

1 S.171

2 Introduced by Senators Pollina and White

3 Referred to Committee on Government Operations

4 Date: January 4, 2022

5 Subject: Ethics; State Ethics Commission; code of ethics

6 Statement of purpose of bill as introduced: This bill proposes to codify a State
7 code of ethics in 3 V.S.A. chapter 31.

8 An act relating to adoption of a State code of ethics

9 It is hereby enacted by the General Assembly of the State of Vermont:

10 ~~Sec. 1. 3 V.S.A. § 1201 is amended to read:~~

11 § 1201. DEFINITIONS

12 As used in this chapter:

13 (1) “Candidate” and “candidate’s committee” shall have the same
14 meanings as in 17 V.S.A. § 2901.

15 (2) “Commission” means the State Ethics Commission established
16 under subchapter 3 of this chapter.

17 (3) “Confidential information” means information that is exempt from
18 public inspection and copying under 1 V.S.A. § 315 et seq. or is otherwise
19 designated by law as confidential.

1 ~~(4) "Conflict of interest" means an interest, direct or indirect, financial~~
2 ~~or otherwise, of a public servant or such an interest, known to the public~~
3 ~~servant, of a member of the public servant's immediate family or household,~~
4 ~~or of a business associate, in the outcome of a particular matter pending before~~
5 ~~the public servant or the public servant's public body, or that is in conflict with~~
6 ~~the proper discharge of the public servant's duties. "Conflict of interest" does~~
7 ~~not include any interest that is no greater than that of other persons generally~~
8 ~~affected by the outcome of a matter, such as a policyholder in an insurance~~
9 ~~company or a depositor in a bank.~~

10 ~~(3)(5) "Executive officer" means:~~

11 ~~(A) a State officer; or~~

12 ~~(B) under the Office of the Governor, an agency secretary or deputy~~
13 ~~or a department commissioner or deputy.~~

14 ~~(4)(A) "Gift" means anything of value, tangible or intangible, that is~~
15 ~~bestowed for less than adequate consideration.~~

16 ~~(B) "Gift" does not mean printed educational material such as books,~~
17 ~~reports, pamphlets, or periodicals.~~

18 ~~(6) "Gift" has the same meaning as in 2 V.S.A. § 261.~~

19 ~~(5)(7) "Governmental conduct regulated by law" means conduct by an~~
20 ~~individual in regard to the operation of State government that is restricted or~~
21 ~~prohibited by law and includes.~~

- 1 (A) bribery pursuant to 13 V.S.A. § 1102;
- 2 (B) neglect of duty by public officers pursuant to 13 V.S.A. § 3006
3 and by members of boards and commissions pursuant to 13 V.S.A. § 3007;
- 4 (C) taking illegal fees pursuant to 13 V.S.A. § 3010;
- 5 (D) false claims against government pursuant to 13 V.S.A. § 3016;
- 6 (E) owning or being financially interested in an entity subject to a
7 department's supervision pursuant to section 204 of this title;
- 8 (F) failing to devote time to duties of office pursuant to section 205
9 of this title;
- 10 (G) engaging in retaliatory action due to a State employee's
11 involvement in a protected activity pursuant to chapter 27, subchapter 4A of
12 this title;
- 13 (H) a former legislator or former Executive officer serving as a
14 lobbyist pursuant to 2 V.S.A. § 266(b); and
- 15 (I) a former Executive officer serving as an advocate pursuant to
16 section 267 of this title.
- 17 (8) "Immediate family" means a person's spouse or civil union partner;
18 domestic partner as defined in 17 V.S.A. § 2414(e)(1); sibling; child or foster
19 child; grandchild; parent; grandparent; or in-law, including a parent, sibling,
20 child or foster child, grandchild or grandparent of a spouse, civil union partner,
21 or domestic partner.

1 ~~(6)(9) "Lobbyist" shall have has the same meaning as in 2 V.S.A. § 261~~

2 ~~(10) "Person" means any individual, group, business entity, association,~~
3 ~~or organization.~~

4 ~~(7)(11) "Political committee" and "political party" shall have the same~~
5 ~~meanings as in 17 V.S.A. § 2901.~~

6 ~~(12) "Prohibited source" means any person who:~~

7 ~~(A) is seeking official action by a public servant's agency;~~

8 ~~(B) does business or seeks to do business with a public servant's~~
9 ~~agency or department;~~

10 ~~(C) conducts activities regulated by the public servant's agency;~~

11 ~~(D) has interests that may be substantially affected by the~~
12 ~~performance or nonperformance of the public servant's official duties; or~~

