



# WASHOE COUNTY

## Complaints of Policy Violations Against Department Heads, Assistant County Managers and the County Manager

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## I. GENERAL PROVISIONS FOR HANDLING COMPLAINTS

### A. Scope and Applicability

1. *Scope.* Washoe County will take appropriate and legally authorized actions to protect employees in the workplace and prevent violations of its policies. This policy outlines the steps to be followed when there is a complaint of conduct that violates Washoe County policies, including a complaint of discrimination, harassment and/or retaliation.
2. *Applicability.* This policy applies to department heads, Assistant County Managers and the County Manager. This policy also applies to the District Health Officer and Library Director.<sup>1</sup> This policy does not apply to elected officials or judges.

### B. Washoe County Prohibits Conduct that violates its Policies, including Discrimination, Harassment and Retaliation

Washoe County prohibits policy violations by appointed department heads, assistant county managers and/or the County Manager. This includes discrimination, harassment and/or retaliation towards employees who are members of legally protected categories in all aspects of employment.<sup>2</sup> Protected categories are:

- Age 40 or older
- Ancestry or national origin
- Race or color
- Disability
- Religion
- Sex including pregnancy and gender identity, orientation or expression
- Use of a service animal
- Genetic information
- Opposing an unlawful employment practice
- Past, present, or prospective service in the armed forces
- Use of protected leave, such as domestic violence leave

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<sup>1</sup> The district health officer is appointed pursuant to NRS 439.400. The library director is appointed pursuant to NRS 379.025. They shall be treated similarly to department heads for purposes of this policy.

<sup>2</sup> This policy is not meant to be an exhaustive statement of the County's or its employees' rights, duties, and obligations under applicable law.

### **C. Confidentiality of Investigation**

An investigation shall remain confidential to the extent allowed by law. Complaints involving the Equal Employment Opportunity Commission and/or the Nevada Equal Rights Commission are confidential by law. 42 U.S.C. §2000e-5(b). The written summary of investigation may be redacted as allowed by law. However, if the matter is addressed in an open meeting by the Board of County Commissioners, confidentiality protections may no longer apply and will be determined on a case-by-case basis.

### **D No Adverse Action against Employees**

No adverse action may be taken against an employee who makes a good faith complaint or provides information related to a complaint or investigation, whether a violation of policy is proven or not.

## **II. COMPLAINTS AGAINST DEPARTMENT HEADS AND ASSISTANT COUNTY MANAGERS**

### **A. Complaint to Human Resources or County Manager**

Any person who has, or receives, a complaint about any violation of Washoe County policy against a department head or Assistant County Manager shall notify the Director of Human Resources/Labor Relations (Director). If the Director is the subject of the complaint, then the County Manager should be notified.

### **B. Plan of Action**

The Director will notify promptly the County Manager about the complaint and discuss a plan of action, including a proposed timetable for completion of any investigation. The County Manager has the discretion to determine whether an investigation is required and whether Human Resources/Labor Relations or an outside investigator will conduct such investigation.

The County Manager shall determine the necessity of alternate work arrangements for staff or the subject of the complaint pending the investigation.

1. *Department Heads Appointed by the County Manager or Assistant County Managers:* The County Manager may place a department head or Assistant County Manager on leave with or without pay or otherwise adjust the department head's working conditions pending an investigation.
2. *Library Director or District Health Officer:* Upon recommendation of the County Manager and after consulting the appointing authority, the Library Director or District Health Officer may be placed on leave with or without pay or otherwise adjust the department head's working conditions pending an investigation.
3. *Department Heads Appointed by the Board:*
  - a. The County Manager, with the consent of the Chair of the Board of County Commissioners (Chair), may adjust working conditions of a department head appointed by the Board pending the investigation.
  - b. Upon recommendation of the County Manager and after consultation with the Chair of the appointing authority, a department head may be placed on *leave without pay* pending the investigation when gross misconduct is alleged, when the safety of the public or employees is at risk, when the presence of the department head in the workplace presents an impediment to the continued functioning of the workplace, or when there is a pending criminal charge against the department head that is related to the position or workplace.
  - c. The County Manager shall provide written notice of the proposed action to the department head, which shall be effective immediately unless otherwise stated in the notice. A department head may challenge the proposed action by notifying the Chair in writing within 5 working days of receipt of written notice. The matter shall be heard in an open meeting as provided in Section 6 below. The action is not stayed pending any protest.

### **C. Notice of Complaint**

The subject of the investigation may or may not be notified that a complaint has been filed and that an investigation is pending at the discretion of the County Manager after considering whether providing notice might affect the

integrity of the investigation or disrupt the workplace. While an investigation is pending, it shall remain confidential.

