were required to go over to an identifying machine that read the nurses' thumbprint and into which the nurses put their PIN number.

Mr. Butler testified in substance that the nurses then went through another door, and then through two separate fences, through which the nurses had to be let through by an officer, and at that point the nurses started walking across the yard to Building (Unit) 8. After arriving at this building, the nurses put in a PIN number and went through two separate doors with this PIN number, and after entering the building were required to sign another logbook, and then proceed to another door.

According to Mr. Butler the nurses then went through another door controlled by an officer.

Mr. Butler testified in substance that the nurses needed their keys to access cabinets which contained medical supplies, and to also access the "med room."

Mr. Butler stated that the nurses would be unable to safely and effectively perform their jobs without the keys.

Member Russell asked in substance whether the variable work shift was optional or mandatory.

Ms. Jones responded that the nurses had a set schedule of 12-hour shifts with an alternating 8-hour shift to make up the 80 hours in a two-week period, and that the nurses really had no choice in the setting of this schedule.

According to Mr. Butler, the amount of time between going through the metal detector to the time the nurse picked up the keys was miniscule, as the keys were located in the same area.

Ms. Wickham testified that she was currently the Chief of Nursing Services for NDOC and had been employed by NDOC for six and a half years.

Ms. Wickham's current duties included supervising the Directors of Nursing at NDOC, making executive policy, supervising the clinical based medical administration staff, and being an expert witness for nursing policies and procedure when it related to negligence or failure to abide by the Nurses Practice Act.

Ms. Wickham testified that she visited the different NDOC institutions, and that she did not have keys for the institutions, but that this did not prevent her from performing her job as a nurse at the different facilities.

Ms. Wickham also testified that when a person accepted employment with any law enforcement agency the person agreed that they were subject to searches and seizures.

Ms. Wickham also agreed that the logbook was located past the metal detector at NNCC, and that when they reached that point the nurses, if required, would pick up keys.
Ms. Wickham also testified that if a nurse was assigned to an institution, they would be assigned a set of keys, but due to the fact that NNCC had four shifts there were not enough keys for each nurse to have his or her own set of keys, so the nurses had to share keys.

Ms. Wickham stated in substance that there was an inmate entry into Unit 8 that led into the clinic area, and that the nurses and any employees entered through a keypad entryway.

Ms. Wickham further stated that at one time the keys were located inside of Unit 8, but at some point, the keys were moved out of Unit 8, although nurse duties had not changed.

In discussing nurse job duties, such as identifying patient healthcare needs, preparing health care plans, coordinating health services, administering medicine and providing emergency medical treatment, among other tasks, Ms. Wickham testified that none of those job duties required keys.

Ms. Wickham also testified that she was familiar with Doc 1000, and that the form was used for requesting leave and overtime.

Ms. Wickham stated in substance that if a nurse responded to a medical emergency when crossing the prison yard, the nurse could submit a Doc 1000 for the (over)time responding, as it was actually time worked.

Ms. Wickham testified in substance that they keys were used to lock up some of the nursing equipment, such as computers, and that someone at NNCC had keys to everything, usually the Director of Nursing.

Ms. Wickham further testified that there were multiple pill rooms and multiple patient areas at NNCC, and that there was always one pill room for the outpatient clinic, and that, unlike the infirmary, the clinic was not staffed 24 hours, 7 days a week.

Ms. Wickham stated in substance that the nursing stations at NNCC were secured areas to some extent, and that the doors leading to and from the nursing areas were locked, but that they keys the nurses picked up would unlock these doors.

Ms. Wickham also stated that the keys the nurses picked up were not a requirement, and that usually the first day a nurse reported to work at an NDOC institution the nurse would not have keys and would not be issued keys until sometime during the nurse's first week of employment.

With respect to John Keast's (Director of Nursing Services at NNCC) grievance response that all nurses were required to obtain key sets

immediately after entering the gatehouse, Ms. Wickham stated in substance that there was nothing in the job description for NDOC nurses that required them to pick up a set of keys, and that the keys were not essential to nurse job performance, although it might be more convenient for the nurses to have the keys to perform their job.

Ms. Wickham also testified in substance that correctional nurses were required to brief oncoming nurses only with respect to inmates who were 24/7 inpatients, and that this requirement applied to Ms. Jones and Mr. Butler.

Ms. Wickham stated in substance that the whether or not the briefing was "on the clock" for Mr. Butler and Ms. Jones depended on the circumstances at the end of the nurses' shift.

In reviewing Exhibit 4 (John Keast's memorandum), Section 2, Ms. Wickham testified that nurses' shifts at NNCC did not overlap, and that nurses would either not be receiving pay when hearing the briefing or would not be receiving pay for providing the briefing.

In closing, Attorney Hendrickson argued that the correctional nurses needed the keys in order to perform their jobs safely and efficiently.

Attorney Hendrickson stated that under relevant State law, the question was "when does the workday start?" Attorney Hendrickson argued that the answer to that question was provided by NRS 281.100, and that the answer was at the time the nurses pick up the keys.

Attorney Hendrickson noted that this answer was consistent with Federal standards, where the question would also be "when does the workday start?"

Attorney Hendrickson argued in substance that the workday started when one picked up keys/equipment from the employer.

Attorney Hendrickson also reminded the EMC that NDOC admitted that end of shift/beginning of shift briefings happened "off the clock" for at least one nurse in every instance.

Attorney Hendrickson argued that correctional nurses were required to be paid for overtime for hours worked over 40 hours in a week, or hours worked over 80 hours if the nurse was on a variable schedule.

Attorney Hendrickson added that, with respect to the Prost decision, the decision for overtime payment in that grievance was limited to 20 days, but that it was appropriate for the EMC to make an award for the time frame set forth in statute, which was three years.

Attorney Hendrickson argued that NDOC's violation was a continuing violation in this situation, and not a discreet act with a beginning and an end.

DAG Haar argued that the FLSA did not apply to the State, and so Federal guidelines could not be relied upon for determining the start of an employee' shift. If one looked at NRS 281.100, DAG Haar argued, the employees were only looking at Subsection (2) of NRS 281.100, which stated when the period of daily employment commenced, but that the next paragraph stated that the Section did not apply to professional employees.

DAG Haar argued that "professional employee" was defined in NRS 608.0116, and that nurses were considered professional employees, and so NRS 281,100 did not apply in this situation, and so the definition of what constituted the start of a work shift in NRS 281.100 was inapplicable.

DAG Haar noted that walking had not been shown to be a compensable activity, and so whether a nurse picked up his or her keys at the gatehouse or in Unit 8 itself, it was simply walking across the yard with keys in the nurses' pocket, and no tools were being used as the nurses walked across the yard, and if the nurses happened to respond to an emergency situation while walking across the yard keys would not be required to perform those services, and so the keys being picked up at the gatehouse did not start a nurses' shift.

DAG Haar also noted in substance that nothing in the nurses' requirements and duties required keys, although they were convenient, and that if a pre or post shift response was required of a nurse the Doc 1000 could be completed and the nurse would be compensated.

DAG Haar also noted that the EMC's ability to provide relief to the Grievants was limited to the period of time for the grievance.

Chair Puglisi noted that it had been determined in Prost that the EMC could only look at the event date of the grievance forward for purposes of awarding relief, and that the EMC could not make an award outside of that time frame.

Member Laney stated in substance that she believed that the keys which the nurses picked up and dropped off at the end of their shifts were a necessary tool to perform their job, and that fact would meet the first part of NRS 281.100.

However, Member Laney stated in substance that she could not overlook that in NRS 281.100(3)(b)(4), nurses were defined as professionals, and so exempted from the provisions on NRS 281.100(2).

Member Thompson stated that under NRS 281.100(2), the reference to taking charge of any equipment of the employer was made, so she thought that once an employee was under the direction of the employer and were mandated to do something by the employer then they were considered employed, and so in this case the nurses should be paid from the time they picked up their keys.

Chair Puglisi stated in substance that NRS 281.100 was unclear, but he felt that in looking at NRS 281.100, once an employee worked over 40 hours or 80 hours, depending on the employee's work schedule, the employee was entitled to overtime.

Co-Vice-Chair Bauer stated in substance that she thought the issue was when the Grievants were eligible for overtime for the work performed.

Co-Vice-Chair Bauer also stated in substance that she had heard during argument that the FLSA did not apply to Nevada, and reference had been made to sovereign immunity, and that when she looked at NRS Chapter 41.031, the FLSA applied to State employees, so she did not understand how the FLSA could not apply to the current grievances.

Co-Vice-Chair Bauer noted in substance that the FLSA covered specifically when employees were on the premises of an employer, and so she was concentrating on that rather than NRS 281.100.

Co-Vice-Chair Bauer asked to hear from both attorneys concerning the applicability of the FLSA to the current grievances.

Attorney Hendrickson argued in substance that the FLSA applied to the present grievances and that he felt that NRS 41.031 was an unequivocal waiver of the State's sovereign immunity, so that the State was subject to the same wage and hour claims that any other employer in Nevada would be subject to.

DAG Haar argued in substance that NRS 41.031 stated that the State did not waive its 11th Amendment immunity, and so it still retained its sovereign immunity concerning Federal claims against it under the 11th Amendment, and that in looking at *Alden v. Maine,* that case was similar to the present grievances, in that FLSA claims could not be brought against non-consenting states.

DAG Haar stated in substance that Nevada had not explicitly anywhere in the NRS' consented to be sued under the FLSA, and that without that explicit waiver Nevada could not be sued in its own courts for claims under the FLSA.

Attorney Hendrickson argued that 11th Amendment immunity was separate and distinct from a state's general immunity, as 11th Amendment immunity was jurisdictional, and that meant that a state was

immune from being sued in Federal court unless it consented to the action.

Attorney Hendrickson further stated that the other type of immunity was referred to as general immunity, which was addressed in the *Alden* case, and stated that a state was immune from liability from all claims in any court unless it consented to those claims. Thus, what NRS 41.031 did, according to Attorney Hendrickson, was expressly waive immunity with the exception of 11th Amendment immunity, and not the substantive immunity that was at issue in the present grievances.

Member DuPree stated that as soon as the nurses picked up their keys and put in their State ID number they were at work.

Member DuPree further stated that the nurses were walking across an entire institution, taking 7-15 minutes to do so, to get to their workstations, and that the nurses should be paid to do so.

Co-Vice-Chair Bauer noted that some evidence had been presented that indicated that keys were not an essential function of a nurse's job, which had been a focus in the Prost grievance, and that the time of picking up the keys was when the employee should have been compensated from.

Co-Vice-Chair Bauer stated in substance that now she was torn because she felt that it had been demonstrated in the present grievance that keys were not an essential tool of a nurses job, but that when one reached the applicability of the FLSA, she looked at 29 CFR 553.221(e), which stated compensable hours of work generally included all of the time which an employee was on duty on the employer's premises or at a prescribed workplace, as well as all other times at which the employee is suffered or permitted to work for the employer.

Co-Vice-Chair Bauer stated that this definition led her towards the belief that when the employee was on the employer's premises the employee was on duty.

Co-Vice-Chair Bauer stated that on duty could be walking through the prison yard, or on duty could be when the nurse was at the assigned duty station, whether it was at the infirmary or the pill room, and that if there was an instance where there was an emergency overtime would be warranted.

Member Russell stated that there were parts of a nurse's job where keys were required as equipment needed for the nurses to perform their work, and that NDOC made a determination as to where the keys were to be located, and that at the time the keys were retrieved and in control of the employee the employee needed to be compensated from that time forward.

Chair Puglisi noted that the nurses' station was a secure area, but not on the patient waiting room side of the station, and keys were needed to access what had been referred to as the carpeted area, and that correctional officers also had keys to these areas.

It was also testified to that a correctional officer was stationed in the infirmary at all times. However, it was testified to by Ms. Wickham that no nurse had a key to the infirmary door from the carpeted area or the clinic. There was conflicting testimony as to whether necessary medical equipment was stored in the carpeted area.

Member Russell asked in substance whether the nurses ever did not pick up their keys when entering NNCC.
Mr. Butler testified that he always picked up his keys when entering NNCC.

Chair Puglisi stated that when he looked at NRS 281.100(2), it said that the period of daily employment mentioned in that section commenced from the time the employee took charge of any equipment of the employer or acted as an assistant or helper to a person who was in charge of any equipment of the employer, and that the nurses here were taking charge of the keys.

Chair Puglisi added in substance that he kept getting stuck on NRS 281.100 and pondered as to whether the EMC was following it, as there were exemptions in it, but he thought the exemptions were connected to the variable work schedules that the nurses worked.