13 ~~(E) is an organization with a majority of whose members are~~
14 ~~described as in subdivisions (A) and (B) of this subdivision (12).~~

15 ~~(8)(13) "State officer" means the Governor, Lieutenant Governor,~~
16 ~~Treasurer, Secretary of State, Auditor of Accounts, or Attorney General.~~

17 Sec. 2. 3 V.S.A. § 1202 is amended to read:

18 § 1202. STATE CODE OF ETHICS

19 ~~The Ethics Commission, in consultation with the Department of Human~~
20 ~~Resources, shall create and maintain the State Code of Ethics that sets forth~~

21 ~~general principles of governmental ethical conduct.~~

1 ~~(a) Applicability.~~

2 ~~(1) Unless excluded under this section, the Code of Ethics applies to all~~

3 ~~persons elected or appointed to serve as officers of the State, all persons~~

4 ~~elected or appointed to serve as members of the General Assembly, all State~~

5 ~~employees, all persons appointed to serve on State boards and commissions,~~

6 ~~and persons who in any other way are authorized to act or speak on behalf of~~

7 ~~the State. This code refers to them all as “public servants.”~~

8 ~~(2) The Code of Ethics established by this section does not prohibit~~

9 ~~branches of State government, agencies, or departments from adopting more~~

10 ~~stringent provisions regarding the ethical conduct of their employees.~~

11 ~~(3) The application of this Code of Ethics does not in any way abrogate~~

12 ~~or alter the sole authority of each house of the General Assembly to judge the~~

13 ~~elections and qualifications of its own members under Chapter II, Sections 14~~

14 ~~and 19 of the Vermont Constitution.~~

15 ~~(b) Exclusions. The Code of Ethics does not apply to:~~

16 ~~(1) the functions of members of the General Assembly that are protected~~

17 ~~by Chapter I, Article 14 of the Vermont Constitution;~~

18 ~~(2) those exercising judicial power under Chapter II, Section 4 of the~~

19 ~~Vermont Constitution; and~~

20 ~~(3) members of the General Assembly unless the Code of Ethics is~~

21 ~~adopted by rule by each house of the General Assembly.~~

1 (c) Ethical conduct.

2 (1) Conflict of interest.

3 (A) Course of action. Each time a public servant is confronted with
4 a conflict of interest, the public servant shall either make a public statement
5 recusing themselves from the matter or, if the public servant chooses to
6 proceed with the matter, prepare a written statement regarding the nature of the
7 conflict. A public servant may request either guidance or an advisory opinion
8 from the State Ethics Commission in making an initial determination whether
9 a conflict of interest exists, or whether good cause to proceed exists as set forth
10 in subdivision (B) of this subdivision (1). If the public servant chooses to
11 proceed with the matter, the public servant's prepared written statement shall:

12 (i) describe the matter requiring action;

13 (ii) disclose the nature of the potential conflict or actual conflict
14 of interest;

15 (iii) explain why good cause, as set forth in subdivision (B) of this
16 subdivision (1), exists so that the public servant can take action in the matter
17 fairly, objectively, and in the public interest;

18 (iv) include sufficient detail so that the matter may be understood
19 by the public, and

1 ~~(v) be filed in accordance with the policies and procedures set~~
2 ~~forth by the agency or entity governing the matter in question, including any~~
3 ~~requirement that the statement be made public.~~

4 (B) Good cause. As used in this section, “good cause to proceed”
5 may include any of the following:

6 (i) the identified conflict or potential conflict is de minimum in
7 nature;

8 (ii) the action to be taken is ministerial or clerical;

9 (iii) the conflict is amorphous, intangible, or otherwise
10 speculative; or

11 (iv) the public servant cannot legally or practically delegate the
12 matter.

13 (2) Directing unethical conduct. A public servant shall not direct
14 another person to act in a manner that would be unethical for the public
15 servant or the other person to act. A public servant who has a conflict of
16 interest shall not direct others to act to the public servant’s benefit where such
17 action would be a violation of the Code of Ethics if the public servant were to
18 perform the act.

19 (3) Conduct after recusal. Once recused, a public servant shall not in
20 any way participate in or act to influence a decision regarding the matter.

