

**SUBJECT: Whistleblower Protection**

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**I. Purpose**

The purpose of this policy is to establish “whistleblower protection” for employees of the employer who report improper governmental action, per NRS 281.611-.671.

**II. Definitions**

“Improper governmental action” is defined as action taken by an officer or employee in the performance of official duties which is:

- In violation of state law or regulation;
- In violation of county code, ordinance, or regulation adopted by the employer;
- An abuse of authority;
- Of substantial and specific danger to the public health or safety; or
- A gross waste of public money.

**III. Filing an Appeal**

An officer or employee who claims that a reprisal or retaliatory action was taken against the officer or employee for disclosing information concerning improper governmental action as defined above may file a written appeal with the Administrative Officer and/or Personnel Director or appropriate authority.

“Reprisal or retaliatory action” includes:

- The denial of adequate personnel to perform duties;
- Frequent replacement of members of the staff;
- Frequent and undesirable changes in the office location;
- Refusal to assign meaningful work;
- Issuance of letters of reprimand or evaluations of poor performance;
- Demotion;
- Reduction in pay;
- Denial of a promotion;
- Suspension;
- Dismissal;
- Transfer;
- Frequent changes in working hours or workdays; or
- 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, if such action is taken in whole or in part, because the officer or employee disclosed information concerning improper governmental action.

A written appeal must be filed by the officer or employee within 60 days after the date the alleged reprisal or retaliatory action took place. The reprisal or retaliatory action must have occurred within two years after the date the officer or employee disclosed information concerning improper governmental action. The appeal must be filed with the Administrative Officer and/or Personnel Director or appropriate authority on a form provided by the employer. The appeal must contain a statement that sets forth with particularity:

- 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 officer or employee.

#### **IV. Appointment of Hearing Officers**

As set forth by ordinance, hearing officers shall be appointed by the governing board upon the recommendation of the appropriate authority. The qualifications of the hearing officers require a combination of education and experience in resolving disputes, adjudicating issues through the interpretation of statutes, rules or regulations, or serving as a hearing officer with the state.

#### **V. Appeal Hearings**

A hearing officer may reject an appeal form that is incomplete or otherwise insufficient to commence an appeal.

When an officer or employee alleging reprisal or retaliatory action requests an appeal hearing, s/he may represent themselves at the hearing or be represented by an attorney or other person of the employee's or officer's choosing. All testimony given at the hearing is under oath. The officer or employee alleging reprisal or retaliatory action presents his/her case first and must establish:

- That the officer or employee was an officer or employee on the date of the alleged reprisal or retaliatory action;
- That the officer or employee disclosed information concerning improper governmental action; and
- The alleged reprisal or retaliatory action was taken against him/her within two years after the date s/he disclosed the information concerning improper governmental action.

The employer then presents its case and must show that the employer did not engage in the alleged reprisal or retaliatory action, or that the action was taken for legitimate business purposes and was not the result of the disclosure of information regarding improper governmental action by the officer or employee. The employee or officer making the allegation must then show that the stated business purpose for the action was a pretext for the reprisal or retaliatory action.

If the hearing officer finds that the action taken was a reprisal or retaliatory action, the hearing officer may issue an order directing the person to desist and refrain from engaging in such action.

**VI. Prohibition of Threats or Coercion**

An officer or employee shall not directly or indirectly use or attempt to use the officer's or employee's official authority or influence to intimidate, threaten, coerce, command, influence, or attempt to intimidate, threaten, coerce, command, or influence another officer or employee in an effort to interfere with or prevent the disclosure of information concerning improper governmental action. The provisions of this policy shall not be used to harass another officer or employee.

**VII. Disclosure of Untruthful Information**

This policy does not preclude the employer from initiating proper disciplinary action against an individual who discloses untruthful information concerning improper governmental action.

**VIII. Annual Summary**

As required by NRS 281.661, a summary of this policy will be provided to employees on an annual basis.

**RESPONSIBILITY FOR REVIEW:** The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.