

EQUAL EMPLOYMENT OPPORTUNITY

Number 3.0

Effective Date: September 13, 2015

Supersedes: Policy 3.0, dated March 1, 1996

Subject: EQUAL EMPLOYMENT OPPORTUNITY

Applicable To: All classified, exempt, appointed, and temporary employees; and all applicants for employment with the Executive Branch of the State of Vermont

Issued By: Department of Human Resources

Approved By: Justin Johnson, Secretary of Administration

PURPOSE & POLICY STATEMENT

The State of Vermont is an equal opportunity employer and is committed to offering equal employment opportunities in accordance with state and federal laws. The State's personnel policies and practices prohibit discrimination on the basis of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, age, or physical or mental condition (a person with a qualifying disability) in all employment practices and terms or conditions of employment including, but not limited to: recruitment, hiring, promotion, demotion or transfer; layoff or termination; rates of pay and other forms of compensation; selection for training; agency sponsored social and recreational events; and all other terms, privileges, and conditions of employment.

GENERAL

Executive Order No. 10-13 (3 V.S.A. App. EO3-43) assigned responsibility for developing, implementing and monitoring an Equal Employment Opportunity Program for the State of Vermont to the Commissioner of Human Resources (or his or her designee). This program will focus on Statewide policies and procedures, and will provide guidelines for the establishment of agency/department-specific equal employment opportunity and diversity programs. Certain agencies/departments are required by federal law to have individual EEO plans.

Agency, Department, and Board Secretaries, Commissioners and Directors are responsible for ensuring compliance with this policy, the State's Equal Employment Opportunity (EEO) Plan, and applicable agency/department/board EEO Programs. Management and Supervisory personnel are responsible and accountable for the implementation of the EEO Plan, and all State employees are responsible for providing

a work environment that supports equal opportunity in all terms and conditions of employment.

Approved:



Justin Johnson
Secretary of Administration

9/11/2015

Date

SEXUAL HARASSMENT

Number 3.1

Effective Date: September 13, 2015

Supersedes: Policy 3.1, dated March 1, 1996

Subject: SEXUAL HARASSMENT

Applicable To: All classified, exempt, appointed, and temporary employees of the Executive Branch of the State of Vermont

Issued By: Department of Human Resources

Approved By: Justin Johnson, Secretary of Administration

PURPOSE & POLICY STATEMENT

The State of Vermont prohibits sexual harassment. Sexual harassment violates an individual's basic civil rights, undermines the integrity of the workplace, and adversely affects workers and clients whether or not they are direct subjects of harassment. Sexual harassment is a form of discrimination on the basis of sex and/or gender identity and is, therefore, prohibited in the work place, or at any employer-sponsored event or activity during or after business hours, by both state and federal law as well as the collective bargaining agreements between the State of Vermont and the exclusive bargaining entities for State employees. It is also unlawful to retaliate against an employee for filing a complaint of sexual harassment or for cooperating in an investigation of sexual harassment.

All employees, including but not limited to staff, supervisors, managers, and appointing authorities, are expected to comply with this policy and take appropriate measures to ensure that sexual harassment does not occur, and are encouraged to report it when it does. Disciplinary action, up to and including dismissal, will be taken against any employee who engages in sexual harassment or who otherwise violates this policy.

In addition, every manager and supervisor within the State of Vermont is responsible for providing a work place free from sexual harassment. Managers are responsible for ensuring that all new employees receive a copy of this policy; for posting this policy in prominent and accessible locations in the work place; and striving to provide employees with training designed to educate the work force about what sexual harassment is and how to prevent it in the workplace. Any manager or supervisor who fails to treat sexual harassment complaints in a manner consistent with the terms of this policy may be subject to disciplinary action up to and including dismissal.

DEFINITION OF SEXUAL HARASSMENT

The prohibition of sexual harassment is found in the Vermont Statutes at Title 21 § 495h. Sexual harassment is a form of discrimination based on sex (and/or gender identity), and is defined in Title 21 § 495d(13). Sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- a) submission to such conduct is made either explicitly or implicitly a term or condition of employment; or
- b) submission to or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting that individual; or
- c) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or of creating an intimidating, hostile, or offensive work environment.