1 ~~(4) Appearance of unethical conduct. A public servant shall avoid any~~
2 ~~actions creating the appearance that the public servant is violating the law or~~
3 ~~the Code of Ethics. Whether particular circumstances create an appearance~~
4 ~~that the law or the Code of Ethics have been violated shall be determined from~~
5 ~~the perspective of a reasonable person with knowledge of the relevant facts.~~

6 (5) Preferential treatment. A public servant in the course of conducting
7 State business shall act impartially, showing no favor toward or prejudice
8 against any person. A public servant shall not give or represent an ability to
9 give preference or special treatment to any person because of the person's
10 wealth, position, or status or because of any personal relationship with the
11 public servant. When permitted by law and written policy or rule, a public
12 servant may give preference to designated persons.

13 (6) Misuse of position. A public servant shall not use his or her official
14 position for personal or financial gain.

15 (7) Misuse of information. A public servant shall not use nonpublic
16 government information or confidential information acquired during the
17 course of State service for personal or financial gain or for the personal or
18 financial gain of any other person.

19 (8) Misuse of government resources. A public servant shall not make
20 use of State materials, funds, property, personnel, facilities, or equipment, or
21 permit another person to do so, for any purpose other than for official State

1 ~~business unless the use is expressly permitted or required by law or by a~~
2 written agency, departmental, or institutional policy or rule. A public servant
3 shall not engage in or direct another person to engage in work other than the
4 performance of official duties during working hours, except as permitted or
5 required by law or by written agency, departmental, or institutional policy or
6 rule.

7 (9) Gifts.

8 (A) Gifts prohibited. Unless covered by an exception, a public
9 servant shall not:

10 (i) accept a gift under circumstances that could reasonably be
11 inferred as accepting a gift that is intended to influence the public servant in
12 the public servant's performance of official duties;

13 (ii) use or permit the use of the public servant's government
14 position or any authority associated with public office to solicit or coerce the
15 offering of a gift;

16 (iii) accept gifts from the same or different sources on a basis so
17 frequent that a reasonable person would be led to believe the public servant is
18 using the public servant's office for personal gain;

19 (iv) accept a gift in violation of an applicable law, rule, policy, or
20 executive order, or

1 ~~(v) directly or indirectly solicit a gift from a prohibited source or~~
2 solicit a gift to be given because of the public servant's official position.

3 (B) Gift exceptions.

4 (i) Gifts of \$20.00 or less. A public servant may accept
5 unsolicited gifts having an aggregate market value of \$20.00 or less per source
6 per occasion, provided that the aggregate market value of individual gifts
7 received from any one person under the authority of this subdivision (i) does
8 not exceed \$50.00 in a calendar year. This exception does not apply to gifts of
9 cash or of investment interests such as stock, bonds, or certificates of deposit.

10 Where the market value of a gift or the aggregate market value of gifts offered
11 on any single occasion exceeds \$20.00, the public servant shall not pay the
12 excess value over \$20.00 in order to accept that portion of the gift or those
13 gifts worth \$20.00. Where the aggregate value of tangible items offered on a
14 single occasion exceeds \$20.00, the public servant may decline any distinct
15 and separate item in order to accept those items aggregating \$20.00 or less.

16 (ii) Personal gifts. A public servant may accept a gift given by an
17 individual under circumstances that make it clear that the gift is motivated by
18 an outside relationship, family relationship, or personal friendship rather than
19 the position of the public servant. Relevant factors in making such a
20 determination include the history and nature of the relationship and whether
21 the person, family member, or a friend personally pays for the gift.

1 ~~(iii) Event attendance. A public servant may accept a gift of~~
2 ~~attendance to training or similar events approved by the public servant's~~
3 ~~supervisor and determined to be in the interest of the public servant's agency~~
4 ~~or department.~~

5 ~~(iv) Otherwise permitted by law. A public servant may accept a~~
6 ~~gift where expressly permitted to do so under State law.~~

7 ~~(10) Unauthorized commitments. A public servant shall not make~~
8 ~~unauthorized commitments or promises of any kind purporting to bind State~~
9 ~~government.~~

10 ~~(11) Employment restrictions.~~

11 ~~(A) Outside employment. A public servant shall not seek or engage~~
12 ~~in outside employment or activities that are inconsistent, incompatible, or in~~
13 ~~conflict with the public servant's official duties.~~

14 ~~(B) Post-government employment.~~

15 ~~(i) Executive officers. Executive officers shall comply with the~~
16 ~~post-government employment restrictions prescribed in 3 V.S.A. § 267 and~~
17 ~~2 V.S.A. § 266(b) and (c).~~

18 ~~(ii) Legislators. Legislators shall comply with the post-~~
19 ~~government employment restrictions prescribed in 2 V.S.A. § 266(b).~~

20 ~~(iii) Legislative Branch employees. Except as permitted in~~
21 ~~subdivision (iv) of this subdivision (B), a former Legislative Branch employee~~

1 ~~shall not, for one year after leaving State service, be an advocate for anyone~~
2 other than the State, for compensation before the General Assembly or any of
3 its subparts or the office in which the Legislative Branch employee served at
4 the time of termination of State service concerning any matter in which the
5 State has a direct and substantial interest.

