

Date Received:

**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 prohibited pursuant to NRS 281.631 which he or she believes was 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.

III. Appealed Action (required section)

What was the alleged action prohibited pursuant to NRS 281.631 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 an action prohibited pursuant to NRS 281.631 due to 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 an action prohibited pursuant to NRS 281.631 due to your disclosure of improper governmental action.
- b) Documentary evidence which supports your statements.

Is the date of the alleged action prohibited pursuant to NRS 281.631 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.

IV. Appellant Representation (required section)

You may represent yourself or be represented by an attorney or other person of your choosing. If a union representative is selected, the representative must be from your assigned bargaining unit's exclusive representation. I choose to:

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

Name:
Address:
Bargaining Unit/Union:

Phone:
Fax:
Email:

V. Signature (required section)

I hereby request a hearing to determine whether the action described was action prohibited pursuant to NRS 281.631 due to 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 Chapter 281 and NAC Chapter 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 alleged violation of NRS 281.631 occurs or any alleged 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 a violation of NRS 281.631 occurred or the action taken was a reprisal or retaliatory action, as applicable."

Your appeal must be filed not later than 60 working days after the date on which the alleged violation or reprisal or retaliatory action pursuant to NRS 281.631 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
515 E. Musser St., Suite 101
Carson City, Nevada 89701-4204
Fax: (775) 687-9085
Phone: (775) 684-0131
Email: HearingClerk@admin.nv.gov

Nevada Revised Statutes

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.”

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

5. “Reprisal or retaliatory action” includes:

- (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;
- (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, without limitation, a false complaint, in the personnel file of the employee,

↪ if such action is taken, in whole or in part, because the state officer or employee or local governmental officer or employee disclosed information concerning improper governmental action.

6. “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.

7. “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.”

NRS 281.631 State or local governmental officer or employee: Certain requirements and prohibitions regarding the use of authority or influence.

1. A state officer or employee and a local governmental officer or employee:

(a) 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.

(b) Shall not:

(1) 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, including, without limitation, by intimidating, threatening, coercing, commanding, influencing or attempting to intimidate, threaten, coerce, command or influence the other officer or employee to take reprisal or retaliatory action.

(2) Fail to 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.

2. For the purposes of this section, 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 Violation, 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 alleged violation of NRS 281.631 occurs or any alleged 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, not later than 60 working days after the date on which the alleged violation or reprisal or retaliatory action occurred, with a hearing officer of the Personnel Commission for a determination of whether a violation of NRS 281.631 occurred or the action taken was a reprisal or retaliatory action, as applicable. The written appeal must be accompanied by a statement that sets forth with particularity, as applicable:

(a) The facts and circumstances relating to the alleged violation of NRS 281.631; or

(b) The facts and circumstances under which the disclosure of improper governmental action was made and 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 5.

2. If the 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.

3. 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.

4. 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.

5. 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.

6. As used in this section, "Personnel Commission" means the Personnel Commission created by NRS 284.030.

Nevada Administrative Code

NAC 281.305 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.