Member Laney brought up the fact that she was concerned with NRS 281.100, Section 3, Subsection (b)(4), which seemed to say that the section did not apply to professional employees, and that this section applied to all of NRS 281.100.

Member Thompson motioned to grant Grievance No. 6290 and Grievance No. 6296, finding that compensable time of Grievants' shift began at the time Grievants signed in and collected keys and ended when they returned the keys and signed out. Additionally, Grievants should receive payment for such compensable time going back to January 22, 2019, up through to the present time.

Member Thompson's motion was seconded by Member DuPree. The motion carried 5-1, with Member Laney voting against the motion.

FINDINGS OF FACT

Based upon the testimony of the witnesses, the arguments made by the parties, the briefs, evidence, and documents on file in this matter, the EMC makes the following findings of fact. All findings made are based upon a preponderance of the evidence.

1. Grievant was a non-exempt State of Nevada employee.

2. Grievant was employed by NDOC as a Correctional Nurse II during the relevant time period of this grievance.
3. Grievant worked a variable work schedule.
4. Grievant had no choice in setting of his work schedule.
5. When Grievant arrived at NNCC for work he entered a gatehouse, then passed through a metal detector before he signed in and picked up his keys.
6. Grievant never failed to pick up his keys upon starting his shift.
7. Grievant then walked for another 7-15 minutes, depending on circumstances, such as the weather, across the yard at NNCC and passed through other doors prior to reaching the nurses' workstation in Unit 8.

8. Once Grievant reached his workstation in Unit 8 he was required to sign in again.

8. Grievant's shift/workday commenced upon reaching his workstation in Unit 8, and Grievant started receiving pay from this time until the end of his shift.
9. Grievant repeated the process of arriving at Unit 8 in reverse upon leaving NNCC at the end of his shift.
10. It was noted that nurses provide and receive briefings at the beginning and end of their shifts, respectively.
11. Because nurses' schedules do not overlap, either the nurses coming onto their shift who receive the briefings did not receive pay for listening to the briefings, or the nurses ending their shift did not receive pay for providing the briefings.
12. Testimony was presented concerning the job description/requirements of NDOC correctional nurses. These duties included identifying patient healthcare needs, preparing nursing plans, coordinating health services and providing emergency medical treatment.

13. Grievant used his keys to access cabinets in his workstation area that contained necessary medical supplies, and also to access the "med room," which contained various kinds of medical equipment nurses used that were necessary to perform their job.

14. Grievant's keys also unlocked doors leading to and from the nurses' station/carpeted area.

CONCLUSIONS OF LAW

1. For this grievance, it was Grievant's burden to establish by a preponderance of the evidence that NDOC failed to properly compensate Grievant for the work he performed at NNCC. In order to do so, Grievant was required to establish when his workday began and ended pursuant to NRS 281.100(2).
2. A grievance is any act, omission or occurrence which an employee who has attained permanent status feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee. NRS 284.384(6).
3. Mr. Butler's grievance falls within the jurisdiction of the EMC under NRS 284.073(1)(e).

4. NRS 281.100(2) states:
   The period of daily employment mentioned in this section commences from the time the employee takes charge of any equipment of the employer or acts as an assistant or helper to a person who is in charge of any equipment of the employer, or enters upon or into any conveyance of or operated by or for the employer at any camp or living quarters provided by the employer for the transportation of employees to the place of work.
5. Pursuant to the FLSA, as codified in 29 CFR § 785.24, principal activities that are an integral part of the employee's job are considered work and are compensable.
6. An activity is integral and indispensable to Grievant's principal activities "if it is an intrinsic element of those activities and one with which the employee cannot dispense if he is to perform his principal activities." *Integrity Staffing Sols., Inc. v. Busk*, 574 U.S. 27, 135 S. Ct. 513, 514, 190 L. Ed. 2d 410 (2014).
7. The keys that Grievant picked up were necessary, and not simply convenient, for his employment duties and could not be dispenses with, and thus were an integral part of Grievant's duties.
8. Thus, when Grievant took possession of the keys after entering the gatehouse at NNCC he began his workday/daily employment at NDOC in accordance with NRS 281.100 and 29 CFR § 785.24.
9. As Grievant began his daily employment after picking up the keys he was required to be compensated pursuant to 29 CFR § 785.24 from the time he picked up his key until he returned the keys at the end of his shift.
10. The exceptions to NRS 281.100(2) found in NRS 281.100(3) were not applicable to this grievance.
11. The EMC only has jurisdiction, pursuant to NAC 284.678, to award damages beginning on January 22, 2019 (date of the event leading to the grievance) until the present.

DECISION

Based upon the evidence in the record, and the foregoing Findings of Fact and Conclusions of Law, and good cause appearing therefor, it is hereby ORDERED:

Grievance No. 6290 is hereby GRANTED. Grievant established by a preponderance of the evidence that his workday began pursuant to NRS 281.100(2) when he picked up his keys after entering the gatehouse at NNCC, as the keys were an integral part of his employment as a correctional nurse pursuant to 29 CFR § 785.24.

As picking up the keys were an integral part of Grievant's employment activities, he was entitled pursuant to 29 CFR § 785.24 to be paid from the time he picked the keys up until the time he returned the keys, ending his shift. Pursuant to NAC 284.678, the EMC may only award damages back to the event date of the grievance.

MOTION: Moved to grant grievance #6290 and 6296
BY: Member Thompson
SECOND: Member DuPree
VOTE: The vote was 5-1, with Member Laney voting against the motion.

9. Public Comment

Ms. Theresa Wickham stated she notified the acting Director of Department of Corrections to notify the wardens to move the key box per the statement of the EMC.

10. Adjournment

Chair Puglisi adjourned the meeting at approximately 1:52 pm.

Steve Sisolak
Governor

Guy Puglisi
Chair

Jennifer Bauer
Co-Vice-Chair

Pauline Beigel
Co-Vice-Chair

Tori Sundheim
Deputy Attorney General

Robert A. Whitney
Deputy Attorney General

STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
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Meeting Minutes of the Employee-Management Committee
October 17, 2019
(Subject to Committee Approval)

Held at the Nevada State Library and Archives Building, 100 N. Stewart St., Conference Room 110, Carson City, Nevada, and the Grant Sawyer Building, 555 E. Washington Ave., Room 1400, Las Vegas, Nevada, via videoconference.

Committee Members:

Management Representatives	**Present**
Mr. Guy Puglisi - Chair	
Ms. Jennifer Bauer	
Ms. Pauline Beigel	X
Mr. Ron Schreckengost	X
Ms. Jennelle Keith	
Ms. Tonya Laney	X

Employee Representatives	
Mr. Tracy DuPree	
Ms. Turessa Russell	X
Ms. Sherri Thompson	
Ms. Adria White	
Ms. Sonja Whitten	X
Ms. Dana Novotny	X

Staff Present:

Mr. Robert Whitney, EMC Counsel, Deputy Attorney General
Ms. Nora Johnson, EMC Coordinator
Ms. Ivory Wright-Tolentino, EMC Hearing Clerk

1. Call to Order

Co-Vice-Chair Beigel called the meeting to order at approximately 11:00 am.

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.

Co-Vice-Chair Beigel opened the meeting with Committee introductions.

4. Adoption of the Agenda – Action Item

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

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

5. Discussion and possible action related to Grievance #6348 of Michael Friedman, Department of Health and Human Services – Action Item

Co-Vice-Chair Beigel opened the Committee for discussion.

Member Laney stated she understood the employee was not satisfied with the comments made.

Member Laney stated she did not see where the employee stated the agency or supervisors had violated statute or policy, just that the employee was not satisfied with the comments that were made.

Member Schreckengost stated he agreed with Member Laney.

Member Schreckengost stated the first thing he noticed in the grievance was the grievant's proposed resolution was 'unknown'.

Member Schreckengost stated that spoke for itself.

Member Novotny stated she agreed.

Member Novotny stated there was no resolution and that the grievant met standards and just because the grievant doesn't like what it said, doesn't mean it has to be resolved, it was just a comment.

Member Whitten stated the details described in page 1 of the grievance were troubling, but it was 'meets standards' and the grievant did not offer any type of resolution for the grievance.

Member Russell stated it seemed to her, the grievant was questioning the process it went through, and whether or not it adhered to regulations.

Co-Vice-Chair Beigel stated she agreed.

Member Russell stated that was concerning and should the grievance be moved forward to hearing, that issue, the process, is what the Committee would be addressing.

Member Russell stated she did not think the EMC was limited to when a grievant proposes a resolution.

Co-Vice-Chair Beigel stated there were date issues, that the grievant complained the evaluation was given too early at first, then it was late.

Co-Vice-Chair Beigel asked the Committee if they saw the same issue.

Member Schreckengost stated yes as did Member Novotny.

Co-Vice-Chair Beigel stated from the date on the appraisal itself that stated due by November 7, the rater signed on October 17, the Appointing Authority signed on October 17 but the grievant was complaining in the grievance he did not receive the face to face review his supervisor.

Co-Vice-Chair Beigel stated she thought the grievant meant he did not have an Appointing Authority review.

Co-Vice-Chair Beigel stated according to the timeframes the grievant received the appraisal on the 22nd but he didn't sign it until the 5th.

Co-Vice-Chair Beigel asked the Committee if they saw the same issue.

Member Shreckengost agreed.

Co-Vice-Chair Beigel asked for clarification if the timeline was 10 working days.

Member Russell verified that it was.

Co-Vice Chair Beigel stated she did not think the grievance was filed timely.

Member Laney stated the employee filed the grievance 35 days after the event and the grievance was not filed timely.

Member Laney stated the agency admitted they were not timely in their response to the employee because the employee was declining to sign the appraisal, but the employee had received the review three weeks early.

Member Laney stated that should not extend the agency's time, the date they gave him the appraisal should still start the clock, the employee was also untimely in filing the grievance.

Member Schreckengost stated the Committee was all seeing the same thing and could answer this grievance without a hearing.

Member Schreckengost stated the grievant was outside of the timeframe, although the issue itself, arguably, is not grievable.

Member Schreckengost stated due to the untimeliness issue, the Committee could not hear the grievance.

Member Laney agreed with Member Schreckengost.

Co-Vice-Chair Beigel asked if there were other comments from the Committee.

Member Russell stated she agreed with the untimeliness of the filing and would not move this grievance to hearing but was troubled by the review process.

Member Russell stated she was not sure, due to the untimeliness, the Committee could hear that issue.

Member Schreckengost stated he agreed with Member Russell that the review process had issues and asked if the Committee could deny the hearing but include recommendations to the agency.

Member Schreckengost stated the Committee does not provide enough guidance to agencies and while the issue at hand was not grievable, the Committee has the authority to provide guidance.

Mr. Whitney stated there was nothing legally prohibiting the Committee from dismissing the agendized item and providing some guidance to the agency within the decision letter.

Co-Vice-Chair Beigel asked Member Russell if that would be acceptable; Member Russell stated yes.

Member Whitten and Member Novotny both agreed with the rest of the Committee.

Co-Vice-Chair Beigel asked if there was any discussion.

Member Russell stated she would like to hear what type of recommendation Member Shreckengost would like to propose.

Member Schreckengost stated he personally felt there was tension between the employee and the Administration and did not think the Administration had cleared that up with the employee.

Member Schreckengost stated the agency was very clear and specific as to how they addressed the issue with the grievant, however, that did not change the fact the employee has what the employee believes to be a grievable issue.

Member Schreckengost stated the instructions the Committee gives would be to address the review process for evaluations.

Co-Vice-Chair Beigel asked if anyone was ready to make a motion.

Member Laney moved the Committee answer grievance #6348 without a hearing based on previous EMC decisions that grievance #6348 does not fall within the definition of a grievance as set forth in NAC 284.658 and that a recommendation be sent to the agency to review their evaluation process for all employees regarding feedback and timeliness.

Co-Vice-Chair Beigel asked for clarification on how the grievance did not meet the definition of a grievance.

Member Laney stated there was no grievable offense.

Co-Vice-Chair Beigel stated the main issue was the grievance was not filed timely.

Mr. Whitney stated one item the Committee agreed upon was the untimeliness of the grievance being filed.

Mr. Whitney stated as the motion had not been seconded, that NAC 284.678 would accommodate the grievance being filed untimely.

Member Laney agreed withdrew her original motion and restated her motion to include NAC 284.678 and the recommendation to the agency.

Member Schreckengost seconded the motion.

Co-Vice-Chair Beigel asked if there was any Committee discussion.

Member Russell stated she would like to remove the word “suggest” and replace it with “recommendation”.

Member Russell stated the word “recommend” was stronger and more appropriate.

Member Laney stated she would accept that change to the motion.

