

# Mineral County, Nevada

## Complaints of Policy Violations Against Elected Officials

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## I. GENERAL PROVISIONS FOR HANDLING COMPLAINTS MADE AGAINST ELECTED OFFICIALS

### A. Scope and Applicability

1. *Scope.* This policy recognizes the autonomy of elected officials as well as the legal protections of employees and seeks to balance these interests. Mineral 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 by an elected official that violates Mineral County policies, including a complaint of discrimination, harassment and/or retaliation.
2. *Applicability.* This policy applies to elected officials, including Assessor, Commissioners, County Clerk-Treasurer, District Attorney, Public Administrator, Recorder, and Sheriff. This policy does not apply to judges.
  - a. Elected offices are created by the Nevada Constitution and Nevada Revised Statutes. The authority of elected officials and the scope of their duties is determined by law, as are remedies for malfeasance or misconduct. Nevada law provides procedures for impeachment in NRS 283.140 *et. seq.* and removal from office in NRS 283.330 *et. seq.*
  - b. Mineral County is a political subdivision created by NRS 383.410 and 353.474(1)(b). The Board of County Commissioners is authorized to exercise powers necessary and proper to address matters of local concern for the effective operation of county government pursuant to NRS 244.146. This includes responsibility for employees and liability. See, NRS Chapters 41, 245, 288.

### B. Mineral County Prohibits Conduct that Violates its Policies, including Discrimination, Harassment and Retaliation

Mineral County prohibits policy violations by elected officials that impact employees and/or the workplace. This includes discrimination, harassment and/or retaliation towards employees who are members of legally protected categories in all aspects of employment.<sup>1</sup> Protected categories are:

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<sup>1</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.

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- 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 domestic violence leave

### C. 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 a policy is proven or not.

## II. COMPLAINTS AGAINST ELECTED OFFICIALS

### A. Complaint to County Comptroller

Any person who has, or receives, a complaint against an elected official about any violation of Mineral County policy shall notify the Comptroller.

### B. Plan of Action

The County Comptroller will determine a plan of action, including a proposed timetable for completion of any investigation and/or necessity of alternate work arrangements for staff pending the investigation. The County Comptroller 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. *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

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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.

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

The elected official shall be notified that a complaint has been filed and whether an investigation is pending.

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

At the conclusion of an investigation, the elected official shall be provided (1) written notice of the findings of the investigation, (2) any actions to be taken by the County Comptroller and (3) any recommendations to the elected official.

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

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

### **F. Protest of Investigation Findings and Recommendations**

An elected official may protest only the findings of the investigation and recommendations by the County Comptroller regarding the elected official's conduct. An elected official may not protest the County Comptroller's actions to protect employees and prevent future violations. No actions shall be stayed during a protest. The elected official shall file a protest by notifying the Chair of the Board of County Commissioners in writing within 5 working days of receipt of the written notice described above in Section D.

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 an elected official of the time and place of the public meeting. NRS 241.034(b).

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- 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 administrative action against the elected official 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 elected official's own personal expense.
    - iv. State that evidence, testimony and witnesses may be presented relating to the protest.
  - c. The written notice provided in this section is in addition to the notice of the public meeting provided pursuant to NRS 241.020.
2. The elected official 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 will present the investigative findings and recommendations to the elected official and evidence, testimony and/or witnesses deemed necessary. The elected official may then present evidence.
4. The Board may take appropriate action based on the evidence presented. NRS 241.033(2)(b).