6 (iv) Contracting exception. The limitations in subdivisions (i)
7 through (iii) of this subdivision (B) do not apply to individuals providing
8 information or services to the State pursuant to contracts of the State unless the
9 public servant is otherwise prohibited from doing so by State or federal law.

10 (v) Representation restrictions. A public servant shall not, after
11 termination of State service or employment, knowingly make with the intent to
12 influence any communication or appearance before any entity of the State on
13 behalf of any person other than the State in connection with any investigation,
14 application, request for a ruling or determination, rule making, contract,
15 controversy, claim, charge, accusation, arrest, quasi-judicial, judicial, or other
16 proceeding:

17 (I) in which the State is a party or has a direct and substantial
18 interest;

19 (II) in which the public servant participated personally and
20 substantially as a public servant, and

1 ~~(III) that involved the same party or parties as at the time of~~
2 such participation.

3 (12) Compliance with laws, rules, and policies. A public servant shall
4 comply with applicable State and federal laws and regulations, including anti-
5 discrimination and equal opportunity laws, and comply with applicable
6 governmental codes of conduct. A public servant shall comply with any other
7 applicable rules or policies established by executive order, agency rule, or
8 policy.

9 (d) Whistleblower protections for ethics complaints. Consistent with
10 3 V.S.A. § 971 et seq., a public servant shall be free to disclose waste, fraud,
11 abuse of authority, violations of law, or violations of this or other applicable
12 codes regarding ethical conduct to the State Ethics Commission without fear of
13 reprisal, intimidation, or retaliation.

14 (e) Mandatory ethics education and training. Within the first 120 days of
15 public service, a public servant shall engage in ethics training, which may be
16 in person or online. Completion of ethics training shall be documented by the
17 department where the public servant is employed. A public servant shall
18 participate in continuing ethics education, which may be in person or online, at
19 least once every three years thereafter. Approved continuing ethics education
20 providers are the State Ethics Commission, the Department of Human
21 Resources – Center for Achievement in Public Service (CAPS), the Vermont

1 ~~House of Representatives Ethics Panel for the House of Representatives, the~~
2 Vermont Senate Ethics Panel for the Senate, and any education providers
3 approved by the State Ethics Commission. Copies of ethics training materials
4 by ethics education providers shall be provided to the State Ethics
5 Commission. On request, the State Ethics Commission may collaborate with
6 or assist ethics education providers.

7 Sec. 3. EFFECTIVE DATE

8 ~~This act shall take effect on July 1, 2022.~~

Sec. 1. 3 V.S.A. chapter 31, subchapter 1 is amended to read:

Subchapter 1. General Provisions; State Code of Ethics

§ 1201. DEFINITIONS

As used in this chapter:

(1) “Candidate” and “candidate’s committee” shall have the same meanings as in 17 V.S.A. § 2901.

(2) “Commission” means the State Ethics Commission established under subchapter 3 of this chapter.

(3) “Confidential information” means information that is exempt from public inspection and copying under 1 V.S.A. § 315 et seq. or is otherwise designated by law as confidential.

(4) “Domestic partner” means an individual in an enduring domestic relationship of a spousal nature with the Executive officer or the public servant, provided the individual and Executive officer or public servant:

(A) have shared a residence for at least six consecutive months;

(B) are at least 18 years of age;

(C) are not married to or considered a domestic partner of another individual;

(D) are not related by blood closer than would bar marriage under State law; and

(E) have agreed between themselves to be responsible for each other's welfare.

~~(3)~~(5) "Executive officer" means:

(A) a State officer; or

(B) under the Office of the Governor, an agency secretary or deputy or a department commissioner or deputy.

~~(4)~~(A) "Gift" means anything of value, tangible or intangible, that is bestowed for less than adequate consideration.