Sexual harassment can be verbal, physical, auditory, and/or visual. It can be either subtle or overt. Sexual harassment refers to behavior that is not only unwelcome, but which can also be personally offensive, fails to respect the rights of others, lowers morale and interferes with work effectiveness, or violates a person's sense of well-being.

Both men and women can be the victims of sexual harassment and sexual harassment can occur in instances where the parties are both opposite and same sex. It can occur in situations where one person has authority (or the appearance of authority) over another, and can also occur between persons at the same managerial or pay grade, that is persons who are equals in terms of responsibility.

PROHIBITED CONDUCT

Managers, supervisors, and employees with the appearance of authority shall not threaten or insinuate, either explicitly or implicitly, that an employee's submission to or rejection of sexual harassment will in any way affect the employee's employment, evaluations, wages, advancement, assigned duties, shifts, or any other condition of employment or career development. Sexual harassment by co-workers is also unlawful and prohibited by applicable federal and state laws and the collective bargaining agreements, even though the loss to the victim may not involve the tangible benefits outlined above. Persons found to have engaged in such behaviors may be subject to disciplinary action up to and including dismissal.

Employees should be aware of the growing role of social media as a platform for illegal and offensive behavior, including the compiling or sharing of images or words via computer or cell phone, or posts on Facebook, Twitter and the like.

REPORTING AND RESOLUTION OF COMPLAINTS

The State strives to take quick and effective actions to ensure that sexual harassment does not occur or persist. However, the fulfillment of that commitment will in large part depend on the willingness of employees to report prohibited behavior. A timely response to sexual harassment is essential to protect victims from further unwelcome behavior and provides the best opportunity to initiate a thorough and effective investigation.

Therefore, all employees are encouraged to report any incidents of sexual harassment they experience, witness, or know of. Employees may identify objectionable actions to those responsible for them and to try to resolve issues informally, but they are not required to do so.

The following process will allow employees to freely report incidents of sexual harassment, free from threats of reprisal, and will protect the rights of all parties involved.

These Reporting and Resolution of Complaints procedures may be expanded upon by individual departments and agencies. Any specific departmental policies and procedures must first be reviewed and approved by the Department of Human Resources.

TO FILE A COMPLAINT

1. Any employee who believes (s)he has been the subject of sexual harassment shall report the alleged act(s) as soon as possible to any one of the following:

- an immediate supervisor; or
- any agency management staff; or
- any member of the Department of Human Resources.

2. Employees who witness discriminatory acts are encouraged to report their observations to any of the appropriate State officials identified in this policy.

NOTE: Any employee represented by a Union, may consult with their respective Union to request its assistance. (S)he may also file a complaint of discrimination in accordance with the grievance procedures of the applicable Collective Bargaining Agreement ("CBA"). The employer shall ensure that complainants and respondents are advised of their right to Union representation under the circumstances required by the CBA.

COMPLAINT PROCESSING PROCEDURE

1. All complaints will be referred immediately to the Human Resources personnel assigned to support the respective Agency/Department. Human Resources will coordinate with the appointing authority to ensure that a timely and complete review of the complaint is made. The appointing authority will identify and take steps to promptly remedy any harassment and prevent its recurrence.
2. The appointing authority shall issue a written response to the complainant acknowledging the complaint and providing notice, if applicable, that any prohibited activity is expected to cease. An investigation, where warranted, will be done promptly, and a written response will be provided to the complainant.
3. Complainants should be notified that confidentiality cannot be guaranteed.
4. The Department of Human Resources and appointing authorities shall ensure that, when warranted, an investigation is conducted when any instance of sexual harassment comes to their attention, even in the absence of a complaint.
5. If the appointing authority or any member of the agency/department personnel unit is named in the complaint, the complainant or his or her representative must bring the complaint to the attention of either the Secretary of Administration or the Commissioner of Human Resources to determine the appropriate personnel to be responsible for responding to the charge.
6. Any intimidation, harassment, or interference for filing a complaint or assisting in an investigation, and/or intentionally filing a false complaint of sexual harassment will be subject to appropriate discipline, up to and including dismissal.

