

To: Chair Sarah Copeland Hanzas, House Committee on Government Operations
From: Teri Corsones, VBA Executive Director
Re: S. 171
Date: March 30, 2022

Thank you for the opportunity to comment on S.171 yesterday. I would like to briefly follow up on two aspects of the bill that were discussed: ethics training and clarification of the circumstances when the Code of Ethics should apply to state employee attorneys and judicial officers.

1. Ethics Training

Vice Chair Gannon suggested that Section 1205 be amended to make clear that the State Ethics Commission's responsibility for ethics training for state employees should be focused on training about the new State Code of Ethics. This could be accomplished by substituting "Code of Ethics training" for the more general "ethics training" throughout Section 1205.

2. Circumstances when the Code of Ethics should apply to Attorneys and Judicial Officers

Christina Sivret explained that the Code of Ethics should apply to circumstances where an attorney is acting in a governmental employee's role, such as when an attorney serves on a state hiring committee. We completely agree that the Code of Ethics should control in those circumstances. In order to differentiate those circumstance from others when the attorney is acting in their capacity as a licensed attorney, however, where the Vermont Rules of Professional Conduct have historically governed an attorney's ethical conduct, we propose that a clarifying phrase be added to the last sentence in Section 1202 (2). The sentence currently provides: "Nothing herein shall be interpreted to require a lawyer or judicial officer to violate their respective professional codes of conduct." We propose adding "; the Vermont Rules of Professional Conduct shall control when an attorney acts in their capacity as a licensed attorney and the Vermont Code of Judicial Conduct shall control when a judicial officer acts in their capacity as a judicial officer".

This would be in keeping with the distinction that's drawn in Section 1203(b)(1) where Legislative Branch rules and policies control legislators' "core legislative duties", versus the Code of Ethics controlling legislators' conduct in those circumstances.

I hope that this is helpful to the Committee as it works to finalize the bill's language. Thank you again for the opportunity to comment.