



EMPLOYEE RELATIONS

602.23 – WHISTLEBLOWER PROTECTION

- 1. Policy Purpose:** The purpose of this policy is to establish “whistleblower protection” for employees of the District who report improper governmental action, per NRS 281.611-.671

Policy Coverage: This Policy applies to all employees, both represented and non-represented, and Volunteers of the East Fork Fire Protection District.

Adopted Date: 03/19/2019

Revised Date: N/A

Policy #: 602.23

***The procedure established in this policy will be superseded and have no effect when covered by a similar or conflicting provision in a Collective Bargaining Agreement and/or Administrative Order. For detailed information, please refer to your Collective Bargaining Agreement or Administrative Order.

- 2. Policy:**

All District officers or employees are encouraged to disclose, to the extent not prohibited by law, improper action taken by any officer or employee of the District in the performance of their official duties as defined in this policy. The District will protect the confidentiality of an employee who reports such improper action. The District prohibits reprisal or retaliatory action, as those terms are defined in this policy, against a District officer or employee who discloses improper action. An employee reporting improper action is not responsible for investigating the improper action or determining fault or corrective measures; appropriate management officials are charged with these responsibilities. An officer or employee of the District shall not directly or indirectly use or attempt to use the official authority or influence of the officer or employee in an effort to interfere with or prevent the disclosure of information concerning improper action.

- 3. Definitions:**

A. “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.

B. "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 District, 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.

C. 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.

4. Filing an Appeal

- A. An officer or employee who believes that a reprisal or retaliatory action was taken against them for disclosing information concerning improper governmental action as defined above may file a written appeal pursuant to NRS 281 with the Executive Office Manager (Human Resources).
- B. 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 Executive Office Manager (Human Resources) on form *"602.23F – Whistleblower Retaliation Report Form"* provided by the District. 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.

5. Appointment of Hearing Officers

The District Fire Chief and Executive Office Manager (Human Resources) will appoint a hearing officer or a panel of hearing officers from a list of candidates approved by the District Board. 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.

6. Appeal Hearings

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

The District or the District officer or employee alleged to have taken action as a reprisal or retaliation may present its case after the officer or employee who is appealing has concluded his or her presentation and must prove that:

- 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 District then presents its case and must show that the District 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.

7. 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.

8. Disclosure of Untruthful Information

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

9. 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 District Fire Chief, or his designee and/or the Executive Office Manager, or his/her designee will review this policy every 3 years or sooner as necessary.