



**STATE OF NEVADA**  
**DEPARTMENT OF ADMINISTRATION**  
***Division of Human Resource Management***  
209 E. Musser Street, Suite 101 | Carson City, Nevada 89701  
Phone: (775) 684-0150 | <http://hr.nv.gov> | Fax: (775) 684-0122

**MEMORANDUM**  
**HR#08-17**

February 15, 2017

**TO:** Department Directors  
Division Administrators  
Agency Personnel Liaisons  
Agency Personnel Representatives

**FROM:** Peter Long, Administrator *Peter Long*  
Division of Human Resource Management

**SUBJECT:** DISCLOSURE OF IMPROPER GOVERNMENTAL ACTION

---

Attached is a summary of the statutes pertaining to the disclosure of improper governmental action and the form *Appeal of "Whistleblower" Retaliation Under the Provisions of NRS 281.641*. These are being provided to you in accordance with NRS 281.661 which requires the Administrator of the Division of Human Resource Management to make a written summary of NRS 281.611 through 281.671, inclusive, available to each state officer and employee on an annual basis. NAC 281.305 requires a state officer or employee to file their written appeal on a form provided by the Division of Human Resource Management. The appeal form is also available via our website at [NPD-53 Whistleblower](#).

Please ensure each employee within your organization is provided with the attached summary explaining this process and appeal form. Thank you for your assistance in distributing this information.

PL:cl

## **DISCLOSURE OF IMPROPER GOVERNMENTAL ACTION**

NRS 281.661 requires the Administrator of the Division of Human Resource Management to provide each state officer and employee, on an annual basis, a summary of the statutes pertaining to the disclosure of improper governmental action (NRS 281.611 through 281.671, inclusive).

These statutes prohibit any state officer or employee from using his or her official authority or influence to prevent disclosure of improper governmental action by another state officer or employee.

Improper governmental action is defined in NRS 281.611 as:

“...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.”

Per NRS 281.631(2), “...use of ‘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.”

NRS 281.641 affords a state officer or employee who discloses information concerning improper governmental action a hearing before a Hearing Officer of the Personnel Commission if any reprisal or retaliatory action is taken against the employee within two years following the disclosure. **The appeal must be submitted in writing on the NPD-53 form *Appeal of “Whistleblower” Retaliation Under the Provisions of NRS 281.641* which is available on the Division of Human Resource Management’s website at [NPD-53 Whistleblower](#). An appeal must be filed within 10 working days (NAC 281.305) after the alleged reprisal or retaliatory action took place. Additionally, it must be filed with the Administrator, Division of Human Resource Management, c/o Employee & Management Services.**

Per NRS 281.651(2), the provisions of NRS 281.611 to 281.671, inclusive, do not prohibit a state officer or employee from initiating proper disciplinary procedures against another state officer or employee who discloses untruthful information concerning improper governmental action.

Finally, these statutes specifically encourage any state officer or employee to disclose improper governmental action to the extent not expressly prohibited by law. Further, it is the intent of the Legislature to protect the rights of a state officer or employee who makes such a disclosure. A copy of these statutes may be accessed via the Nevada State Legislature's website at [www.leg.state.nv.us](http://www.leg.state.nv.us) at the Law Library tab.

**APPEAL OF  
“WHISTLEBLOWER” RETALIATION  
UNDER THE PROVISIONS OF NRS 281.641**

This form is required for a state officer or employee or former state officer or employee to request a hearing to appeal action which he or she believes was reprisal or retaliation due to his or her disclosure of improper governmental action. This form is not to be used to report improper governmental action.

**I. Appellant Information (required section)**

Name:

Mailing Address:

Contact Phone:

Email:

Employee I.D. #:

Department/Agency at time of Action:

**II. Whistleblowing Activity (required section)**

Please attach a summary which identifies or describes the improper governmental action, as described in NRS.281.611, that you allege was carried out by a state officer or employee, including the date of the disclosure, to whom the disclosure was made, and any state laws or regulations that you believe were violated.

What was the alleged reprisal or retaliatory action you are appealing and the date or effective date of the action?

Please attach a summary which explains why you believe the action you are appealing was reprisal or retaliation for your disclosure of improper governmental action. Please include:

- a) A chronology of events and facts which support your allegation that the action you are appealing was based on reprisal or retaliation for your disclosure of improper governmental action.
- b) Documentary evidence which supports your statements.

