



DEPARTMENT OF PERSONNEL
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MEMO PERD #9-11

March 11, 2011

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

FROM: Teresa Thienhaus, Director
Department of Personnel

A handwritten signature in cursive script that reads "Teresa Thienhaus".

SUBJECT: DISCLOSURE OF IMPROPER GOVERNMENTAL ACTION

Attached is a summary of the statutes pertaining to the disclosure of improper governmental action along with the appeal 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 Director of the Department of Personnel to make a written summary of NRS 281.611 through 281.671 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 Department of Personnel. Please note that the appeal form has been changed to provide clearer instructions and additional space for the employee to explain the basis of his or her appeal and the remedy sought. The appeal form is also available via our website at <http://dop.nv.gov/forms.html>.

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

TT:vk

DISCLOSURE OF IMPROPER GOVERNMENTAL ACTION

NRS 281.661 requires the Director of the Department of Personnel to provide each State officer and employee, on an annual basis, a summary of the statutes pertaining to disclosure of improper governmental action (NRS 281.611 through 281.671).

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 his official duties, whether or not the action is within the scope of his employment, 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 State Personnel Hearing Officer if any reprisal or retaliatory action is taken against him 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 Department of Personnel's website at <http://dop.nv.gov/forms.html>. This properly completed form must be filed with the Hearing Officer within 10 working days (NAC 281.305) after the alleged reprisal or retaliatory action takes place.**

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 obtained by contacting your department director, division administrator, the Department of Personnel, or accessed via the Nevada State Legislature's website at www.leg.state.nv.us under Law Library.