

WHISTLEBLOWER PROTECTIONS

[Effective January 1, 2025]

Protected activity.

An agency, department, appointing authority, official, or employee of a municipality is prohibited against engaging in retaliatory action against a protected employee because the protected employee refused to comply with an illegal order or engages in any of the following:

- Providing to a designated complaint recipient a good faith report or good faith testimony that alleges an entity of a municipality, employee or official of a municipality, or a person providing services to a municipality under contract has engaged in a violation of law or in waste, fraud, abuse of authority, or a threat to the health of employees, the public, or persons under the care of a municipality; or
- assisting or participating in a proceeding to enforce the provisions of Title 24, Section 1998 (VT's Municipal Whistleblower Protections Law).

No agency, department, appointing authority, official, or employee of a municipality can attempt to restrict or interfere with, in any manner, a protected employee's ability to engage in any of the protected activity described above.

No agency, department, appointing authority, or manager of a municipality can require any protected employee to discuss or disclose the employee's testimony, or intended testimony, prior to the employee's appearance to testify before the General Assembly if the employee is not testifying on behalf of an entity of the municipality.

No protected employee can divulge information that is confidential under State or federal law. An act by which a protected employee divulges such information will not be considered protected activity.

In order to establish a claim of retaliation based upon the refusal to follow an illegal order, a protected employee must assert at the time of the refusal the employee's good faith and reasonable belief that the order is illegal.

Communications with legislative bodies of municipalities and the General Assembly.

No entity of a municipality can prohibit a protected employee from engaging in discussion with a member of a legislative body or the General Assembly or from testifying before a committee of a municipality or a committee of the General Assembly; provided, however, that a protected employee cannot divulge confidential

information, and an employee must be clear that the employee is not speaking on behalf of an entity of a municipality.

No protected employee will be subject to discipline, discharge, discrimination, or other adverse employment action as a result of the employee providing information to a member of a legislative body, a legislator, or a committee of a municipality or a committee of the General Assembly; provided, however, that the protected employee does not divulge confidential information and that the employee is clear that the employee is not speaking on behalf of any entity of the municipality. The protections set forth herein do not apply to statements that constitute hate speech or threats of violence against a person.

In the event that an appearance before a committee of a municipality or committee of the General Assembly will cause a protected employee to miss work, the employee must request to be absent from work and must provide as much notice as is reasonably possible. The request must be granted unless there is good cause to deny the request. If a request is denied, the decision and reasons for the denial must be in writing and must be provided to the protected employee in advance of the scheduled appearance. These protections are subject to the efficient operation of municipal government, which shall prevail in any instance of conflict.

Enforcement and preemption.

Nothing in this section will be deemed to diminish the rights, privileges, or remedies of a protected employee under the other federal, State, or local law, or under any collective bargaining agreement or employment contract, except the limitation on multiple actions as set forth herein.

A protected employee who files a claim of retaliation for protected activity with the Vermont Labor Relations Board or through binding arbitration under a grievance procedure or similar process available to the employee may not bring such a claim in Superior Court. A protected employee who files a claim under Title 24, Section 1998 in Superior Court may not bring a claim of retaliation for protected activity under a grievance procedure or similar process available to the employee.

Remedies.

A protected employee who brings a claim in Superior Court may be awarded the following remedies:

- reinstatement of the employee to the same position, seniority, and work location held prior to the retaliatory action;

- back pay, lost wages, benefits, and other remuneration;
- in the event of a showing of a willful, intentional, and egregious violation of this section, an amount of the money of back pay in addition to the actual back pay;
- other compensatory damages;
- interest on back pay;
- appropriate injunctive relief; and
- reasonable costs and attorney's fees.

Posting.

Every agency, department, and office of a municipality must post and display notices of protected employee protection under this law in a prominent and accessible location in the workplace.

Limitations of actions.

An action alleging a violation of Vermont's Municipal Whistleblower Protection Law (Title 24, Section 1998) brought under a grievance procedure or similar process shall be brought within the period allowed by that process or procedure. An action brought in Superior Court must be brought within 180 days following the date of the alleged retaliatory action.

Definition of a Protected Employee.

A "Protected Employee" is defined by statute as "an individual employed on a permanent or limited status basis by a municipality."