~~(B) "Gift" does not mean printed educational material such as books, reports, pamphlets, or periodicals.~~

~~(5)~~(6) "Governmental conduct regulated by law" means conduct by an individual in regard to the operation of State government that is restricted or prohibited by law and includes:

(A) bribery pursuant to 13 V.S.A. § 1102;

(B) neglect of duty by public officers pursuant to 13 V.S.A. § 3006 and by members of boards and commissions pursuant to 13 V.S.A. § 3007;

(C) taking illegal fees pursuant to 13 V.S.A. § 3010;

(D) false claims against government pursuant to 13 V.S.A. § 3016;

(E) owning or being financially interested in an entity subject to a department's supervision pursuant to section 204 of this title;

(F) failing to devote time to duties of office pursuant to section 205 of this title;

(G) engaging in retaliatory action due to a State employee's involvement in a protected activity pursuant to chapter 27, subchapter 4A of this title;

(H) a former legislator or former Executive officer serving as a lobbyist pursuant to 2 V.S.A. § 266(b); and

(I) a former Executive officer serving as an advocate pursuant to section 267 of this title.

(7) "Immediate family" means an individual's spouse, domestic partner, or civil union partner; child or foster child; sibling; parent; or such relations by marriage or by civil union or domestic partnership; or an individual claimed as a dependent for federal income tax purposes.

~~(6)~~(8) "Lobbyist" shall and "lobbying firm" have the same meaning meanings as in 2 V.S.A. § 261.

(9) “Person” means any individual, group, business entity, association, or organization.

(7)(10) “Political committee” and “political party” shall have the same meanings as in 17 V.S.A. § 2901.

(8)(11) “State officer” means the Governor, Lieutenant Governor, Treasurer, Secretary of State, Auditor of Accounts, or Attorney General.

§ 1202. STATE CODE OF ETHICS; APPLICABILITY

The Ethics Commission, in consultation with the Department of Human Resources, shall create and maintain the State Code of Ethics that sets forth general principles of governmental ethical conduct.

Applicability.

(1) Unless excluded under this section, the Code of Ethics applies to all individuals elected or appointed to serve as officers of the State, all individuals elected or appointed to serve as members of the General Assembly, all State employees, all individuals appointed to serve on State boards and commissions, and individuals who in any other way are authorized to act or speak on behalf of the State. This code refers to them all as “public servants.”

(2) The Code of Ethics established by this section does not prohibit branches of State government, agencies, or departments from adopting additional personnel policies regarding ethical conduct not covered by this Code of Ethics or provisions that exceed the requirements of this Code of Ethics. Nothing herein shall be interpreted to require a lawyer or judicial officer to violate their respective professional codes of conduct.

(3) The application of this Code of Ethics does not in any way abrogate or alter the sole authority of each house of the General Assembly to judge the elections and qualifications of its own members under Chapter II, Sections 14 and 19 of the Vermont Constitution.

(4) The application of this Code of Ethics does not in any way abrogate or alter the Vermont Supreme Court’s constitutional authority under Chapter II, Section 30 of the Vermont Constitution.

§ 1203. CONFLICT OF INTEREST; APPEARANCE OF CONFLICT OF INTEREST

(a) Conflict of interest; appearance of conflict of interest.

(1) In the public servant’s official capacity, the public servant shall avoid any conflict of interest or the appearance of a conflict of interest. The appearance of a conflict shall be determined from the perspective of a reasonable individual with knowledge of the relevant facts.

(2) Except as otherwise provided in subsections (b) and (c) of this section, when confronted with a conflict of interest, a public servant shall recuse themselves from the matter and not take further action.

(3) As used in this section, “conflict of interest” means a direct or indirect interest of a public servant or such an interest, known to the public servant, of a member of the public servant’s immediate family or household, or of a business associate, in the outcome of a particular matter pending before the public servant or the public servant’s public body, or that is in conflict with the proper discharge of the public servant’s duties. “Conflict of interest” does not include any interest that is not greater than that of other individuals generally affected by the outcome of a matter.

(b) Course of action.

(1) Legislative Branch. A member of the General Assembly shall comply with Legislative Branch rules and policies regarding the course of action a public servant may take when confronted with a conflict of interest, or the appearance of a conflict of interest, that is related to core legislative functions or duties.

(2) Judicial Branch. A judicial officer shall comply with the Vermont Code of Judicial Conduct regarding the course of action a judicial officer may take when confronted with a conflict of interest, or the appearance of a conflict of interest, that falls under the Code of Judicial Conduct, including in situations where a conflict of interest, or the appearance of a conflict of interest, falls under both the Vermont Code of Judicial Conduct and the Code of Ethics.