#### **D. Notice of Investigation Findings, Actions and Recommendations**

At the conclusion of an investigation, the subject of the investigation shall be provided (1) a summary of the findings of the investigation, (2) actions to be taken by the County Manager and (3) recommendations to the department head or Assistant County Manager.

#### **E. Action as a Result of Investigation Findings**

If a violation of Washoe County policy is found after an investigation, appropriate action will be taken to protect employees and prevent future policy violations.

1. *Department Heads Appointed by the County Manager and Assistant County Managers:* The County Manager will take any appropriate action if the investigation concludes that any policies have been violated. Notice of any violations, actions, and recommendations shall be provided to the department head/assistant county manager in writing. The findings, actions and recommendations are final and not subject to further protest.
2. *Library Director and District Health Officer:* Upon recommendation of the County Manager and after consultation with the Chair of the appointing authority, the County Manager will take any appropriate action if the investigation concludes that any policies have been violated. Notice of any violations, actions and recommendations shall be provided to the department head in writing. The findings, actions and recommendations are final and not subject to further protest. In the event the County Manager recommends discharge as the appropriate action, it shall be submitted to the appointing authority.
3. *Department Head Appointed by the Board:* The County Manager will take any appropriate action if the investigation concludes that any policies have been violated. This may include, but is not limited to, actions to protect employees and prevent future violations. The County Manager may make recommendations to department head regarding his or her conduct.

The department head may protest only the findings of the investigation and recommendations regarding the department head's conduct to the Board of County Commissioners as set forth in Section 6 below. The County Manager's actions to protect employees and prevent future violations may not be protested.

**F. Protest of Investigation Findings and Recommendations by Department Head Appointed by the Board of County Commissioners**

A department head appointed by the Board of County Commissioners (Board) may protest only the findings of the investigation and recommendations by the County Manager regarding the department head's conduct. The department head may not protest the County Manager's actions to protect employees and prevent future violations. No actions shall be stayed during a protest. A department head appointed by the Board shall file a protest by notifying the Chair of the Board in writing within 5 working days of receipt of written notice described above in Section 4.

1. The protest shall be considered in a properly noticed and agendized public meeting. NRS 241.020.<sup>3</sup> The public meeting agenda shall include (1) that a portion of the meeting may be closed to consider (2) the protest of investigative findings and/or recommendations and (3) of the name of the department head. NRS 241.020(d)(4).
2. At the time of the public meeting, a closed session may be called to consider the protest by a motion which specifies (1) the nature of the business to be considered and (2) the statutory authority pursuant to which the public body is authorized to close the session. NRS 241.030(1) and (3).
3. The department head may waive the closed session and request that the matter be open to the public. This request by the department head to waive the closed session (1) may be made at any time before or during the meeting and (2) must be honored by the public body unless the consideration of any policy violations of the department head involves the appearance before the public body of another person, such as a witness, who does not desire that the meeting be open to the public. NRS 241.030(2).

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<sup>3</sup> All citations are to 2015 edition of Chapter NRS 241.

4. Unless waived in writing, no meeting shall be held until a department head is given written notice of the time and place of the meeting and the County receives proof of service of the notice. NRS 241.033(1).
  - a. Notice shall be delivered to the department head at least 5 working days before the meeting OR be sent by certified mail to the last known address of the department head at least 21 working days before the session. NRS 241.033(2).
  - b. The Chair or designee must receive proof of service of the notice prior to the meeting. NRS 241.033(1).
5. The written notice to department head shall:
  - a. Include an informational statement setting forth that the Board may, without further notice, take action against the department head if the Board determines that such action is warranted after considering the subject of the protest. NRS 241.033(2)(b).
  - b. Include a list of the general topics that will be considered by the Board during the meeting or potential closed session. NRS 241.033(2)(c).
  - c. Include a statement that the department head is allowed to attend the portion of the potential closed session during which the department head's policy protest will be considered. NRS 241.033(2)(c)(2) and NRS 241.033(4)(a).
  - d. Inform the department head that an attorney or other representative may be present during the meeting or potential closed session at the personal expense of the department head. NRS 241.033(2)(c)(2) and NRS 241.033(4)(b).
  - e. Inform the department head that he or she may present evidence, testimony and witnesses during the meeting or potential closed session. NRS 241.033(2)(c)(2) and NRS 241.033(4)(c).
6. The department head is entitled to attend the meeting with an attorney or representative of the department head's choosing at his or her personal expense and present evidence, provide testimony and present witnesses related to the protest. NRS 241.033(4).

