

1/31/2024 Vermont State Ethics Commission Comments on Proposed Misc. Ethics Bill, Draft No. 1.4; Municipal and County Government Bill, Draft No. 1.6.

Suggested language changes in **bold**.

Sec. 4. INITIAL ETHICS TRAINING FOR IN-OFFICE MUNICIPAL OFFICERS

On or before May 1, 2025, all municipal officers shall complete two hours of ethics training, as approved by the State Ethics Commission, unless they have otherwise completed two hours of ethics training pursuant to 24 V.S.A § 1995 (ethics training). The officer, the officer’s employer, or another individual designated by the town, city, or village shall document the officer’s completed ethics training.

Sec. 4. INITIAL ETHICS TRAINING FOR IN-OFFICE MUNICIPAL OFFICERS

On or before May 1, 2025, all municipal officers shall complete two hours of ethics training, **which may be in person or online**, approved by the State Ethics Commission ~~unless they have otherwise completed two hours of ethics training pursuant to 24 V.S.A. § 1995 (ethics training).~~ **The training shall include information on the State’s open meeting law and the State’s public records law approved by the Secretary of State.** The officer, the officer’s employer, or individual designated by the town, city, or village shall document the officer’s completed ethics training. **All newly elected or appointed municipal officials subject to the State Municipal Code of Ethics shall take the ethics training within 120 of the start of public service.**

Comment: As written, the training requirement would apply only to municipal officials who are currently in office and provides an “op-out” for ethics training not approved by the State Ethics Commission. Such training may not include specific information on how to comply with the new municipal code of ethics. Ethics training is one of the most important provisions of the bill. We strongly suggest making this a recurring requirement for all municipal officials, as is currently required for public servants in State government. The training is for the benefit of municipal officials as it helps them understand their legal obligations under the new law. We also suggest adding open meeting law training and public records law training components to the training requirement, with those components to be approved by the Secretary of State. All training components (municipal code of ethics, open meeting law, public records law) can be combined into one training.

§ 1991. DEFINITIONS

(12)(a) “Retaliate” or “retaliation” means the discharge, suspension, reprimand, demotion, denial of promotion, imposition of a performance warning period, involuntary transfer or reassignment, or adverse employment action.

(12)(a) “Retaliate” or “retaliation” **in the context of government employment** means the discharge, suspension, reprimand, demotion, denial of promotion, imposition of a performance warning period, involuntary transfer or reassignment, or adverse employment action.

§ 1991. DEFINITIONS

(12)(b) “Retaliate” or “retaliation” **in the context of persons who are not government employees** means the use of official authority or position to deny, deprive, or interfere with any right or privilege otherwise available to the whistleblower under the law.

Comment: This definition of “retaliate” or “retaliation” as written appears to limit the application of whistleblower protections to employees of the municipality, which we don’t believe is the intent.

§ 2414. CANDIDATES FOR STATE AND LEGISLATIVE OFFICE; DISCLOSURE FORM

§ 2414 (a)(1)(A) employment, including the employer or business name and address and, if self-employed, a description of the nature of the self-employment without needing to disclose any individual clients, including the names of any clients who had business before any municipal or State office, department, or agency during the previous 12 months, and the names of from whom the candidate or candidate’s spouse or domestic partner has received \$10,000.00 or more in the previous 12 months;

§ 2414 (a)(1)(A) employment, including the employer or business name and address and, if self-employed, a description of the nature of the self-employment without needing to disclose any individual clients, including the names of any clients **known to the candidate, the candidate’s spouse or domestic partner**, who had business before any municipal or State office, department, or agency during the previous 12 months, and the names of from whom the candidate or candidate’s spouse or domestic partner has received \$10,000.00 or more in the previous 12 months, **information designated by law as confidential does not need to be disclosed;**

Comment: Suggest the above language be added to help address concerns regarding client disclosure.

§ 2414. CANDIDATES FOR STATE AND LEGISLATIVE OFFICE; DISCLOSURE FORM

§ 2414 (a)(1)(B) investments, described generally as “investment income.,” including individual stock holdings or investments valued at \$10,000.00 or more at any point in the previous 12 months, which shall be listed individually, as shall municipal bonds issued in the State of Vermont, regardless of total value;

§ 2414 (a)(1)(B) investments, described generally as “investment income,” **including income from capital gains but not capital losses**, and including individual stock holdings or investments valued at \$10,000.00 or more at any point in the previous 12 months, which shall be listed individually, as shall municipal bonds issued in the State of Vermont, regardless of total value;

Comment: Suggest this clarifying language which is in line with the approaches taken by CT, MA and CA.

§ 2414. CANDIDATES FOR STATE AND LEGISLATIVE OFFICE; DISCLOSURE FORM

§ 2414 (e)(1) “County office” means the office of county treasurer, sheriff, State’s Attorney,

§ 2414 (e)(1) “County office” means the office of county treasurer, sheriff, State’s Attorney, Assistant/Side Judge, high bailiff

Comment: Strongly suggest not creating a unique definition of candidate for county office or “county office” for disclosure purposes. Exempting certain county officials appears to be a deviation not seen elsewhere in the candidate filing process. Unclear what would warrant it here.

§ 1223a. INVESTIGATIONS, HEARINGS, AND RECOMMENDATIONS

§ 1223(a)(10) ““No person shall knowingly and willfully make a false or frivolous complaint under this chapter.”

Comment: Suggest adding the above provision to explicitly prohibit the filing of frivolous complaints.