(3) Government attorneys. A public servant who is a licensed attorney shall comply with the Vermont Rules of Professional Conduct regarding the course of action the attorney may take when confronted with a conflict of interest, or the appearance of a conflict of interest, that falls under the Vermont Rules of Professional Conduct, including situations where a conflict of interest, or the appearance of a conflict of interest, falls under both the Vermont Rules of Professional Conduct and the Code of Ethics.

(4) Public servants; other. Any public servant facing a conflict of interest not covered by subdivisions (1)–(3) of this subsection shall comply with requirements prescribed in this subdivision. Each time a public servant is confronted with a conflict of interest, other than that for which the public servant’s action is solely ministerial or clerical, the public servant shall either make a public statement, which may consist of a statement made to the public servant’s immediate supervisor, recusing themselves from the matter or, if the public servant chooses to proceed with the matter, prepare a written statement

regarding the nature of the conflict. A public servant may request either guidance or an advisory opinion from the State Ethics Commission in making an initial determination whether a conflict of interest exists, or whether good cause to proceed exists as set forth in subsection (c) of this section. Once recused, a public servant shall not in any way participate in or act to influence a decision regarding the matter. If the public servant chooses to proceed with the matter, the public servant's prepared written statement shall:

(A) describe the matter requiring action;

(B) disclose the nature of the potential conflict or actual conflict of interest;

(C) explain why good cause, as set forth in subsection (c) of this section, exists so that the public servant can take action in the matter fairly, objectively, and in the public interest;

(D) include sufficient detail so that the matter may be understood by the public; and

(E) be filed in accordance with the policies and procedures set forth by the agency or entity governing the matter in question, including any requirement that the statement be made public.

(c) Good cause. As used in this section, "good cause to proceed" may include any of the following:

(1) the identified conflict or potential conflict is de minimis in nature;

(2) the conflict is amorphous, intangible, or otherwise speculative; or

(3) the public servant cannot legally or practically delegate the matter.

(d) Confidential information. Nothing in this section shall require a public servant to disclose confidential information or information that is otherwise privileged under law.

§ 1203a. DIRECTING UNETHICAL CONDUCT

A public servant shall not direct another person to act in a manner that would be unethical for the public servant or the other person to act. A public servant who has a conflict of interest shall not direct others to act to the public servant's benefit where such action would be a violation of the Code of Ethics if the public servant were to perform the act.

§ 1203b. APPEARANCE OF UNETHICAL CONDUCT

A public servant shall avoid any actions creating the appearance that the public servant is violating the Code of Ethics. Whether particular circumstances create an appearance that the Code of Ethics have been violated shall be determined from the perspective of a reasonable individual with knowledge of the relevant facts.

§ 1203c. PREFERENTIAL TREATMENT

A public servant in the course of conducting State business shall act impartially, showing no favor toward or prejudice against any person. A public servant shall not give or represent an ability to give preference or special treatment to any person because of the person's wealth, position, or status or because of any personal relationship with the public servant. When permitted by law and written policy or rule, a public servant may give preference to designated persons.

§ 1203d. MISUSE OF POSITION

A public servant shall not use the public servant's official position for personal or financial gain.

§ 1203e. MISUSE OF INFORMATION

A public servant shall not use nonpublic government information or confidential information acquired during the course of State service for personal or financial gain or for the personal or financial gain of any other person.

§ 1203f. MISUSE OF GOVERNMENT RESOURCES

A public servant shall not make use of State materials, funds, property, personnel, facilities, or equipment, or permit another person to do so, for any purpose other than for official State business unless the use is expressly permitted or required by law or by a written agency, departmental, or institutional policy or rule. A public servant shall not engage in or direct another person to engage in work other than the performance of official duties during working hours, except as permitted or required by law or by written agency, departmental, or institutional policy or rule.

§ 1203g. GIFTS

(a) Gift limitations and exceptions. A public servant shall not solicit or accept a gift unless permitted under this section. For purposes of this subchapter, "gift" means anything of value, tangible or intangible, that is given for less than adequate consideration. A public servant may accept:

(1) A devise or inheritance. A public servant may accept a devise or inheritance.

(2) Gifts to the State. A public servant may accept goods or services that are provided to a State agency for use on State agency property or for use by the public servant while serving in an official capacity.

(3) Ceremonial awards. A public servant may accept a certificate, plaque, or other ceremonial award, provided the cost does not exceed the limit established pursuant to subsection (b) of this section.

(4) Rebates, discounts, and promotions. A public servant may accept a rebate, discount, or promotional item that is available to the general public or to a definable subset of the general public.

