

## APPEAL OF DISMISSAL, SUSPENSION, DEMOTION, OR INVOLUNTARY TRANSFER

This form is required for an employee or former employee to request a hearing to determine the reasonableness of his or her dismissal, suspension, demotion, or involuntary transfer.

### Appellant Information (required section)

Name:

Mailing Address:

Contact Phone:

Email:

Employee I.D. #:

Department/Agency at time of Action:

### Appeal Information (required section)

I am appealing the action of:  Dismissal  Suspension  Demotion  Involuntary Transfer

The effective date of the action was: \_\_\_\_\_

*Note: The appeal will be deemed timely if it is postmarked or received by the Administrator of the Division of Human Resource Management **within the first 10 working days after the effective date of the action.***

***This appeal form must be accompanied by the appointing authority's written decision regarding the proposed action provided to the employee pursuant to subsection 7 of NAC 284.6561.***

Immediately prior to the action, were you a permanent, classified, State employee?  Yes  No

*Note: Employees who were probationary, unclassified, or not employed by the Executive Branch or the Nevada System of Higher Education are not eligible to appeal the action.*

The remedy I seek is:

For the dismissal, suspension or demotion to be set aside; and to be reinstated with full pay and benefits for the period the action was in effect.

For the involuntary transfer to be set aside; to be returned to my former position; and if entitled, receive a per diem allowance and travel expenses paid for the period the transfer was in effect.

Other: \_\_\_\_\_

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

Briefly explain why you believe the action taken against you was not reasonable; in the case of an involuntary transfer, please explain how the transfer was made to discipline and/or harass you. Please reference any statute, regulation, policy, or procedure you believe was violated. Attachments may be added.

**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:	Phone:
Address:	Fax:
Bargaining Unit/Union:	Email:

**Signature (required section)**

By signing this form, you are requesting a hearing to determine the reasonableness of the action and affirming that the information you provided is true and correct.

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

**Appeal Instructions**

**General:** Permanent, classified State employees are eligible to file an appeal. Attachments to this form may be provided however, evidence and back-up documents need not be provided at this time; prior to the hearing, the clerk will send a request for any supporting material. If you have received a Specificity of Charges or written notice of involuntary transfer, *you must* attach it to this appeal. 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 284 and NAC 284 prior to requesting a hearing. Appeal hearings are open to the public and decisions by a hearing officer are public information.

**When to File an Appeal:** The appeal will be deemed timely filed if it is either postmarked or received by the Administrator of the Division of Human Resource Management during the period beginning on the first working day after the effective date of the action that is being appealed and ending on the 10<sup>th</sup> working day after the effective date. Appeals received before or after this period may be dismissed as untimely.

**Whistleblower Retaliation Appeal:** If you believe the action you are appealing was based on retaliation due to your disclosure of information concerning improper governmental action, please submit your appeal on the NPD-53 form, “Appeal of Whistleblower Retaliation Under the Provisions of NRS 281.641.”

**Where to File an Appeal:** The appeal 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

**NRS 284.390 Hearing to determine reasonableness of dismissal, demotion or suspension; production of documents; representation; evidence; written decision; reinstatement; judicial review.**

1. Within 10 working days after the effective date of an employee's dismissal, demotion or suspension pursuant to NRS 284.385, the employee who has been dismissed, demoted or suspended may request in writing a hearing before the hearing officer of the Commission to determine the reasonableness of the action. The request may be made by mail and shall be deemed timely if it is postmarked within 10 working days after the effective date of the employee's dismissal, demotion or suspension.

2. The hearing officer shall grant the employee a hearing within 20 working days after receipt of the employee's written request unless the time limitation is waived, in writing, by the employee or there is a conflict with the hearing calendar of the hearing officer, in which case the hearing must be scheduled for the earliest possible date after the expiration of the 20 days.

3. Upon verification that a request for a hearing has been made pursuant to subsection 1, the appointing authority of the employee who was the subject of the internal administrative investigation shall, within 5 days after receiving a request by the employee or his or her representative, produce and allow the employee or his or her representative to inspect or receive a copy of any document concerning the internal administrative investigation, including, without limitation, any recordings, notes, transcripts of interviews or other documents or evidence related to the internal administrative investigation.

4. The employee may represent himself or herself at the hearing or be represented by an attorney or other person of the employee's own choosing.

5. Technical rules of evidence do not apply at the hearing.

6. After the hearing and consideration of the evidence, the hearing officer shall render a decision in writing, setting forth the reasons therefor.

7. If the hearing officer determines that the dismissal, demotion or suspension was without just cause as provided in NRS 284.385, the action must be set aside and the employee must be reinstated, with full pay for the period of dismissal, demotion or suspension.

8. The decision of the hearing officer is binding on the parties.

9. Any petition for judicial review of the decision of the hearing officer must be filed in accordance with the provisions of chapter 233B of NRS.

**NRS 284.376 Involuntary transfer; hearing; remedies.**

1. Within 10 working days after the effective date of a transfer pursuant to the provisions of NRS 284.375, a permanent classified employee who has been transferred without the employee's consent may request in writing a hearing before the hearing officer of the Commission to determine whether the transfer was made for the purpose of harassing the employee. The request may be made by mail and shall be deemed timely if it is postmarked within 10 working days after the effective date of the employee's transfer. The hearing must be conducted in accordance with the procedures set forth in NRS 284.390 to 284.405, inclusive.

2. If the hearing officer determines that the transfer was made for the purpose of harassing the employee, the transfer must be set aside and the employee must be returned to the employee's former position. If the transfer caused the employee to be away from the employee's original headquarters, the employee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally for the period the transfer was in effect.

3. The decision of the hearing officer is binding on the parties.

**NAC 284.6562 Request for hearing to determine reasonableness of dismissal, demotion or suspension**

1. A permanent employee who has been dismissed, demoted or suspended may request a hearing before the hearing officer of the Commission, pursuant to NRS 284.390, within 10 working days after the effective date of his or her dismissal, demotion or suspension. For the purpose of determining the time limit for making such a request, the effective date of the dismissal, demotion or suspension is the first day that the disciplinary action takes effect.

2. Except as otherwise provided in subsection 3, such a request must be:

(a) Addressed and submitted as required pursuant to NAC 284.778; and

(b) Accompanied by the written notification of the appointing authority's decision regarding the proposed action provided to the employee pursuant to subsection 7 of NAC 284.6561.

3. If the appointing authority failed to provide the notification required pursuant to subsection 7 of NAC 284.6561 or the disciplinary action imposed was an immediate suspension or dismissal pursuant to the standards and procedures set forth in NAC 284.6563, the written notification of the appointing authority's decision regarding the proposed action need not accompany the request for a hearing.

**NAC 284.778 states in part, "Request for hearing and other communications.**

1. A request for an appeal must be addressed to the Administrator and submitted on the form provided by the Division of Human Resource Management."