



WHISTLEBLOWER PROTECTIONS – WHAT, WHEN, & HOW

Written Guide for State of Nevada
Officers and Employees, and Local
Governmental Officers and Employees

Developed by the Division of Human Resource Management's Consultation & Accountability Unit as required by NRS 281.661 as amended by [Assembly Bill 274](#) of the 2019 Legislative Session.

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PURPOSE

The purpose of this guide is to educate State of Nevada officers and employees, and local governmental officers and employees, regarding the disclosure of improper governmental action. This guide addresses prohibited actions, provided protections and the prevention of reprisal or retaliatory action due to disclosure of improper governmental action. This guide meets the requirement of NRS 281.661 as amended by [Assembly Bill 274](#) of the 2019 Legislative Session.

PUBLIC POLICY

NRS 281.621 states, “It is hereby declared to be the public policy of this state that a state officer or employee and a local governmental officer or employee are encouraged to disclose, to the extent not expressly prohibited by law, improper governmental action, and it is the intent of the Legislature to protect the rights of a state officer or employee and a local governmental officer or employee who makes such a disclosure.”

DEFINITIONS-NRS 281.611

STATE EMPLOYEE

“State employee” means any person who performs public duties under the direction and control of a state officer for compensation paid by or through the State.

STATE OFFICER

“State officer” means a person elected or appointed to a position with the State which involves the exercise of a state power, trust or duty, including:

- (a) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of state policy;
- (b) The expenditure of state money; and
- (c) The enforcement of laws and regulations of the State.

LOCAL GOVERNMENTAL EMPLOYEE

“Local governmental employee” means any person who performs public duties under the direction and control of a local governmental officer for compensation paid by or through a local government.

LOCAL GOVERNMENTAL OFFICER

“Local governmental officer” means a person elected or appointed to a position with a local government that involves the exercise of a local governmental power, trust or duty, including:

- (a) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of local governmental policy;
- (b) The expenditure of money of a local government; and
- (c) The enforcement of laws and regulations of the State or a local government.

PROHIBITED ACTIONS

RETALIATION

Retaliation is reprisal or retaliatory action against a state officer or employee, or a local governmental officer or employee, who discloses improper governmental action.

REPRISAL OR RETALIATORY ACTION

What does it include?

Actions taken in whole or in part because the state officer or employee, or local governmental officer or employee, disclosed information concerning improper governmental action. Retaliatory actions include:

- (a) The denial of adequate personnel to perform duties;
- (b) Frequent replacement of members of the staff;
- (c) Frequent and undesirable changes in the location of an office;
- (d) The refusal to assign meaningful work;
- (e) The issuance of letters of reprimand or evaluations of poor performance;
- (f) A demotion;
- (g) A reduction in pay;
- (h) The denial of a promotion;
- (i) A suspension;
- (j) A dismissal;
- (k) A transfer;
- (l) Frequent changes in working hours or workdays; or

(m) If the employee is licensed or certified by an occupational licensing board, the filing with that board, by or on behalf of the employer, of a complaint concerning the employee; or

(n) Knowingly placing false information, including a false complaint, in the personnel file of the employee.

IMPROPER GOVERNMENTAL ACTION

IMPROPER ACTIONS

“Improper governmental action” means any action taken by a state officer or employee or local governmental officer or employee in the performance of the officer’s or employee’s official duties, whether or not the action is within the scope of employment of the officer or employee, which is:

(a) In violation of any state law or regulation;

(b) If the officer or employee is a local governmental officer or employee, in violation of an ordinance of the local government;

(c) An abuse of authority;

(d) Of substantial and specific danger to the public health or safety; or

(e) A gross waste of public money.

PREVENTING DISCLOSURE

A state officer or employee or a local governmental officer or employee shall not directly or indirectly use or attempt to use the official authority or influence of the officer or employee to intimidate, threaten, coerce, command, influence or attempt to intimidate, threaten, coerce, command or influence another state officer or employee or another local governmental officer or employee, as applicable, in an effort to interfere with or prevent the disclosure of information concerning improper governmental action. “Official authority or influence” includes taking, directing others to take, recommending, processing or approving any personnel action such as an appointment, promotion, transfer, assignment, reassignment, reinstatement, restoration, reemployment, evaluation or other disciplinary action.

HARASSMENT

A state officer or employee or a local governmental officer or employee shall not use these provisions to harass another state officer or employee or another local governmental officer or employee. Additionally, a state officer or employee or a local governmental officer or employee may initiate proper disciplinary procedures against another state officer or employee or another local governmental officer or employee who discloses untruthful information concerning improper governmental action.

REMEDY

A state officer or employee and a local governmental officer or employee shall use the official authority or influence of the officer or employee to remedy any reprisal or retaliatory action of which the officer or employee becomes aware.

Please note: The next section applies to State of Nevada officers and employees only.

HOW TO FILE AN APPEAL-STATE OF NEVADA OFFICERS AND EMPLOYEES ONLY

APPEAL OF “WHISTLEBLOWER” RETALIATION

If a state officer or employee directly or indirectly uses or attempts to use the official authority or influence of the officer or employee to intimidate, threaten, coerce, command, influence or attempt to intimidate, threaten, coerce, command or influence another state officer or employee in an effort to interfere with or prevent the disclosure of information concerning improper governmental action, the affected state officer or employee may file a written appeal with a hearing officer of the Personnel Commission for a determination of whether the action taken was a reprisal or retaliatory action.

A completed appeal form, *Appeal of “Whistleblower” Retaliation Under the Provisions of NRS 281.641 (HR-53)*, must be submitted within 10 working days after the alleged reprisal or retaliatory action took place. Directions for completion are included on the form.

If a hearing officer determines that a violation of NRS 281.631 occurred or the action taken was a reprisal or retaliatory action, the hearing officer may issue an order directing the proper person to desist and refrain from engaging in such a violation or action, or the hearing officer may issue an order directing the termination of the employment of the proper person.

Additionally, the hearing officer will file a copy of the decision with the Governor or any other elected state officer who is responsible for the actions of that person.

If you have questions, please contact Denise Woo-Seymour at dseymour@admin.nv.gov or (775) 684-0149.

Please note: The next section applies to local governmental officers and employees only.

HOW TO FILE AN APPEAL-LOCAL GOVERNMENTAL OFFICERS AND EMPLOYEES ONLY

APPEAL OF “WHISTLEBLOWER” RETALIATION

NRS 281.645 requires a local government to establish procedures for hearing an appeal from a local governmental officer or employee who alleges a violation of NRS 281.631 occurred or who

disclosed information concerning improper governmental action and believes that as a result of that disclosure, a reprisal or retaliatory action has been taken against the local government officer or employee to determine whether a violation of NRS 281.631 occurred or whether a reprisal or retaliatory action has been taken against the local governmental officer or employee.

If a hearing officer determines that a violation of NRS 281.631 occurred or the action taken was a reprisal or retaliatory action, the hearing officer may issue an order directing the proper person to desist and refrain from engaging in such a violation or action, or the hearing officer may issue an order directing the termination of the employment of the proper person.

Please contact your employer's human resources office for further information.