(5) Printed or recorded material. A public servant may accept printed or recorded informational or educational material germane to State action or functions.

(6) Food or beverages. A public servant may accept food or beverages, or both, under the following circumstances:

(A) The food or beverage, or both, is consumed on an occasion or occasions at which the person paying, directly or indirectly, for the food or beverage or the person's representative is in attendance, provided the cost does not exceed the limit established pursuant to subsection (b) of this section.

(B) The food or beverage, or both, is incidental to the performance of a legitimate State function.

(C) The food or beverage, or both, is provided at a charitable, cultural, political, or civic event at which the public servant participates in the public servant's official capacity.

~~(6) Admission fees and tickets. A public servant may accept tickets or admission to a charitable, cultural, political, or civic event at which a public servant participates in the public servant's official capacity, provided such tickets or admission is provided by the primary sponsoring entity.~~

(7) Admission fees and tickets. A public servant may accept free attendance to a widely attended charitable, cultural, political, or civic event at which a public servant participates in the public servant's official capacity, provided such tickets or admission is provided by the primary sponsoring entity. Free attendance may include all or part of the cost of admission; transportation to and from the event; and food, refreshments, entertainment, and instructional materials provided to all event attendees.

(8) Private employment gifts. A public servant may accept anything of value provided by an employer of the public servant, provided such benefits are customarily and ordinarily provided to others in similar circumstances.

(9) Public-servant-to-public-servant gifts. A public servant may accept a gift from another public servant under the following circumstances:

(A) If the recipient is not in a supervisor-supervisee relationship with the giver, the public servant may accept a gift for a holiday or occasion of significance.

(B) If the recipient is in a supervisor-supervisee relationship, the public servant may accept a gift for a holiday or occasion of significance, provided the value does not exceed the limit established pursuant to subsection (b) of this section.

(10) Training or education. A public servant may accept attendance to training or similar events determined to be in the interest of the public servant's agency or department.

(11) Gifts of de minimis value. A public servant may accept an unsolicited gift having a de minimis market value as established pursuant to subsection (b) of this section.

(12) Personal gifts. A public servant may accept gifts clearly motivated by an outside relationship, family relationship, or personal friendship rather than the position of the public servant. Relevant factors in making such a determination include the history and nature of the relationship and whether the individual, family member, or a friend personally pays for the gift.

(13) Loans. A public servant may accept a commercially reasonable loan made on terms not more favorable than loans made in the ordinary course of business.

(14) Gifts otherwise permitted and legal. A public servant may accept a gift that is otherwise expressly permitted under State law.

(b) Gift valuation. For purposes of this subchapter, the value or cost limit for gifts described in subsection (a) of this section shall be:

(1) Beginning on July 1, 2022:

(A) Ceremonial awards: Less than \$100.00.

(B) Food or beverages, or both: Less than \$100.00

in the aggregate per recipient, per source, in a calendar year.

(C) A supervisor-supervisee relationship gift: Less than \$100.00 for any single gift, and the value of all gifts does not exceed \$200.00 in the aggregate per year.

(D) De minimis gift: \$50.00 or less per source per occasion, provided that the aggregate market value of individual gifts received from any one person does not exceed \$150.00 in a calendar year.

(2) On or after July 1, 2026, the State Ethics Commission may increase the value or cost limit set in subdivision (1) of this subsection, provided:

(A) the State Ethics Commission presents its proposed increase to the House and Senate Committees on Government Operations at least 180 days prior to proposed implementation and after consultation with the Department of Human Resources and the Judicial Branch;

(B) the cost or value limit is not increased more than once in a five-year period; and

(C) the increased cost or value limit is posted on the State Ethics Commission website and the Commission sends a notice of increase to public servants not less than 60 days prior to the increase's effective date.

§ 1203h. UNAUTHORIZED COMMITMENTS

A public servant shall not make unauthorized commitments or promises of any kind purporting to bind State government.

§ 1203i. EMPLOYMENT RESTRICTIONS

(a) Outside employment. A public servant shall not seek or engage in outside employment or activities that are inconsistent, incompatible, or in conflict with the public servant's official duties.

(b) Post-government employment.

(1) Executive officers. Executive officers shall comply with the post-government employment restrictions prescribed in section 267 of this title and 2 V.S.A. § 266(b) and (c).

(2) Legislators. Legislators shall comply with the post-government employment restrictions prescribed in 2 V.S.A. § 266(b).