Mr. Whitney asked if Member Schreckengost as the second would also accept that change.

Member Schreckengost stated yes, he would.

Member Whitten asked where in the NAC's or NRS's that outline the steps the agencies are to take in regard to evaluations.

Member Whitten stated she would like to add that to the motion so there was no confusion.

Co-Vice-Chair Beigel stated it was NAC 284.470.

Member Laney amended the motion to include NAC 284.470.

Mr. Whitney asked if Member Schreckengost as the second would also accept that change.

Member Schreckengost stated yes, he would.

The motion was read and Member Laney and Member Schreckengost agreed to the amendments.

MOTION: Moved to answer grievance #6348 without hearing per NAC 284.678, the grievance was not submitted timely. Also, the EMC recommended the agency, pursuant to NAC 284.470, review their process regarding feedback and timeliness with regards to the request for review.
BY: Member Laney
SECOND: Member Schreckengost
VOTE: The vote was unanimous in favor of the motion.

6. Discussion and possible action related to Grievance #6508 of Justin Kulani, Department of Health and Human Services – Action Item

Co-Vice-Chair Beigel opened the Committee for discussion.

Member Schreckengost stated he has similar issues within his agency, and he did not think these issues were grievable.

Member Schreckengost stated he the Committee had decisions regarding the same issue, and he did not feel the employee had been grieved.

Member Schreckengost stated the agency acted within NRS 284.020 (2) and based on that, the Committee did not need to move the grievance forward.

Member Laney stated she agreed and while sympathetic to the situation, this grievance did fall under NRS 284.020 (2).

Member Laney stated the agency had the right to move staff around on the shifts as they see fit and based on their business needs.

Member Laney reiterated she was sympathetic to the situation and did appreciate the agency noted in the grievance assistance they were offering the employee but did not see how the Committee could move the grievance forward to hearing as she did not feel the employee was grieved.

Member Novotny agreed and stated there was not much the Committee could do as the agency has to run it as they see fit.

Member Russell stated she agreed the agency has the leeway to schedule their shifts and staffing as they see fit but she did have an issue with the statement the employee had not been grieved.

Member Whitten stated she did feel for the employee but unfortunately agencies are allowed to schedule and run their agencies as they see fit and the agency's response did state the move was for business needs and the employee doesn't dispute that but alludes there may be cronyism happening and that is not something the Committee can address.

Co-Vice-Chair Beigel stated she saw the same things in the grievance and there were two other areas that would have taken the employee on the graveyard shift.

Co-Vice-Chair Beigel stated the agency offered a resolution even though the agency did have the right to move the employee.

Co-Vice-Chair Beigel stated it was not a grievable issue.

Co-Vice-Chair Beigel asked if there was discussion.

Member Laney moved to answer grievance #6508 without a hearing based on NRS 284.020 (2), the agency has the right to run their business as they see fit and following previous decisions as determined by the EMC.

Member Russell seconded the motion.

Co-Vice-Chair Beigel asked if there was any discussion, there was none.

MOTION: Moved to answer grievance #6508 without hearing per NRS 284.020 subsection 2 and following previous decisions as determined by the EMC.
BY: Member Laney
SECOND: Member Russell
VOTE: The vote was unanimous in favor of the motion.

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

Co-Vice-Chair Beigel opened the Committee for discussion.

Member Schreckengost stated he was disturbed by the grievance and felt the Committee should table the discussion as the matter is under investigation at the agency level.

Member Schreckengost stated he was not prepared to determine if the employee had been grieved and while the Committee should discuss it at a later point, as it is under investigation, the grievance is not within the EMC's jurisdiction.

Co-Vice-Chair Beigel asked EMC Coordinator Nora Johnson if there was any information on where the agency was in the investigation process.

Ms. Johnson stated the EMC did not have information on the agency level investigation.

Co-Vice-Chair Beigel stated she was concerned with venue fishing.

Member Laney stated it looked as though the agency had sent it through the other process and since that was done on September 4, the EMC would be in a holding pattern pending the outcome of that process.

Co-Vice Chair Beigel asked if the Committee tabled the grievance, could they do so with the stipulation that the EMC Coordinator contact the agency for status updates.

Mr. Whitney stated that was reasonable.

Member Russell asked if the Committee needed to place a timeframe on the status check, such as 30 days or 60 days.

Mr. Whitney stated yes, so the grievance does not become stale and Committee could find out if the issue had been routed through another venue.

Mr. Whitney stated the motion could be made to set the grievance aside pending the outcome of the current process and, based on status requests from the agency.

Co-Vice-Chair Beigel moved to set aside grievance #6575 and the grievant's agency be contacted regarding the outcome of the ongoing investigation with a status check every 30 days and at that point be re-agendized pending the outcome. If no response from the agency, the EMC will re-agendize in approximately 90 days.

Member Whitten seconded the motion.

Co-Vice-Chair Beigel aske if there was any discussion, there was none.

MOTION:	Moved to set grievance #6575 aside pending the outcome of the agency investigation.
BY:	Co-Vice-Chair Beigel
SECOND:	Member Whitten
VOTE:	The vote was unanimous in favor of the motion.

8. Public Comment

There were no comments in the North or in the South.

9. Adjournment

Co-Vice-Chair Beigel adjourned the meeting at approximately 11:50 am.

STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
100 N. Stewart Street, Suite 200 | Carson City, Nevada 89701
Phone: (775) 684-0135 | http://hr.nv.gov | Fax: (775) 684-0118

Meeting Minutes of the Employee-Management Committee
November 21, 2019
(Subject to Committee Approval)

Held at the Nevada State Library and Archives Building, 100 N. Stewart St., Conference Room 110, Carson City, Nevada, and the Grant Sawyer Building, 555 E. Washington Ave., Room 1400, Las Vegas, Nevada, via videoconference.

Committee Members:

Management Representatives	**Present**
Mr. Guy Puglisi - Chair	
Ms. Jennifer Bauer	
Ms. Pauline Beigel	X
Mr. Ron Schreckengost	
Ms. Jennelle Keith	
Ms. Tonya Laney	X

Employee Representatives	
Mr. Tracy DuPree	
Ms. Turessa Russell	
Ms. Sherri Thompson	
Ms. Sonja Whitten	X
Ms. Dana Novotny	X

Staff Present:

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

1. Call to Order

Co-Vice-Chair Beigel called the meeting to order at approximately 9:00 am.

2. Public Comment

There was public comment in the North.

Grievant Robert Stepien stated with his many years as a manage with the Nevada Highway Patrol (NHP), he has participated in numerous grievances and all aspects that go into them, however, in his 28-year career, he had never filed one.

Mr. Stepien stated he supported and appreciated the agencies do have the ability to operate their department as they see fit, however we all know the actions and decisions can override established employee rights and certainly should not transcend personnel rules and laws.

Mr. Stepien stated a grievance as defined by NRS 284.384 with this issue clearly related to an act or injustice arising out of the relationship between him and his employer and this included but was not limited to his working conditions, his membership in an organization of employees and the interpretation of law, regulation or disagreement.

Mr. Stepien stated in the command that he leads, a climate survey was ordered by the Director and then conducted by NHP Colonel Solo.

Mr. Stepien stated this climate survey was conducted with complete disregard for NRS 284.0735 that governs how climate surveys are to be conducted.

Mr. Stepien stated one example was they are supposed to be conducted by DHRM, not by line level departmental employees.

Mr. Stepien stated on the morning of August 9, 2019 he was called by Colonel Solo who stated he met with the Director's office about the survey results and during the 15-minute documented conversation, told him the results of the climate survey were negative towards the command.

Mr. Stepien stated he was summarily dispatched from his role as NHP Major, was told to pack his office that day, return his equipment and was removed from all NHP computer access and was told to report to the Investigations Division and Chief Conmay for reassignment.

Mr. Stepien stated this was a lower paygrade.

Mr. Stepien stated three days later, Colonel Solo confirmed the phone call in writing and copied Director Togliatti, Deputy Director Brueggemann and wrote the reassignment was "official and permanent."

Mr. Stepien stated for three weeks nothing changed, there was no clarifications or adjustments and no justifications were ever made by Colonel Solo, the Directors or his immediate supervisor.

Mr. Stepien stated after 20 days and after he had filed his grievance, after the chance DPS had to review the grievance and after Chief Conmay was supposedly preparing a response, he received an email from Deputy Director Brueggemann, that stated Colonel Solo had "misspoke" and she deemed his assignment "temporary", however, the length of the assignment had not been determined and was due to his abilities to perform projects.

Mr. Stepien stated this was completely changing the facts and the narrative of his reassignment and did not seem like normal operations from an appointing authority.

Mr. Stepien stated the DPS response completely ignored what had been communicated to him by Colonel Solo and did not reference the climate survey.

Mr. Stepien stated it only addressed the email sent to him three weeks after the reassignment and after he filed a grievance.

Mr. Stepien stated when he asked Chief Conmay if he had contacted Colonel Solo regarding the response, he said he had not.

Mr. Stepien stated temporary reassignment was only covered in personnel law as it relates to an employee that may be unfit to perform their job functions, such as ADA issues.

Mr. Stepien stated it was a term designed for agencies to move someone's job assignment arbitrarily, however, the EMC staff provided him three EMC rulings related to assignment changes.

Mr. Stepien stated these were from 2005, 2008 and 2013.

Mr. Stepien stated since that time, numerous policy and personnel law changes have occurred that have substantially changed how the department can, and under what circumstances they may decide to alter an employees assignment, or how temporary duty assignment is defined and used.

Mr. Stepien stated the three EMC rulings were outdated and unusable for the purposes of deciding if this issue can be asked and answered.

Mr. Stepien stated the prior decisions had widely different circumstances that his grievance, none were removed from their division, forced to change location and then given two completely different explanations for the department's actions.

Mr. Stepien stated under NRS 284.073, the EMC has jurisdiction over this matter because it involves significant changes to his working conditions and the employee/employer relationship regardless of the alleged motive.

Mr. Stepien stated an employee is legally entitled to pursue claims through remedial routes and no rules or laws exist that force an employee to vacate their rights to a grievance or a hearing, nor did any exist that allow the EMC to vacate their jurisdiction because sections of the issue may be reviewed by different methods.

Mr. Stepien stated employee grievances and matters therein are not exclusive and may have concurrent jurisdictions.

Mr. Stepien stated his forced reassignment could be easily parced for the contention of motive for the actions by the appointing authority.

Mr. Stepien stated in closing, he would urge the EMC to move this grievance to hearing as the agency had significantly changed the narrative from after the grievance was filed and chose to avoid addressing the stated concerns.

Mr. Stepien stated the department violated laws regulations and policies during this process and DPS had no supportive laws, rules or policies to change his assignment in this manner and the EMC has jurisdiction to hear the matter and there is no supportive rule or law to separate the EMC jurisdiction in this matter or his right to a hearing.

Mr. Stepien stated there were no previous rulings or precedence that would alleviate the need for a hearing on this matter.

There was no other public comment in the North or the South.

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

Co-Vice-Chair Beigel opened the meeting with Committee introductions.

4. Adoption of the Agenda – Action Item

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

MOTION: Moved to approve the agenda.
BY: Member Whitten

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

5. Discussion and possible action related to Grievance #6668 of Robert Stepien, Department of Public Safety – Action Item

Co-Vice-Chair Beigel opened the Committee for discussion.

Member Laney stated she searched the database for previous decisions, and it did not seem the ones that were similar in nature were relevant to this current grievance.

Member Laney stated the question she had was if it would be within the Committee's jurisdiction, not in regards to the comments of the reassignment because of sex and the replacement with a less qualified female, but because of the NRS 284.376 for involuntary transfer, that the grievant has the opportunity for a hearing via that route.

Member Laney stated that may make the grievance fall outside of the Committee's jurisdiction.

Member Laney stated the Hearing Officer's Division seemed like a more appropriate venue for this grievance.

Co-Vice-Chair Beigel stated she had seen this before, and it was not in the grievance that the employee filed per NRS 284.376 the request for hearing.

Co-Vice-Chair Beigel stated she understood NRS 284.376 stated that but if you looked at NRS 284.375 where it states within the same grade, where the duties are similar and when such action is specific.

Co-Vice-Chair Beigel stated based on the facts in the grievance and the grievant did not have duties assigned to him when he moved, she could not say they were similar duties.

Co-Vice-Chair Beigel stated she was inclined to see if the grievance was something the Committee could hear due to not having enough facts.

Member Laney stated she agreed and was also looking at NAC 284.695 subsection 2, the Committee could hold a hearing to determine the proper disposition of the request and understood that to mean the Committee could get more information by requesting a hearing.