7. The Chair of the Board may at any time before or during the meeting or potential closed session (1) determine which additional persons, if any, are allowed to attend the closed meeting, or (2) allow the members of the Board to determine, by majority vote, which additional persons, if any, are allowed to attend the closed session. NRS 241.033(5).
8. At the meeting or potential closed session, the County may present the investigative findings and recommendations as well as any evidence, testimony and/or witnesses deemed necessary. The department head may then present evidence, testimony and witnesses. NRS 241.033(2)(b).
9. The Board may consider the information presented regarding the protest. If the meeting occurs in closed session, any deliberation, action and the formation of recommendations are prohibited during the closed session and shall be conducted in a public meeting. The Board may take appropriate action based on the summary findings, recommendations, and evidence presented. NRS 241.033(2)(b).
10. The County shall provide a copy of any record of a closed meeting prepared pursuant to NRS 241.035 upon the request the department head. NRS 241.033(6).

### **III. COMPLAINTS AGAINST THE COUNTY MANAGER**

#### **A. Complaint to Human Resources**

Any person who has, or receives, a complaint against the County Manager about any violation of Washoe County policy shall notify the Director of Human Resources/Labor Relations (Director).

#### **B. Plan of Action**

The Director will notify promptly the Chair of the Board of County Commissioners (Chair). The Chair has the discretion to determine whether an investigation is required and whether Human Resources/Labor Relations or an outside investigator will conduct such investigation.

1. The Chair may adjust working conditions of the County Manager pending the investigation.



2. Upon recommendation of the Chair, the County Manager may be placed on *leave without pay* pending the investigation when gross misconduct is alleged, when the safety of the public or employees is at risk, when the presence of the County Manager presents an impediment to the continued functioning of the workplace, or when there is a pending criminal charge against the County Manager that is related to the position or workplace. The County Manager may protest leave without pay in accordance with Section 6 below by providing written notice to the Chair within 5 working days after receipt of notice of leave. The action will not be stayed pending the protest.

### **C. Notice of Complaint**

The County Manager may or may not be notified that a complaint has been filed and that an investigation is pending at the discretion of the Chair after considering whether providing notice might affect the integrity of the investigation or disrupt the workplace. While an investigation is pending, it shall remain confidential.

### **D. Notice of Investigative Findings, Actions, and Recommendations**

At the conclusion of an investigation, the County Manager shall be provided (1) a summary of the findings of the investigation, (2) actions to be taken, and (3) recommendations to the County Manager regarding his or her conduct.

### **E. Action as a Result of Findings**

The Chair will take any appropriate action if the investigation concludes that any policies have been violated. This may include, but is not limited to, actions to protect employees and prevent future violations. The Chair may make recommendations to the County Manager regarding his or her conduct.

### **F. Protest of Recommended Action**

The County Manager may protest only the findings of the investigation and recommendations regarding the County Manager's conduct. The County Manager may not protest the actions to protect employees and prevent future violations. No actions shall be stayed during a protest. The County Manager shall file a protest by notifying the Chair of the Board of County

Commissioners (Board) in writing within 5 working days of receipt of written notice described above in Section 4.

1. The protest shall be considered in a properly noticed and agendized public meeting. NRS 241.031. This meeting may not be closed. NRS 241.031(1)(b).
  - a. Unless waived in writing, the Board shall provide written notice to the County Manager of the time and place of the public meeting. NRS 241.034(b).
    - i. The written notice shall be delivered personally at least 5 working days before the meeting or sent by certified mail to the last known address at least 21 working days before the meeting. NRS 241.034(b)(1)-(2).
    - ii. The Chair must receive proof of service of the written notice before the Board may consider the matter at a public meeting. NRS 241.034(b).
  - b. The written notice shall:
    - i. Include an informational statement setting forth that the Board may, without further notice, take action against the County Manager if the Board determines that such action is warranted after considering the protest.
    - ii. Include a description of the general topic(s) to be considered.
    - iii. State that an attorney or other representative may be present at the County Manager's own personal expense.
    - iv. State that evidence, testimony and witnesses may be presented relating to the alleged misconduct.
  - c. The written notice provided in this section is in addition to the notice of the meeting provided pursuant to NRS 241.020.
2. The County Manager is entitled to attend the meeting with an attorney or other representative of his or her choosing and expense and present evidence, provide testimony and present witnesses related to the protest. NRS 241.033(4).

3. At the meeting, the County may present the investigative findings and recommendations as well as any evidence, testimony and/or witnesses deemed necessary. The County Manager may then present evidence. The Board may take appropriate action based on the findings, recommendations, and evidence presented. NRS 241.033(2)(b).