(3) Legislative Branch employees. Except as permitted in subdivision (4) of this subsection, for one year after leaving office, a former Legislative Branch employee may not, for compensation, appear before the General Assembly or its subparts, or the office in which the employee served in at the time of leaving service, to advocate for anyone other than the State, concerning any matter in which the State has a direct and substantial interest.

(4) Contracting exception. The limitations in subdivisions (1) through (3) of this subsection do not apply to individuals providing information or services to the State pursuant to contracts of the State unless the public servant is otherwise prohibited from doing so by State or federal law.

(5) Representation restrictions. After leaving State service or employment, a public servant shall not knowingly, with the intent to advocate for an outcome of an investigation, application, ruling, license, contract, claim, rulemaking, charge, arrest, or quasi-judicial or judicial proceeding, communicate with or appear before the State on matters involving specific parties in which the employee participated personally and substantially during government service and in which the State is a party or has a direct and substantial interest.

§ 1203j. COMPLIANCE WITH LAWS, RULES, AND POLICIES

A public servant shall comply with applicable State and federal laws and regulations, including anti-discrimination and equal opportunity laws, and comply with applicable governmental codes of conduct. A public servant shall comply with any other applicable rules or policies established by executive order, agency rule, or policy.

§ 1204. WHISTLEBLOWER PROTECTIONS FOR ETHICS
COMPLAINTS

Consistent with section 971–978 of this title, a public servant shall be free to disclose waste, fraud, abuse of authority, violations of law, or violations of this or other applicable codes regarding ethical conduct to the State Ethics Commission without fear of reprisal, intimidation, or retaliation.

~~§ 1205. MANDATORY ETHICS EDUCATION AND TRAINING~~

~~Within the first 120 days of public service, a public servant shall engage in ethics training which may be in person or online. Completion of ethics training shall be documented by the department where the public servant is employed. A public servant shall participate in continuing ethics education, which may be in person or online, at least once every three years thereafter. Approved continuing ethics education providers are the State Ethics Commission, the Department of Human Resources – Center for Achievement in Public Service (CAPS), the Vermont House of Representatives Ethics Panel for the House of Representatives, the Vermont Senate Ethics Panel for the Senate, the Vermont Judiciary, and any education providers approved by the State Ethics Commission. Copies of State Code of Ethics training materials by ethics education providers shall be provided to the State Ethics Commission in advance of the training. On request, the State Ethics Commission may collaborate with or assist ethics education providers.~~

§ 1205. MANDATORY CODE OF ETHICS EDUCATION AND TRAINING

Within the first 120 days of public service, a public servant shall engage in State Code of Ethics training, which may be in person or online. Completion of State Code of Ethics training shall be documented by the department where the public servant is employed. A public servant shall participate in continuing State Code of Ethics education, which may be in person or online, at least once every three years thereafter. Approved continuing State Code of Ethics education providers are the State Ethics Commission, the Department of Human Resources – Center for Achievement in Public Service (CAPS), the Vermont House of Representatives Ethics Panel for the House of Representatives, the Vermont Senate Ethics Panel for the Senate, the Vermont Supreme Court and the Court Administrator’s Office for the Vermont Judiciary, and any education providers approved by the State Ethics Commission. Copies of State Code of Ethics training materials by ethics education providers shall be provided to the State Ethics Commission in advance of the training. On request, the State Ethics Commission may collaborate with or assist State Code of Ethics education providers.

Sec. 2. REPEAL

3 V.S.A. § 1211(e) is repealed.

Sec. 2a. 3 V.S.A. § 1226 is amended to read:

§ 1226. COMMISSION REPORTS

Annually, on or before January 15, the Commission shall report to the General Assembly regarding the following issues:

(1) Complaints. The number and a summary of the complaints made to it, separating the complaints by topic, and the disposition of those complaints, including any prosecution, enforcement action, or dismissal. This summary of complaints shall not include any personal identifying information.

(2) Guidance and training.

(A) Guidance. The number of requests for and a summary of the guidance the Executive Director provided, separating the guidance by topic. This summary of guidance shall not include any personal identifying information.

(B) Training. An estimate of the number of Code of Ethics trainings conducted by each branch of government, a summary of the training activities undertaken by the Ethics Commission, and a summary of any recommendations the Commission or the Executive Director made to any branch of State government regarding additional training or more in-depth training for particular provisions of the Code of Ethics.

(3) Recommendations. Any recommendations for legislative action to address State governmental ethics or provisions of campaign finance law.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2022.