Member Laney stated if that was the case, she would motion to move the grievance to hearing to determine the proper venue.

Member Novotny stated she felt the Committee did not have enough facts to determine what the cause was.

Member Whitten stated she felt the information presented did show the grievance should be moved to hearing and the Committee could gather the needed facts at that time and determine if the agency was correct in their actions or if the employee has a valid grievance.

Member Laney motioned to move grievance #6668 to hearing as the Committee would like additional facts regarding the circumstances around the situation.

Member Whitten seconded the motion.

Co-Vice-Chair Beigel asked if there was any discussion, there was none

MOTION: Moved to answer grievance #6668 with a hearing to determine the proper disposition of the request.
BY: Member Laney
SECOND: Member Whitten
VOTE: The vote was unanimous in favor of the motion.

6. Discussion and possible action related to Grievance #6607 of Timothy Jones, Grievance #6612 of Michael Stolk, Grievance #6620 of Debra Boone-Sharp and Grievance #6627 of Alice Jacoby, Department of Corrections – Action Item

Co-Vice-Chair Beigel opened the Committee for discussion.

Member Laney requested grievance #'s 6607, 6612, 6620 and 6627 be discussed together as they were identical issues.

Mr. Whitney stated they could be combined.

Member Laney motioned to hear the grievances together and apply the decision to move to hearing or not to all four grievances.

Member Whitten seconded the motion.

Co-Vice-Chair Beigel asked if there was any discussion, there was none and the vote was unanimous to discuss the four grievances together.

Member Laney stated she did not feel the Committee had enough information or documentation to show the grievants' were excluded from the 5% increase.

Member Laney stated she understood the responses from the agency and that the increase was not intended to include them but in reviewing the Governor's budget and not including the response, it was not clear the Governor intended to exclude anyone that already had the 5% increase.

Co-Vice-Chair Beigel stated the Committee concern was whether the

Committee could hear the grievances and if there were no prior decisions, the Committee should focus on whether to move forward with a hearing.

Member Laney stated she agreed and could not find a prior decision and that the Committee could move the grievances forward.

Member Whitten stated she did not see anything that explicitly stated they would be excluded and should move them to hearing.

Member Novotny stated she agreed there were not enough facts and would like to get all the available information.

Member Whitten motioned to move grievance #'s 6607, 6612, 6620 and 6627 to hearing and be scheduled together.

Member Laney seconded the motion.

Co-Vice-Chair Beigel asked if there was any discussion, there was none.

MOTION: Moved to answer grievance #'s 6607, 6612, 6620 and 6627 to hearing.
BY: Member Whitten
SECOND: Member Laney
VOTE: The vote was unanimous in favor of the motion.

7. Public Comment

There was public comment in the North.

Mr. Stepien thanked the Committee for considering the hearing and wanted to say to Member Laney she had an astute observation relating to the involuntary transfer.

Mr. Stepien stated he looked into that avenue as well and the department specifically changed the reassignment to "temporary" duty assignment therefore, he did not see that venue being an option.

8. Adjournment

Co-Vice-Chair Beigel adjourned the meeting at approximately 9:27 am.

Grievance Number	Grievant	Status
6277	MCCASTLE,TERESA	Step 4 Pending

Grievant Information

Name	Send Documents to External Rep
MCCASTLE,TERESA	No
Agency	**Work Phone**
440	702-486-9950
Organization	**Home Phone**
3760	702-809-5983
Location	**Email**
LV0307	tmccastle@doc.nv.gov
Title	
CORRECTIONAL OFFICER	

Mailing Address

Mailing Address

2864 Pisces Court
2864 Pisces Court
LAS VEGAS, NV 89115 - 3219
United States

Contact Number

702-809-5983

Grievance Details

Event Date	Location
01/23/2019	Casa Grande Transitional Housing
Event Time	**Date Aware of Event**
6:00 PM	01/29/2019
Grievant Submission Waiver	**Agency Submission Waiver**
No	No

Categories(s)

Personnel Conflict, Shift/Hours

Detailed Description

Our Facility Manager Timothy Christianson and Lieutenant Darren. Spiece denied us our regular shift bidding process according to the Administrative Regulations 301. I'm requesting that AR 301 to be followed. I was informed by Officer Armendariz on 01/29/2019 that AR 301 was revoked due to the exempt posts at the facility. The "wish list" was grieved and upheld in 2017.

NRS or NAC Sections

AR 301
301.02
NRS 209-313

Proposed Resolution

Request for AR 301 Shift Bid to be followed at Casa Grande Transitional Housing.

Details Attachment

No Attachments

Step 1 Details

Submitted to

CHRISTIANSON, TIMOTHY

Submission Due Date	Submit Date
02/27/2019	02/07/2019
Response Due Date	**Response Date**
02/22/2019	02/08/2019
Action Due Date	**Action Date**
02/25/2019	02/13/2019

Grievant extension	Agency extension
No	No

Response

In regards to Grievance 5406, this was a grievance against designating Senior Correctional Officers as Supervisors in order to not have an Annual Bid. That is not the case now at CGTH. No claim has been made that Senior Correctional Officers are Supervisors.

Regarding the statement that management failed to follow AR301: Per AR301 Shift, Post and Leave Bidding 301.01 #2: "Shift bidding shall be conducted at all institutions and facilities having more than 20 correctional officers on the legislatively approved staffing chart, except as described below." Listed, and described, below that statement is #5 which describes Exempt Posts, "Positions which are identified and approved as being exempt, are excluded from the shift bidding process and therefore, the selection of those positions are not subject to the requirements set forth in other sections of this Administrative Regulation." Thus, the 5 positions that were identified by Correctional Manager Christianson and approved by Deputy Director Thomas, as per AR301, reduced the number of posts from 22 to 17. Staff was sent a list of the 17 positions available for their Wish List. AR301 does state that written justification must be submitted to the Deputy Director for exempt posts. Attached is the written justification to Deputy Director Thomas with his signature and approval dated 11/28/18.

CGTH is consistent with other NDOC facilities which have Visitation, Culinary, and Property posts identified, and approved, as exempt. Per AR301.01 #5: "Exempt positions may be considered for the mental health unit, segregation unit, behavior modification unit, visiting, public contact positions or for any position identified by the Warden and approved by the appropriate Deputy Director in critical labor areas or during times of critical labor shortages."

Further, the initial email regarding notification of a wish list was sent out on 12/3/18 at 1:26pm. Per AR306 Employee Grievance Procedure 306.01 #2: "A grievance must be filed within 20-working days of the event or issue leading to the grievance from the date when the employee first learns of the event or issue leading to the grievance." The deadline for the grievance would have been the first week of January 2019.

In summary, there was no attempt to circumvent AR301. Exempt posts were identified and approved as per AR301. The exempt posts identified are consistent with the posts other NDOC institutions/facilities have designated. Since no Annual Bid was required, per AR301, CGTH Supervision decided to request input from staff in regards to the posts that they would prefer to work in 2019, as opposed to just placing staff in posts. No promise was made that staff would get the posts that they listed on their Wish Lists. They were used as a guide, but ultimately the decision on placement was made by Correctional Manager Christianson.

NRS or NAC Sections

Grievant Action

Escalate to Next Step

Grievant Comments

Step 1 Response Attachments

No Attachments

Step 1 Grievant Attachments

No Attachments

Step 1 Event Log

Date/Time	User	Event Type	Description
02/13/2019	tmccastl	Grievance Escalated by Grievant	Step 1 Grievant Response Submitted
02/08/2019	tchrist1	Grievance Response Submitted	Step 1 Response Submitted
02/07/2019	tmccastl	Grievance Submitted	Submitted at Step 1
02/07/2019	tmccastl	Waiver Approved/Requested	Grievant submission waiver flag set at Step 1

Step 2 Details

Submitted to

THOMAS, KIM

Submission Due Date	Submit Date
04/02/2019	04/02/2019
Response Due Date	Response Date
04/16/2019	
Action Due Date	Action Date
	04/17/2019
Grievant extension	Agency extension
No	No

Response

NRS or NAC Sections

Grievant Action

Escalate to Next Step

Grievant Comments

Honor AR301 Please and Thank you

Step 2 Response Attachments

No Attachments

Step 2 Grievant Attachments

No Attachments

Step 2 Event Log

Date/Time	User	Event Type	Description
04/17/2019	tmccastl	Grievance Escalated by Grievant	Step 2 Grievant Response Submitted
04/02/2019	tmccastl	Grievance Submitted	Submitted at Step 2
04/02/2019	cleathe1	Submission Due Date Extension	Grievance Submission Due Date changed from 02/28/2019 to 04/02/2019

Step 3 Details

Submitted to

WICKHAM, HAROLD

Submission Due Date	Submit Date
05/01/2019	04/18/2019
Response Due Date	**Response Date**
05/02/2019	04/19/2019
Action Due Date	**Action Date**
05/03/2019	04/21/2019
Grievant extension	**Agency extension**
No	No

Response

Theresa McCastle, I have read through your grievance details and your proposed resolution. The concerns you outlined in your grievance have been reviewed and considered. You were given detailed and substantive responses at the previous level. I concur with the response from facility Manager Christianson. You are correct that Administrative Regulation (AR) 301 does not mention a wish list. It appears to me that the supervision was trying to accommodate staff as best as possible; obviously not everyone will get exactly what they want. My recommendation is that you discuss your specific concerns with DD Thomas and Correctional Manager Christianson Ultimately Deputy Director Thomas has the authority (350.1 #5) to exempt all of the positions thus negating a shift bid. I have discussed your concerns with DD Thomas and urge you to consider a resolution meeting as your grievance is untimely and thus denied.

NRS or NAC Sections

Grievant Action

Escalate to Next Step

Grievant Comments

Step 3 Response Attachments

No Attachments

Step 3 Grievant Attachments

No Attachments

Step 3 Event Log

Date/Time	User	Event Type	Description
04/21/2019	tmccastl	Grievance Escalated by Grievant	Step 3 Grievant Response Submitted
04/19/2019	hwickham	Grievance Response Submitted	Step 3 Response Submitted
04/18/2019	tmccastl	Grievance Submitted	Submitted at Step 3

Step 4 Details

Submitted to COORDINATOR, EMC	
Submission Due Date 05/03/2019	Submit Date 04/21/2019
Response Due Date 06/25/2019	Response Date
Action Due Date	Action Date
Decision Hearing Schedule Due Date 06/25/2019	Hearing Date
Hearing Decision Due Date	In Abeyance No
In Conference No	Decision N/A
Description/Comments	
Grievant Action N/A	
Grievant Comments	

Step 4 Attachments

No Attachments

Step 4 Event Log

Date/Time	User	Event Type	Description
04/21/2019	tmccastl	Grievance Submitted	Submitted at Step 4

Grievance Number	Grievant	Status
6766	WALSH-GUTHRIE,DEANNA	Step 4 Pending

Grievant Information

Name	Send Documents to External Rep
WALSH-GUTHRIE,DEANNA	Yes
Agency	**Work Phone**
440	7756843000
Organization	**Home Phone**
3711	7753547504
Location	**Email**
CC0435	dguthrie@admin.nv.gov
Title	
PROGRAM OFFICER 2	

Mailing Address

Mailing Address

849 Kennedy Drive
Carson City, NV 89706 -

Contact Number

775-354-7504

Grievance Details

Event Date	Location
09/18/2019	HR Building 17
Event Time	**Date Aware of Event**
4:45 pm AM	
Grievant Submission Waiver	**Agency Submission Waiver**
No	No

Categories(s)

Working Conditions

Detailed Description

3/13/19 Warden Baca notified of new classes to start at NNCC

3/18/18 Warden Baca approved

3/19/19 Notified by supervisor, Elizabeth Coleman, she's suspended re-entry programming at NNCC effective immediately, Directed to notify my staff, stay off the yard until further notice and leave all items, personal and work related, in re-entry office and classroom. Assured they would be safe-no need to remove as once issues were resolved I would be back to teach and train future staff.

6/6/19 Received Employee Appraisal and Development Report which noted my current and future presence at NNCC as supervisor, trainer and facilitator of MRT classes.

6/25/19 Attended NRAS re-certification training at NNCC as directed, Asked by Elizabeth and her AA II Darla Steib to check on re-entry office and classroom while on the yard to ensure property/supplies were intact. Reported no issues - voiced concern about continuing to leave personal items/paperwork in office. Again instructed by Elizabeth to leave everything in place and was told "the last thing we need is Walsh to see you walking out with your arms full, who knows how she will spin it."