Is the date of the alleged reprisal or retaliatory action you are appealing within two years of the date you disclosed information concerning improper governmental action?  Yes  No

*Note: The appealed action must be within two years of the date of disclosure of improper governmental action.*

The remedy I seek is:

- To have an order issued directing the proper person to desist and refrain from engaging in the reprisal or retaliatory action.
- Other: \_\_\_\_\_

*Note: “Other” remedies may not be within the jurisdiction of the hearing officer to grant.*

#### IV. Appellant Representation (required section)

You may represent yourself or be represented by an attorney or other person of your choosing. A representative may be designated at a later date. I choose to:

Represent myself

Designate the following representative to act on my behalf during the course of this appeal:

Name:

Phone:

Address:

Fax:

Email:

#### V. Signature (required section)

I hereby request a hearing to determine whether the action described was reprisal or retaliation for disclosing information of improper governmental action and I affirm that the information provided is true and correct.

Appellant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

#### Appeal Instructions

**General:** A state officer or employee or former state officer or employee is eligible to file an appeal. Attachments to this form may be provided however, all evidence and back-up documents need not be provided at this time; prior to the hearing, you will receive a request for any supporting material. If you have received a Specificity of Charges or written notice of involuntary transfer, please attach it to this request. Notification of a hearing will be sent to you or your designated representative by regular mail. The appeal procedures and statements made on this form do not include all of the rights available to an appellant. It is advisable to review NRS 281 and NAC 281 prior to filing an appeal. Appeal hearings are open to the public and decisions by a hearing officer are public information.

**When to File an Appeal:** Nevada law NRS 281.641 states, "If any reprisal or retaliatory action is taken against a state officer or employee who discloses information concerning improper governmental action within 2 years after the information is disclosed, the 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."

Your appeal must be filed within 10 working days after the date the alleged reprisal or retaliatory action took place. If your appeal is filed late, the hearing officer may dismiss it as untimely. The date of filing will be the date the appeal is postmarked, or the date of the fax, email, or date of receipt, if you personally deliver it to the Division of Human Resource Management.

**Where to File an Appeal:** The request may be submitted by mail, email, fax or hand delivery. Please submit the appeal to:

Administrator, Division of Human Resource Management  
ccc c/o Employee and Management Services  
100 N. Stewart St., Suite 200  
Carson City, Nevada 89701-4204  
Fax (775) 684-0118 Phone (775) 684-0135  
Email: HearingClerk@admin.nv.gov

**NRS 281.641 states, “Reprisal or retaliatory action against state officer or employee who discloses improper governmental action: Written appeal; hearing; order; negative ruling may not be based on identity of persons to whom disclosure was made; rules of procedure.**

1. If any reprisal or retaliatory action is taken against a state officer or employee who discloses information concerning improper governmental action within 2 years after the information is disclosed, the 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. The written appeal must be accompanied by a statement that sets forth with particularity:

(a) The facts and circumstances under which the disclosure of improper governmental action was made; and

(b) The reprisal or retaliatory action that is alleged to have been taken against the state officer or employee.  
↪ The hearing must be conducted in accordance with the procedures set forth in NRS 284.390 to 284.405, inclusive, and the procedures adopted by the Personnel Commission pursuant to subsection 4.

2. If the hearing officer determines that 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 action. The hearing officer shall file a copy of the decision with the Governor or any other elected state officer who is responsible for the actions of that person.

3. The hearing officer may not rule against the state officer or employee based on the person or persons to whom the improper governmental action was disclosed.

4. The Personnel Commission may adopt rules of procedure for conducting a hearing pursuant to this section that are not inconsistent with the procedures set forth in NRS 284.390 to 284.405, inclusive.

5. As used in this section, “Personnel Commission” means the Personnel Commission created by NRS 284.030.”

**NAC 281.305 states, “Written appeal by officer or employee who claims retaliatory action was taken against him or her.**

1. A state officer or employee who claims a reprisal or retaliatory action was taken against him or her for disclosing information concerning improper governmental action may file a written appeal pursuant to NRS 281.641 with a hearing officer of the Personnel Commission. The appeal must be:

(a) Filed within 10 workdays after the date the alleged reprisal or retaliatory action took place.

(b) Submitted on a form provided by the Division of Human Resource Management of the Department of Administration.

2. The hearing officer may reject a form that is incomplete or otherwise deficient as insufficient to commence the appeal.”

**NRS 281.611 states in part, “Definitions.** As used in NRS 281.611 to 281.671, inclusive, unless the context otherwise requires:

1. “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.”