8/22/19 Contacted by Shannon Romero asking to use my office at NNTH. She was in town/needed a computer while waiting for newly hired POI assigned to NNCC. Mentioned she was directed to drive him to Carson City per Elizabeth, Mick Williams (POI at Casa Grande) was training him, but this week he would be with her. I was unaware the new POI had started/was occupying the re-entry office at NNCC. Working next door at SCC, knowing the office was empty, I believed it was an opportune time to quietly and without disruption remove my personal items. Upon arrival it quickly became apparent that anything pertaining or belonging to me, or my presence in the office had been removed. (FMLA paperwork, doctors reports, leave slips, pay stubs, work performance evaluations, all containing personal identifiers. Also included mementos, notes from various meetings and specific information Elizabeth asked me to track for her pertaining to employees.) I left the office undisturbed, returned to my car and placed a call to Megan Bottoms with NDOC HR. She stated she wasn't the person to contact, she had nothing to do with it and when asked if she felt I should have been notified/given the chance to gather my belongings she replied, "You should know working for Corrections nothing really is yours." She suggested I contact Elizabeth or the warden. I then placed a call to Colleen Cohen NDOC EEO. She replied, "Maybe they were just trying to be helpful, do it for you knowing you have a lot going on taking care of your sick mother." Voicing concern that I was not told and the sensitivity of certain items taken, she replied, "Don't jump to conclusions, I'm sure no one is going though or reading anything." She also suggested I contact Elizabeth and the warden.

8/23/19 Email sent to Warden Baca/Elizabeth Coleman. Warden Baca read it that day, Elizabeth read it 8/28/19. As of this date, 36 days later, I have not received a response from either of them.

9/18/19 During a meeting with Megan Bottoms, Warden Russell and Elizabeth (via conference call) I attempted to broach the subject of my missing property and was abruptly cut off by Elizabeth stating the meeting did not pertain to any other issue other than the one she was discussing. When looking to Megan/Warden Russell for guidance, both said there were there only as witnesses. I was told I could request a meeting with Elizabeth if there were other topics I wanted to discuss. I stated I did want to schedule a meeting, to which Elizabeth replied, "Noted." As of todays date, I continue to wait for confirmation of a meeting, notification of where my property is, why is was taken in the manner it was, and the return of it.

NRS or NAC Sections

Department of Corrections' Prohibitions and Penalties:

G. Discrimination, sexual harassment, and other title VII violations
3. Creating or endorsing a hostile work environment

H. Dishonesty
1. Theft of property belonging to another employee, a member of the public, or an inmate

O. Neglect of duty
5. Willful failure to appropriately intervene or respond to incidents or calls for assistance.

S. Unbecoming conduct
5. Misuse and/or abuse supervisory authority or privilege.

Proposed Resolution

The return of all my property, an explanation of why it was taken in the manner it was, and corrective action towards my supervisor who has and continues to treat me in a way that can only be viewed as hostile, retaliatory and non-conducive.

Details Attachment

March emails to Warden Baca RE Classes.pdf
March email E Coleman RE Classes.pdf
Employee Appraisal Report.pdf
NRAS email.pdf
Aug email to Warden Baca E Coleman.pdf

Step 1 Details

Submitted to
THOMAS, KIM

Submission Due Date 10/16/2019	Submit Date 09/27/2019
Response Due Date 10/11/2019	Response Date 10/11/2019
Action Due Date 10/28/2019	Action Date 10/24/2019
Grievant extension No	Agency extension No

Response

I have read your grievance. I am denying your grievance but granting your request to have a meeting with your supervisor, Elizabeth Dixon-Coleman. To aide in resolution, I will be involved in the conversation and upon your request, include either Warden Russell or Warden Bacca. We can have this conversation within the next ten business days.

NRS or NAC Sections

Grievant Action

Escalate to Next Step

Grievant Comments

I respectfully disagree with your response. Provided in my initial filing was an email, sent by me on August 23, 2019, to my supervisor Elizabeth Coleman, which she read 5 days later on August 28, 2019. To date, she has not responded to the email nor my verbal request to discuss on September 18, 2019. All personal property and paperwork was removed from my assigned office at NNCC without my knowledge or notification. I work next door at SCC and easily could have retrieved or received my things when it was decided to remove them. Leave slips, performance evaluations, printed emails, FMLA paperwork and paycheck direct deposit notifications are examples of paperwork taken. All things include personal identifiers and/or medical information protected by HIPAA. Also taken were notes I was directed to privately keep on employees by my supervisor and additional non-paperwork property. I respectfully ask for the return of my property for the reasons mentioned here, and noted in the first step of my filing. Warden Russell does not oversee NNCC and I do not believe that Warden Baca was involved in the removal of my property. If a meeting has to take place I will be attending with my representative as they would be the appropriate choice. I simply want my property back. Thank you.

Step 1 Response Attachments

No Attachments

Step 1 Grievant Attachments

No Attachments

Step 1 Event Log

Date/Time	User	Event Type	Description
10/24/2019	dwalshg	Grievance Escalated by Grievant	Step 1 Grievant Response Submitted
10/11/2019	kthoma8	Grievance Response Submitted	Step 1 Response Submitted
09/27/2019	dwalshg	Grievance Submitted	Submitted at Step 1

Step 2 Details

Submitted to

WICKHAM, HAROLD

Submission Due Date	Submit Date
11/08/2019	10/24/2019
Response Due Date	Response Date
11/08/2019	10/30/2019
Action Due Date	Action Date
11/14/2019	11/05/2019
Grievant extension	Agency extension
No	No

Response

Ms. Deanna Walsh-Guthrie, I have read through your grievance details and your proposed resolution. Thank you for allowing me the opportunity to provide you this response. The concerns you outlined in your grievance have been carefully reviewed and considered.

I certainly agree that you are and should be entitled to your personal property. I have spoke with Warden Baca, and will speak with Elizabeth Coleman-Dixon and inquire as to the location of your property and request it be returned to you. Warden Baca did state that you are not barred from NNCC and welcome to come to NNCC to retrieve any of your property that is there.

I support open communication in the work place and agree that as a department we should certainly strive for that. It appears to me that the primary concern of your grievance is the return of your property; which is appropriate.

I appreciate you returning my call to discuss your concerns. I am recommending that based on some your other concerns, that you consider filing a discrimination compliant with EEO.

If I can be of further assistance please advise.

NRS or NAC Sections

Grievant Action

Escalate to Next Step

Grievant Comments

Step 2 Response Attachments

No Attachments

Step 2 Grievant Attachments

No Attachments

Step 2 Event Log

Date/Time	User	Event Type	Description
11/05/2019	dwalshg	Grievance Escalated by Grievant	Step 2 Grievant Response Submitted
10/30/2019	hwickham	Grievance Response Submitted	Step 2 Response Submitted
10/24/2019	dwalshg	Grievance Submitted	Submitted at Step 2

Step 3 Details

Submitted to
WICKHAM, HAROLD

Submission Due Date	Submit Date
11/20/2019	11/09/2019
Response Due Date	Response Date
11/26/2019	11/09/2019
Action Due Date	Action Date
11/26/2019	11/15/2019
Grievant extension	Agency extension
No	No

Response
Responded at level 2

NRS or NAC Sections

Grievant Action
Escalate to Next Step

Grievant Comments

Step 3 Response Attachments

No Attachments

Step 3 Grievant Attachments

No Attachments

Step 3 Event Log

Date/Time	User	Event Type	Description
11/15/2019	dwalshg	Grievance Escalated by Grievant	Step 3 Grievant Response Submitted
11/09/2019	hwickham	Grievance Response Submitted	Step 3 Response Submitted
11/09/2019	dwalshg	Grievance Submitted	Submitted at Step 3

Step 4 Details

Submitted to
COORDINATOR, EMC

Submission Due Date	Submit Date
11/26/2019	11/15/2019
Response Due Date	Response Date
01/22/2020	
Action Due Date	Action Date
Decision Hearing Schedule Due Date	Hearing Date
01/22/2020	

Hearing Decision Due Date	In Abeyance
	No
In Conference	**Decision**
No	N/A
Description/Comments	
Grievant Action	
N/A	
Grievant Comments	

Step 4 Attachments

No Attachments

Step 4 Event Log

Date/Time	User	Event Type	Description
11/15/2019	dwalshg	Grievance Submitted	Submitted at Step 4

Deanna Walsh-Guthrie - Re-Entry Classes

From:	Deanna Walsh-Guthrie
To:	Isidro Baca
Date:	3/13/2019 2:10 PM
Subject:	Re-Entry Classes
Cc:	Kyndra Williams; Elizabeth Dixon-Coleman; Darla Steib; Nathan Hughes;...
Bc:	Deanna Walsh-Guthrie
Attachments:	Class memo.docx; Attachment A.docx

Good afternoon Warden Baca,

Please see the attachments concerning the next scheduled round of Getting It Right classes.

Thank you.

DeAnna Guthrie
Job Development and Community Re-Entry Program-North
Nevada Department of Corrections
Carson City, NV 89701
(775) 887-9297 ext 452
dguthrie@doc.nv.gov

Northern Administration
5500 Snyder Ave.
Carson City, NV 89701
(775) 887-3285

Southern Administration
3955 W. Russell Rd.
Las Vegas, NV 89118
(702) 486-9906

Steve Sisolak
Governor

James Dzurenda
Director

State of Nevada
Department of Corrections

Memorandum

To: Warden Baca

From: DeAnna Guthrie

Date: March 13, 2019

Re: Getting It Right classes

The next round of Getting It Right classes for NNCC will begin March 25, 2019 and end July 5, 2019.

- The Re-Entry Program is designed to prepare and promote an inmate's successful integration into the community, reduce recidivism and reduce victimization. This is done with a series of workbooks from the Get It Right Program. This program consists of 5 workbooks.

- Eligibility Criteria is as follows:
  - Inmate must be within 24 months of probable release.
  - Inmates who pass their PED, but are more than 90 days from mandatory parole review date.
  - Inmate must be able to fully participate in the program in a responsible and mature manner.
  - Inmate must show interest in being enrolled and willing to participate in required programming, class discussion and complete homework assignments.
  - Inmate must sign the Program Guidelines/Contract.
  - Inmate must be 6 months disciplinary free from major infractions and 3 months disciplinary free from general or minor infractions.

- Two classes will held every Tuesday and Thursday in the Re-Entry classroom located in Unit 2. Class times are 9:00 am to 10:30 am and 1:00 pm to 2:30 pm.

- Currently 32 inmates are enrolled, 16 per class-please attachment A.

CC: CCSIII Hughes
POIII Coleman
File

Northern Administration
5500 Snyder Ave.
Carson City, NV 89701
(775) 887-3285

Southern Administration
3955 W. Russell Rd.
Las Vegas, NV 8918
(702) 486-9906

State of Nevada
Department of Corrections

Steve Sisolak
Governor

James Dzurenda
Director

ATTACHMENT A

NNCC RE-ENTRY PROGRAM – UNIT 2

CLASS: Tuesday/Thursday 9:00 am to 10:30 am

Participants:

Blackburn, Frank	1052042	Pugh, John	1201408
Day, Chase	1135486	Sanchez-Cruz, Jaime	1064655
Fischel, William	1038254	Thomas, Stephon	1104573
Gray, DeMarco	1013583	Vega, Jose	1086982
Howard, Bruce	80138	Weirich, Ire	14668
McCullough, Joseph	1108914	Welch, Cameron	1196935
Nolan, Charles	91261	Wilkerson, Marquis	1199236
Pace, Christopher	82909	Williams, Kwame	45903

CLASS: Tuesday/Thursday 1:00 pm to 2:30 pm

Participants:

Andrew, Justin	1199321	Gubbine, Sonny	1095527
Bencoma, Harold	40224	Kimpton, Brandon	87892
Bisbee, Derek	1095928	Mosser, James	1157350
Bryant, Trevor	1116098	Proctor, Jeff	65413
Carlile, Mark	1210829	Rosemann, Christopher	1085489
Cavataio, Frank	1204441	Sullivan, Benjamin	1202095
Gilliam, Jack	1075551	Viera-Velaguez, Angel	1204170
Grant, Michael	80293	Viro, Johnny	1127774

Deanna Walsh-Guthrie - Re: Re-Entry Classes

From: Isidro Baca
To: Deanna Walsh-Guthrie
Date: 3/13/2019 4:27 PM
Subject: Re: Re-Entry Classes

Got it, thank you.

Isidro Baca
Warden
Northern Nevada Correctional Center
775-887-9298

From: Deanna Walsh-Guthrie
To: Isidro Baca,
Date: 3/13/2019 4 22 PM
Subject: Re: Re-Entry Classes

Until the position is filled, I will be teaching with Mills and Williams covering when needed.

DeAnna Guthrie
Job Development and Community Re-Entry Program-North
Nevada Department of Corrections
Carson City, NV 89701
(775) 887-9297 ext 452
dguthrie@doc.nv.gov

>>> Isidro Baca 03/13/19 4:16 PM >>>
Who will be teaching the classes?

Isidro Baca

Warden
Northern Nevada Correctional Center
775-887-9298

From: Deanna Walsh-Guthrie
To:Isidro Baca
CC:Kyndra Williams; Elizabeth Dixon-Coleman; Darla Steib; Nathan Hughes; Kaylynn Mills
Date: 3/13/2019 2:10 PM
Subject: Re-Entry Classes
Good afternoon Warden Baca,

Please see the attachments concerning the next scheduled round of Getting It Right classes.

Thank you.

DeAnna Guthrie
Job Development and Community Re-Entry Program-North
Nevada Department of Corrections
Carson City, NV 89701
(775) 887-9297 ext 452
dguthrie@doc.nv.gov

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Deanna Walsh-Guthrie - Re: Re-Entry Classes

From: Isidro Baca
To: Deanna Walsh-Guthrie
Date: 3/13/2019 4:27 PM
Subject: Re: Re-Entry Classes
Cc: Darla Steib; Elizabeth Dixon-Coleman; Nathan Hughes; Kaylynn Mills; ...

Approved

Isidro Baca
Warden
Northern Nevada Correctional Center
775-887-9298

From: Deanna Walsh-Guthrie
To: Isidro Baca
CC: Kyndra Williams, Elizabeth Dixon-Coleman, Darla Steib, Nathan Hughes, Kaylynn Mills
Date: 3/13/2019 2:10 PM
Subject: Re-Entry Classes

Good afternoon Warden Baca,

Please see the attachments concerning the next scheduled round of Getting It Right classes.

Thank you.

DeAnna Guthrie
Job Development and Community Re-Entry Program-North
Nevada Department of Corrections
Carson City, NV 89701
(775) 887-9297 ext 452
dguthrie@doc.nv.gov

Deanna Walsh-Guthrie - Re: Re-Entry Classes

From: Isidro Baca
To: Deanna Walsh-Guthrie
Date: 3/18/2019 11:08 AM
Subject: Re: Re-Entry Classes

Please add inmate Jones, Brian #88005 to one of the classes.

Isidro Baca
Warden
Northern Nevada Correctional Center
775-887-9298

From: Deanna Walsh-Guthrie
To: Isidro Baca
CC: Kyndra Williams; Elizabeth Dixon-Coleman; Darla Steib; Nathan Hughes; Kaylynn Mills
Date: 3/13/2019 2:10 PM
Subject: Re-Entry Classes

Good afternoon Warden Baca,

Please see the attachments concerning the next scheduled round of Getting It Right classes.

Thank you.

DeAnna Guthrie
Job Development and Community Re-Entry Program-North
Nevada Department of Corrections
Carson City, NV 89701
(775) 887-9297 ext 452
dguthrie@doc.nv.gov

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Deanna Walsh-Guthrie - Re: Re-Entry Classes

From: Elizabeth Dixon-Coleman
To: Deanna Walsh-Guthrie
Date: 3/13/2019 3:47 PM
Subject: Re: Re-Entry Classes

Thank you I am waiting to see a reply from Warden.

From: Deanna Walsh-Guthrie
To: Isidro Baca
CC: Kyndra Williams; Elizabeth Dixon-Coleman; Darla Steib; Nathan Hughes; Kaylynn Mills
Date: 3/13/2019 2:10 PM
Subject: Re-Entry Classes

Good afternoon Warden Baca,

Please see the attachments concerning the next scheduled round of Getting It Right classes.

Thank you.

DeAnna Guthrie
Job Development and Community Re-Entry Program-North
Nevada Department of Corrections
Carson City, NV 89701
(775) 887-9297 ext 452
dguthrie@doc.nv.gov

Agency Use Only *Central Records Use Only*

STATE OF NEVADA
EMPLOYEE APPRAISAL & DEVELOPMENT REPORT

*The contents of this report on performance **must** be discussed between the employee and his or her supervisor as described in NRS 284.337 and NAC 284.470

1. Employee Name: Walsh-Guthrie **First** Deanna **Initial**

2. Class Title: Program Officer II

3. Employee ID # 010000

4. Dept./Diva/Section: Community Re-Entry

5. Date Evaluation Due: 06/05/19

6. Agency # (3 digits): 440 **Home Org # (4 digits):** 3711 **Position Control #:** 64

7. Date Next Evaluation Due: 7/10/20

8. Probationary/Trial Period (check one):
6 month Probation/Trial: ☐ 2nd month ☐ 5th month ☐ Other
12 month Probation/Trial: ☐ 3rd month ☐ 7th month ☐ 11th month ☐ Other

OR **Permanent** (check one):
X Annual ☐ Other

9. Work Performance Standards: X are an accurate reflection of the position ☐ will be revised to reflect changes

10. Overall Rating from Page 2, Number 14 (check one):
☐ Does Not Meet Standards (DMS)* X Meets Standards (MS) ☐ Exceeds Standards (ES)
* If a rating of "Does Not Meet Standards" is given, another evaluation must be completed within 90 days. The rating may affect adjustments in salary based on merit (NAC 284.194).

Rater's Printed Name: Elizabeth Dixon-Coleman

Rater's Signature & Title: [signature] **Date:** 06/06/19 *(mm/dd/yy)*

11. Additional Supervisory Review (optional): ☐ Agree ☐ Disagree *(Comment Required)*

Printed Name:

Signature and Title: **Date:** *(mm/dd/yy)*

12a. Date employee received evaluation document: 6/6/19 **Employee's Initials:** [initials] (Does not indicate agreement or disagreement)

b. Employee Response: NAC 284.470 requires that you complete the section below and sign the report on performance within 10 working days after discussion with your supervisor.
☑ Agree ☐ Disagree ☐ Request Review* (If you disagree with the report **and** request a review, you must specify the points of disagreement below or attached.)

c. Employee Signature: [signature] **Date evaluation returned to supervisor:** 6/10/19

13. Appointing Authority Review: ☑ Agree ☐ Disagree *(Comment Required)*

Appointing Authority's Printed Name: Kim Thomas

Appointing Authority Signature & Title: [signature] Dep. Dir. Programs **Date:** 6-12-19 *(mm/dd/yy)*

*** Note – Reviewing Officer uses form NPD-15R to respond to employee's request for review as outlined in NAC 284.470**

Employee Evaluation & Development Report – Page 2

Employee Name: Walsh-Guthrie	Deanna		(Initial)	Employee ID #: 010000

14. Job Elements (Transfer from Employee Work Performance Standards form and provide a numerical rating of 1 = DMS; 2 = MS; or 3 = ES for each job element in column (A). *Please note that whole number ratings are used, not fractions, to rate individual job elements.*	(A) Rating	(B) Weighted Value	(C) Weighted Rating
Job Element #1: Policies, Procedures, Goals and Objectives	2	20	20
Job Element #2: Program Operations	2.5	20	20
Job Element #3: Program Information and Interpretation	2	10	10
Job Element #4: Budget Support	3	5	5
Job Element #5: Training and Assistance	3	10	5
Job Element #6: Employee Supervision	2	10	10
Job Element #7: Customer Service	3	10	10
Job Element #8: Safety	3	5	5
Job Element #9: Professionalism	2	10	20
Overall Rating (Scale: 1 to 1.50 = DMS; 1.51 to 2.50 = MS; 2.51 to 3 = ES) *(A "does not meet standards" rating may affect adjustments based on merit (NAC 284.194). Another evaluation must be completed within 90 days (NRS 284.340).*	2.5		

15. Rater's Comments: *(A "does not meet standards" rating for any job element must include a detailed explanation of the deficiencies.)*
Deanna Guthrie has continued to lead programing for NDOC Reentry as the Program Officer II in the North. She has continued ensuring program delivery at all Northern Nevada Re-entry Institutional Sites, on a daily basis; NNCC, NNTH, WSCC, and Stewart Camp. As the leader of the Northern Re-Entry Programing team, Ms. Guthrie has made sure her entire team has implemented the Getting It Right Series of Programing to Inmates; Supervised Re-Entry Staff; Improved site/state wide communication and coordination of programing at each assigned institution, including Administration; Assisted in processing vital statistic information for Inmates(Birth Certificates, Reentry Services, Indigent Funding and Merit Credit certificates); and has been an instrumental force in the implementation establishment, beginning March 2019, of Re-entry Programing at NNTH with Hope for Prisoner's, Community partner support growth and God Behind Bars. Ms. Guthrie has participated in weekly Institutional Warden's Meetings; monthly Re-Entry Departmental meetings; currently enrolled in IST on-going professional development. Ms. Guthrie participated in Core Correctional Planning (CCP) training to help support and evaluate programing throughout NDOC in September 2018. Ms. Guthrie is working with Ridgehouse and Community Partners to assist with comprehensive wrap around services for inmates who choose to exit in the North. Ms. Guthrie is building a community support Services Database detailing wrap around services in the Northern NV region for reentry. Ms. Guthrie will be training new staff at NNCC and Lovelock as they are fully hired in 2019-20. She has continued to be supportive and proactive in ensuring the Department Vison is being carried out through Re-entry Programing.

16. Development Plan & Suggestions: *(The supervisor will address how the employee can enhance performance and achieve standards; indicates recommendation for further development and training. This section shall be discussed with the employee.)*
Ms. Guthrie will lead training for the newly staffed Program Officer I positon at NNCC. Cross training of Program Officer I positons should be coordinated and conducted once a month, as needed, to ensure smooth transition of staff. Ms. Guthrie will continue support assistance, as needed, for WSCC Re-entry Programing. As of July 2019, Ms. Guthrie will train the new Program Officer I in the comprehensive daily duties at NNCC; Model lessons and train the PO I for teaching delivery in Getting It Right. She will take the lead as the instructor of record for the implementation and delivery of Moral Reconation Therapy (MRT) as part of the Second Chance Act Grant. Ms. Guthrie will coordinate and assist with the oversight of the Rigdehouse contract for assistance with RISE and the SRR deliverables for sustainability after the grant funding cycle in October 2019. Ms. Guthrie will continue to supervise and manage all Program Officer I positions in the Northern NV region, reporting, both email and in NOTIS, any supervisory concerns within 24 hours of incident to Administration, to ensure productive program productivity and safety and security on all Institutional yards. Ms. Guthrie will continue to professionally represent NDOC and specifically the Reentry Programing Department in all aspects of communication. Ms. Guthrie will continue to support positive communication and mandatory reporting guidelines as outlined in NAC 284.650. By August 2019, Ms. Guthrie will help finalize a draft programing manual for the incorporation of Hope for Prisoner's at NNTH. For 2019-2020, Ms. Guthrie will help develop and facilitate two family reunification events for NNTH involving Hope for Prisoner's and GBB.

17. Merit Award Program: *(Provide information to employee relating to the Merit Award Program established in NRS 285.020.)* Please check method(s) used:

X Employee Handbook X State Human Resource website: http://hr.nv.gov/ ☐ Other (List details)_____

Distribution: Original to Division of Human Resource Management; Copy to Agency; Copy to Employee

Deanna Walsh-Guthrie - Re: NRAS Rescheduled June 25, 2019

From: Deanna Walsh-Guthrie
To: Holly Skulstad
Date: 6/5/2019 11:09 AM
Subject: Re: NRAS Rescheduled June 25, 2019
Cc: Elizabeth Dixon-Coleman; Darla Steib

Good morning Holly,

Thank you for the email and please note that I will be attending.

DeAnna Guthrie
Job Development and Community Re-Entry Program-North
Nevada Department of Corrections
Carson City, NV 89701
(775) 887-9297 ext 452
dguthrie@doc.nv.gov

From: Holly Skulstad
To: Kelli Day; Lidia Gamarra-Hoff; Edward Gibson; Virginia Jones; Danielle Meares; April Adams; Deanna Walsh-Guthrie; Margaret Harris; Bradley Kyle; Krista Mattice; Kaylynn Mills; William Miller; Burch Perry; Joe Ferro; Ana Mejia; Carter Potter; Francis Oakman
CC: Judith Dodd; Nathan Hughes
Date: 6/4/2019 10:04 AM
Subject: NRAS Rescheduled June 25, 2019

We are still under construction, but I found a day that should work...

It's that time again...it's been about a year since you were certified (or recertified) for NRAS. Part of the grant states that recertification will be each year. I have not included your supervisors, so please make them aware that you are due for your recertification.

NRAS Recertification class will be Tuesday, June 25 from 12:00 p.m. - 5:00 p.m. at NNCC in the Training Room. Please RSVP (please remember to include your Supervisor so that they are aware).

If you cannot attend this class, please let me know for the next class being held (to be determined).

For those of you at LCC, it is my understanding that someone at your facility will be certified to teach NRAS. If you can attend, please let me know. If you'd rather wait until there is an instructor at LCC, please let me know and I will keep track of that progress.

Thank you,

Holly Skulstad, CCSII
NDOC/Northern Nevada Correctional Center
Releases & Transfers
(775) 887-9214
hskulstad@doc.nv.gov

Recipients: 3 Acknowledged: 3

Colleen Cohan	Read
Delivered	8/23/2019 9:04 AM
Read	8/23/2019 9:05 AM
BC: ccohan@doc.nv.gov	
Elizabeth Dixon-Coleman	Read
Delivered	8/23/2019 9:04 AM
Read	8/26/2019 12:39 PM
To: edixoncoleman@doc.nv.gov	
Isidro Baca	Read
Delivered	8/23/2019 9:04 AM
Read	8/23/2019 11:44 AM
CC: ibaca@doc.nv.gov	

Attachments: User: 0, System: 1

Send Options:

From: Deanna Walsh-Guthrie
To: Elizabeth Dixon-Coleman <edixoncoleman@doc.nv.gov>
CC: Isidro Baca <ibaca@doc.nv.gov>
BC Colleen Cohan <ccohan@doc.nv.gov>
Date: 8/23/2019 9:04 AM
Subject: Items

Good morning,

Now that the new POI, Patterson, is getting settled in at NNCC I stopped by yesterday to pick up my personal files, reading glasses and make arrangements for removal of my refrigerator and printer. I found all of my things gone. The refrigerator and printer are still there but my glasses, name plate, and personal files such as copies of FMLA paperwork, paycheck stubs, and other items are gone. Can you please advise as to where these things are as I would like to pick them up as soon as possible.

Thank you.
DeAnna Guthrie
Supervisor, Job Development and Community Re-Entry Program-North
Nevada Department of Corrections
Carson City, NV 89701
(775) 688-1140
dguthrie@doc.nv.gov

Grievance Number	Grievant	Status
6800	WILLIAMS,BRENDA	Step 4 Pending

Grievant Information

Name	Send Documents to External Rep
WILLIAMS,BRENDA	No
Agency	**Work Phone**
440	7028795472
Organization	**Home Phone**
3738	7023703760
Location	**Email**
IS0015	brendawilliams@doc.nv.gov
Title	
CORRECTIONAL OFFICER	

Mailing Address

Mailing Address

5644 Vermillion Ridge Street
North Las Vegas, NV 89031 -

Contact Number

7023703760

Grievance Details

Event Date	Location
09/25/2019	SDCC
Event Time	**Date Aware of Event**
1356 PM	
Grievant Submission Waiver	**Agency Submission Waiver**
No	No

Categories(s)

Detailed Description

On September 25, 2019, at 1356 hours, Lieutenant (Lt) Tobin sent out an email stating that an "updated seniority list created by HR has been posted in operations." Upon reviewing this list, there were numerous discrepancies. These discrepancies consisted of:

1. Officers with a higher employee number having seniority over employees with a lower numbers
2. Officers that's resign and is no longer employed with this Department
3. Officers that are on another budget.

On December 14, 2018, a binding agreement was made between the now Chief of Human Resources Christian Leather, Warden Jerry Howell and myself. This agreement consisted of:

1. Human Resources would generate the seniority list for each institution.
2. Shift bidding would be based on continuous service date NAC 284.632
3. In the event of an employee with the same hire date, the employee number would be utilized and would go on lowest to highest. Example 001,002,015,016 etc.
4. Senor correctional officer would bid based on promotional date instead of date of hire.

As of now, Human Resource is in violation of the binding agreement from grievance number 5941 "In the event of an employee with the same hire date, the employee number would be utilized and would go on the lowest to highest."

After December 11, 2018 and before December 16, 2018 the seniority list was put out by your HR staff with the right parameters to conduct the 2019 shift bid on December 17, 2018. On December 17, the shift bid process commenced without any problems. If the same agreed parameters were followed for the 2020 and each year after that, there will not be any concerns and/or grievance regarding seniority.

Even though this does not affect me direct it does indirectly. "A threat to justice anywhere is a threat to justice everywhere." So therefore, I'm respectfully requesting that you honor this agreement that was made at the resolution hearing on December 14, 2018 and not be biased, unjust, and unfair to the State of Nevada employee at Southern Desert Correctional Center. Please look at the NRS/NAC and the memo dated on December 11, 2018 sent from Harold Wickham the Deputy Director of Operations at the time regarding this sensitive subject. Upon review, please send out the correct seniority list for SDCC, so that we can move forward with our shift bid in November.

NRS or NAC Sections

The Department of Administration Human Resources Management

Mission is "To provide exceptional Human Resources services with integrity, respect, and accountability" and there Vision is "To be recognized as a leader and partner in the management of Human Resources"

Chapter 284 State Personal System

NRS 209.131

NAC 284.6952

NAC 284.697

NAC 284.658

AR 339 Codes of Ethics

Proposed Resolution

Even though this does not affect me direct it does indirectly. "A threat to justice anywhere is a threat to justice everywhere." So therefore, I'm respectfully requesting that you honor this agreement that was made at the resolution hearing on December 14, 2018 and not be biased, unjust, and unfair to the State of Nevada employee at Southern Desert Correctional Center. Please look at the NRS/NAC. Upon review, please send out the correct seniority list for SDCC, so that we can move forward with our shift bid in November.

Human Resources were giving the task to generate the seniority list for each institution in the resolution hearing. Therefore, this is not a SDCC issue but a Human Resource issue. Officers went through the chain of command and grieved SDCC, but the Wardens informed them that is a Human Resource issue. So instead of redirecting this grievance back to AW Piccinini, please address and resolve our concerns.

Details Attachment

No Attachments

Step 1 Details

Submitted to

PICCININI, GARY

Submission Due Date	Submit Date
10/23/2019	10/11/2019
Response Due Date	Response Date
10/28/2019	10/14/2019
Action Due Date	Action Date
10/29/2019	10/14/2019
Grievant extension	Agency extension
No	No

Response

Officer Williams,

I have been assigned to answer your grievance at the first level. Per AR 306 Employee Grievance Procedure, All Division Heads, Wardens and/or Supervisors are responsible to attempt to resolve employee issues through informal means and in a timely manner, and to comply with the employee grievance procedure. Unfortunately I do not have the authority to resolve your issue. SDCC does not compile the seniority list, nor does any other institution. All institutions have been advised that Human Resources will provide the Seniority Lists for shift bidding beginning last year for the 2018 shift bid and going forward. In the memorandum you refer to that was sent out by Deputy Director Wickham, he states:

We are working on the exact verbiage for the administrative regulation, which will be published soon. In summary the changes will be:

a. Seniority for Correctional Officers will be based on Continuous Service Date with the State of Nevada (not just Corrections), which will be adjusted for breaks in service.

b. Seniority for Senior Correctional Officers will be based on Date of Promotion to Senior Correctional Officer.

c. In the event of the same date, seniority will be awarded by the lower (current) employee ID number.

I do not know why human resources made a change. It appears as though human resources should provide the response to your grievance.

With that being said, I have no choice but to deny your grievance at this level.

NRS or NAC Sections

Grievant Action

Escalate to Next Step

Grievant Comments

Per AR 306 it states that All Division Heads, Wardens and/or Supervisors are responsible to attempt to resolve employee issues through informal means and in a timely manner, and to comply with the employee grievance procedure. Under this statement it says that The Human Resource Division is responsible to informing new employees of this Administrative Regulation.

Human Resources is a Division of its owe and is responsible to attempt to resolve this grievance instead of reassigning it to the institution in which Piccinini stated that in his responses that he does not have the authority to resolve this issue and that SDCC does not compile the seniority list the Human Resources Division does.

Chief of Human Resources, Ms Christian Leathers I'm asking that you resolve the concerns with the seniority list that was sent to SDCC from the Human Resources office or reassigned it to the person in your office that can.

Step 1 Response Attachments

No Attachments

Step 1 Grievant Attachments

No Attachments

Step 1 Event Log

Date/Time	User	Event Type	Description
10/14/2019	bwillia6	Grievance Escalated by Grievant	Step 1 Grievant Response Submitted
10/14/2019	gpiccini	Grievance Response Submitted	Step 1 Response Submitted
10/11/2019	cleathe1	Recipient Reassignment	Reassigned from user: csargen1 to user: gpiccini
10/11/2019	bwillia6	Grievance Submitted	Submitted at Step 1

Step 2 Details

Submitted to

HOWELL, JERRY

Submission Due Date	Submit Date
10/29/2019	10/14/2019
Response Due Date	Response Date
10/29/2019	10/22/2019
Action Due Date	Action Date
11/06/2019	10/24/2019
Grievant extension	Agency extension
No	No

Response

This was a policy change in December 2018 and has been reviewed by the Employee-Management Committee.

As there is only one definition of seniority in statute, it has been deemed appropriate to use this process for NDOC custody seniority.

To ensure NDOC has an consistent and standard process statewide, the agency determined this the most appropriate manner to determine seniority.

For any employee who shared the same continuous service date, statute defines ties-breaker to be determined by lot, meaning drawn.

All of the lots were done in the privacy of Human Resources and the seniority lists have been established.

GRIEVANCE DENIED

NRS or NAC Sections

Grievant Action

Escalate to Next Step

Grievant Comments

Acting Director Wickman, I know you have read through my grievance details and my proposed resolution and you are welcome for allowing you the opportunity to provide me your response. The concerns I have outlined in this grievance, I'm sure will not be carefully reviewed and considered if so, then you will rule in my favor. I have not been giving accurate responses in any level.

Step 1 AWO said "that he does not have the authority to resolve this issue"

Step 2 Warden Howell contradicted himself because in grievance number 5941 he stated "The NAC does not reference seniority as it applies to any situation other than layoff and recall rights."

Obviously, in each grievance that will be or has been submitted our ADMIN and HR has worked together as one to be BIASED. That being said, I will not skip over the semantics but will re-state the FACTS. I'm sure my "concerns have been submitted for review by Human Recourses", but they will not acknowledge that they are wrong.

Since submitting this grievance initially, Human Resource Ms. Leathers meet with me and some of my colleagues here at SDCC on October 17, 2019 at approximately 0900 hours. In this meeting, she informed us that the decision for our Human Resource to use "by lot" was in a hearing that the EMC ruled on. She then encouraged us to read up on this decision. I took her advice and found that in grievance #6041 NDOC vs Lennon, Mr. Lennon questioned his seniority not because of hire date but by rank and that he wanted to re-bid. His bid was in November 2018 vs SDCC being in December 2018 and HDSP I believe was in January 2019. This grievance was dismissed based on moot.

I reached out to Ms. Woo-Seymour of the Division of Human Resources to confirm that this grievance was dismissed and she responded by saying "The agency filed a Motion to Dismiss (MTD) on Grievance #6041, the EMC granted the MTD; therefore the grievance did not proceed to hearing."

I then reached out to Ms. Leathers again to confirm this dismissal and that it did not proceed to a hearing and to result back to the Resolution Hearing agreement. Her response then was to refer to AR 301 and not the "EMC hearing" in which she suggested we look to in the first place.

As you know, NDOC cannot have an Administrative Regulation (AR) that contradicts the NRS and the NAC.

AR 301.02 states "Annual shift bidding is based on each officer's seniority. Seniority is calculated based on the officer's continuous date of service as defined by NAC 284.0525. Pursuant to NAC 284.632 continuous service date is defined as date of hire without breaks in service."

Pursuant is defined as in fulfillment or execution of; in carrying out. NAC 284.632 refers to layoffs not continuous service date. So therefore, you cannot carry out "NAC 284.632 because layoffs has nothing to do with continuous service date and the definition of date of hire without breaks in service" like the AR said.

So this AR was written wrong.

NAC 284.632 number 3 states "for the purposes of calculating seniority for Layoffs" if seniority is otherwise equal, seniority must be determined in the following order:

A) Total time within the occupational group;

B) Total time within the department ; and

C) By lot

This statute must be referred to when conducting layoffs. Warden Howell agreed with this in grievance number 5941 in which he stated "The NAC does not reference seniority as it applies to any situation other than layoff and recall rights."

In this case, seniority is established with Human Resources upon your hire date and then by your employee number. Your employee number is the (lot) the draw. First come, first hired, first issued an employee number.

On December 11, 2018 you sent out an email outlining the changes that was to come for AR 301. You also indicated that because of the interest of "fairness and justice" NDOC reached out to DHRM, NDOC HR, and the AG office for guides. Threw their guides NDOC agreed on utilizing the employee number going with the lowest to highest upon same hire date.

On December 12, 2018 a resolution agreement was held and we agreed upon: In the event of an employee with the same hire date, the employee number would be utilized and would go on lowest to highest. Example 38529, 38530, 48009, 48010

HR cannot justify using "by lot" because the NRS 284.632 said for layoff purpose only. Therefore, HR must refer to this NRS upon layoff, which is not the case right now.

HR indicated that they will refers to NRS 284.632 regarding seniority but yet there's officers that transferred from the DMV yet HR is using their hire date with the State Of Nevada vs "total time within the department" like the NRS said. HR cannot take pieces from this NRS and eliminate the other parts, another contradiction on Human Resources behalf.

Fact 1) NRS 284.632 refers to layoffs

Fact 2) No State Employee is given the same employee number per HR Help Desk (NEATS)

Fact 3) You sent out an memo summaries the changes to AR 301 on December 11, 2018

Fact 4) An agreement was made by Warden Howell, Chief of Human Resources, and myself on December 12, 2019 in which upon same hire date the employee number would be utilized from lowest to highest.

Fact 5) AR 301.02 NRS 284.632 has nothing to do with continuous service and hire date.

With all the facts I just stated, I know you will still agree with the previous responses and deny this grievance.

A memo was sent out on October 2019 what stood out was "Please understand that the inherent risk you assume as Correctional Professionals is greatly appreciated by the governor, this Department, and the citizens of Nevada." ADMIN and HR treat us like criminal, so is this statement true? Are another book answer?

The DMV, NHP, Game Wardens, the State Welfare all states agencies bid on shifts and hours based on seniority in the respective department. They all have guidelines to follow regarding seniority. These State of Nevada Agencies guild line for seniority does not include a "by lot" system.

All we want is to be treated fairly and just. Going by the employee number is fair. Every officer will agree.

Step 2 Response Attachments

No Attachments

Step 2 Grievant Attachments

No Attachments

Step 2 Event Log

Date/Time	User	Event Type	Description
10/24/2019	bwillia6	Grievance Escalated by Grievant	Step 2 Grievant Response Submitted
10/22/2019	jhowel4	Grievance Response Submitted	Step 2 Response Submitted
10/14/2019	cleathe1	Recipient Reassignment	Reassigned from user: cleathe1 to user: jhowel4
10/14/2019	bwillia6	Grievance Submitted	Submitted at Step 2

Step 3 Details

Submitted to

WICKHAM, HAROLD

Submission Due Date	Submit Date
11/08/2019	10/24/2019
Response Due Date	Response Date
11/08/2019	
Action Due Date	Action Date
	11/15/2019
Grievant extension	Agency extension
No	No
Response	
NRS or NAC Sections	
Grievant Action	
Escalate to Next Step	
Grievant Comments	

Step 3 Response Attachments

No Attachments

Step 3 Grievant Attachments

No Attachments

Step 3 Event Log

Date/Time	User	Event Type	Description
11/15/2019	bwillia6	Grievance Escalated by Grievant	Step 3 Grievant Response Submitted
10/24/2019	bwillia6	Grievance Submitted	Submitted at Step 3

Step 4 Details

Submitted to	
COORDINATOR, EMC	
Submission Due Date	Submit Date
12/03/2019	11/15/2019
Response Due Date	Response Date
01/22/2020	
Action Due Date	Action Date
Decision Hearing Schedule Due Date	Hearing Date
01/22/2020	
Hearing Decision Due Date	In Abeyance
	No
In Conference	Decision
No	N/A
Description/Comments	
Grievant Action	
N/A	
Grievant Comments	

Step 4 Attachments

No Attachments

Step 4 Event Log

Date/Time	User	Event Type	Description
11/15/2019	bwillia6	Grievance Submitted	Submitted at Step 4

Steve Sisolak
Governor

Guy Puglisi
Chair

Jennifer Bauer
Co-Vice-Chair

Pauline Beigel
Co-Vice-Chair

Tori Sundheim
Deputy Attorney General

Robert A. Whitney
Deputy Attorney General

STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
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Meeting Minutes of the Employee-Management Committee
December 12, 2019
(Subject to Committee Approval)

Held at the Nevada State Library and Archives Building, 100 N. Stewart St., Conference Room 110, Carson City, Nevada, and the Grant Sawyer Building, 555 E. Washington Ave., Room 1400, Las Vegas, Nevada, via videoconference.

Committee Members:

Management Representatives	**Present**
Mr. Guy Puglisi - Chair	
Ms. Jennifer Bauer	
Ms. Pauline Beigel	X
Mr. Ron Schreckengost	
Ms. Jennelle Keith	X
Ms. Tonya Laney	

Employee Representatives	
Mr. Tracy DuPree	
Ms. Turessa Russell	X
Ms. Sherri Thompson	X
Ms. Sonja Whitten	
Ms. Dana Novotny	

Staff Present:

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

1. Call to Order

Co-Vice-Chair Beigel called the meeting to order at approximately 9:00 am.

2. Public Comment

There was no public comment in the North or the South.

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

Co-Vice-Chair Beigel opened the meeting with Committee introductions.

4. Adoption of the Agenda – Action Item

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

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

5. Discussion and possible action related to Grievance #6749 of Jeffrey Holtz, Department of Corrections – Action Item

Co-Vice-Chair opened the Committee for discussion.

Member Russell stated the Committee should move the grievance to hearing.

Member Russell stated under the categories and the details of the grievance, there was not enough information to fully determine the merits.

Member Russell stated she felt the grievance was in the Committee's jurisdiction.

Member Thompson stated based on the information given, she could not see where the employee was harmed and for that reason, did not think the grievance should be heard.

Member Keith stated there is an administrative investigation in regards to the grievance that had most likely not concluded.

Member Keith stated per NRS 284.020 subsection 2 where the agency has the right to run the agency as they see fit would apply to this

grievance.

Member Keith stated the timeline of the event on 9.19.2019 but the employee was not served the notice of investigation until 10.18.2019 and should have been notified before the shift change.

Co-Vice-Chair Beigel asked if the Committee has reviewed Administrative Regulation (AR) 301.04, that was being referenced as having been violated.

Co-Vice-Chair Beigel stated she did not think NRS 284.387 was relevant but did think AR 301.04 was.

Co-Vice-Chair Beigel stated the Committee could move the grievance forward to see if AR 301.04 was violated.

Co-Vice-Chair Beigel stated she did understand the point of NRS 284.020 subsection 2 that agencies could run it as they see fit, however, if the agency was potentially violating the AR, the grievance could go to hearing.

Co-Vice-Chair Beigel stated whether or not the Committee could address the "harm", the grievance could be heard.

Co-Vice-Chair Beigel stated the Committee did not have any prior decisions that were close enough to this situation to determine based on prior decisions.

Member Russell stated this grievance did fall within the Committee's jurisdiction.

Co-Vice-Chair Beigel stated this discussion was to determine if the Committee should hear the grievance.

Member Thompson motioned to move grievance #6749 to hearing.

Member Russell seconded the motion.

Co-Vice-Chair Beigel asked if there was any discussion.

Member Keith asked if the Committee should combine grievance #6749 and #6750 and move both to hearing.

Co-Vice-Chair Beigel stated she was going to suggest that option when the Committee began discussing grievance #6750.

MOTION: Moved to answer grievance #6749 with a hearing.
BY: Member Thompson
SECOND: Member Russell
VOTE: The vote was unanimous in favor of the motion.

6. Discussion and possible action related to Grievance #6750 of Ryan Wahl, Department of Corrections – Action Item

Co-Vice-Chair opened the Committee for discussion.

Member Keith motioned to move grievance #6750 to hearing with grievance #6749 as the issues are the same.

Member Russell seconded the motion.

Co-Vice-Chair Beigel asked if there was any discussion, there was none.

MOTION: Moved to answer grievance #6750 with a hearing and scheduled with grievance #6749
BY: Member Keith
SECOND: Member Russell
VOTE: The vote was unanimous in favor of the motion.

7. Discussion and possible action related to Grievance #6847 of Keith McKeehan, Department of Corrections – Action Item

Co-Vice-Chair Beigel asked if agenda item 7 and 8 could be considered together.

Mr. Whitney stated the Committee should discuss and vote on the grievances separately.

Co-Vice-Chair Beigel opened the Committee for discussion on grievance #6847.

Member Russell stated this appeared to be a complicated grievance and did not feel the Committee had heard these specific circumstances before.

Member Russell stated she felt the grievance should go forward to hearing.

Member Thompson agreed.

Member Keith stated this was a very important discussion to have for the Department of Corrections and that moving to hearing would be appropriate.

Co-Vice-Chair Beigel stated her concern was the 20-day timeframe as the issue in the grievance happened in 2016.

Co-Vice-Chair Beigel stated she was not sure if the grievance was timely and she could not understand where the grievant got his event date from.

Member Thompson stated the grievance was so substantial, she could not find the timeline in the grievance.

Co-Vice-Chair Beigel stated on page 1 of 7 the grievant stated he 'had just learned of a new viable threat within the last 20 days, which makes the filing of this grievance timely and I believe multiple violations have occurred as articulated in the body of this grievance'.

Co-Vice-Chair Beigel stated the grievance still referenced what happened in 2016 and that was why she was concerned with the timeframe and if the Committee could hear the grievance.

Co-Vice-Chair Beigel stated she agreed it was an important issue and in reading the responses, the agency is looking to change things and not brushing the issue aside.

Member Russell stated there is knowledge of a threat the grievant was made aware of on October 16th but the grievant is also referencing background history that goes back to 2016.

Co-Vice-Chair Beigel asked Member Russell if she was looking at grievance #6856 or #6847.

Member Russell stated she was referencing #6856.

Mr. Whitney stated the grievant could be referring to the situation both officers cited in Ely and perhaps that was the trigger for the grievance.

Mr. Whitney stated it was difficult to determine the timeframe.

Member Russell stated because of the amount of information listed in the grievance, she was inclined to move the grievance to hearing in order to get more specific information.

Member Russel stated if during a hearing, the Committee learned there was not enough to satisfy the 20-day timeline, they could make a determination then but there was not enough in the grievance to determine it should not move to hearing.

Member Thompson asked for clarification, move the grievance to hearing and determine the timeline then.

Mr. Whitney stated that was his understanding and another thing to keep in mind was if there was indeed an issue with the timeline, the agency has the opportunity to file a motion to dismiss.

Member Keith stated she did believe the grievance should go to hearing as the Committee needed further clarification on the timeline.

Member Keith stated the agency does have a new Director and this grievance was addressed by the previous Director.

Member Keith stated if the grievance went to hearing, the new Director may have the opportunity to address the issue.

Mr. Whitney stated new Director's have the opportunity to address previous grievances but did not recall if that had happened.

Mr. Whitney stated the people under the new Director are the same and frequently answered grievances.

Co-Vice-Chair Beigel asked if there was any more discussion, there was none.

Member Russell motioned to move grievance #6847 to hearing.

Member Thompson seconded the motion.

Co-Vice-Chair Beigel asked if there was any more discussion, there was none.

MOTION:	Moved to answer grievance #6847 to hearing.
BY:	Member Russell
SECOND:	Member Thompson
VOTE:	The vote was 3 to 1 in favor of the motion with Co-Vice-Chair Beigel voting 'nay'.

8. Discussion and possible action related to Grievance #6856 of Paul Lunkwitz, Department of Corrections – Action Item

Co-Vice-Chair Beigel opened the Committee for discussion.

Member Thompson stated the Committee should move this grievance to hearing.

Member Thompson stated she did not find a specific date, but the grievance did reference a situation in Ely and did warrant a hearing.

Co-Vice-Chair Beigel stated this grievance had the October 16th reference of a 'new viable threat' and a more specific timeline.

Member Russell stated when the motion is made, both grievance #6856 and grievance #6847 should be heard together as they are similar in nature.

Member Keith stated she agreed.

Member Russell motioned to move grievance #6856 to hearing and to schedule with grievance #6847 if practical.

Member Thompson seconded the motion

Co-Vice-Chair Beigel asked if there was any discussion, there was none.

MOTION:	Moved to answer grievance #6856 with a hearing and be scheduled with grievance #6847
BY:	Member Russell
SECOND:	Member Thompson
VOTE:	The vote was unanimous in favor of the motion.

9. Public Comment

There was no public comment in the North or the South.

10. Adjournment

Co-Vice-Chair Beigel adjourned the meeting at approximately 9:30 am.