The use of this procedure does not preclude any victim of sexual harassment from pursuing any other legal remedy. To explore alternative remedies, employees may contact the following:

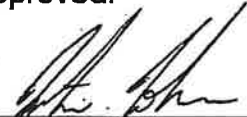
Equal Employment Opportunity Commission
1 Congress Street, Boston, MA 02114
617-565-3200 (Voice/TDD)

Vermont Human Rights Commission
14-16 Baldwin St., Montpelier, VT 05633-6301
802-828-2480 (Voice); 877-294-9200 (TTY)
Human.rights@vermont.gov

Vermont State Employees' Association, Inc.
155 State Street, Montpelier, VT 05601
802-223-5247

Vermont Troopers' Association, Inc.
7 Baldwin Street, Montpelier, VT 05601
802-419-4829

Approved:



Justin Johnson
Secretary of Administration

9/11/2015

Date

REASONABLE ACCOMMODATION

Number 3.2

Effective: January 19, 2016

Supersedes: Policy 3.2 dated March 1, 1996

Subject: REASONABLE ACCOMMODATION

Applicable To: All classified, exempt, appointed, and temporary employees, and applicants for employment, with the Executive Branch of the State of Vermont

Issued By: Department of Human Resources

Approved By: Justin Johnson, Secretary of Administration

PURPOSE & POLICY STATEMENT

The State of Vermont endorses the mandate of the Americans with Disabilities Act of 1990 (ADA) and ADA Amendments Act of 2008 (ADAAA), which prohibit employment discrimination on the basis of disability.

Consistent with the ADA, ADAAA, and Vermont's Fair Employment Practices Act, it is the policy of the State of Vermont to provide reasonable accommodation to the known physical or mental limitations of an otherwise qualified employee or applicant with a disability, upon request, unless such accommodation would cause an undue hardship. This policy applies to all aspects of employment, including the application process.

DEFINITIONS

Disability - (1) a physical or mental impairment that substantially limits one or more of the major life activities of such individual (i.e. caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working); (2) a record of such an impairment; or (3) regarded as having such an impairment.

Essential Functions - The primary and fundamental job duties of an employment position.

Qualified Individuals with a Disability - An individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

Reasonable Accommodation - Modification or adjustment to a job application process that enables a qualified applicant with a disability to be considered for the position the person desires; modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or modifications or adjustments that enable an employee with a disability to enjoy equal rights and privileges of employment as they are enjoyed by other similarly situated employees without disabilities.

Undue Hardship – Any accommodation that would represent a significant difficulty or expense when considered in light of a number of factors, including the nature and cost of the accommodation. Undue hardship is determined on a case-by-case basis, but generally includes an obligation which is not in proportion to the reciprocal cost, benefit, or that would alter the nature or operation of the business.

Direct Threat - A significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.

Reasonable Accommodation Committee (RAC) - A committee established to review and monitor the provisions of this policy. The members of the committee shall be selected by the Commissioner of Human Resources.

GENERAL

Applicants or employees shall not be asked whether they have a disability, or to describe the nature or severity of their disability. An applicant may be asked: "Will you be able to perform all the essential functions of this position with or without a reasonable accommodation?" (See also Personnel Policy Number 4.11, Interviewing and Reference Checking.) Employment opportunities shall not be denied to anyone based on the need to provide reasonable accommodation.

As an employer, the State is not obligated to provide the "best" accommodation possible, or the one desired by the employee, as long as the accommodation offered is sufficient to enable the individual to perform the essential functions of the job.

REASONABLE ACCOMMODATION PROCEDURES

Notwithstanding the process outlined below, employees may initiate a request for reasonable accommodation by any method, and are not required to use words such as "reasonable accommodation" or "disability" in order to trigger a requirement for management to engage in an interactive process to determine whether a reasonable accommodation for a disability is appropriate or necessary. If a communication demonstrates that a request for reasonable accommodation for a disability is being made, the process below should be followed.

To Initiate an Accommodation Request

1. An employee or applicant shall make a request to the immediate supervisor and may do so using the Request for Reasonable Accommodation form.
2. In cases of routine requests for accommodation in the interview process which cost less than one thousand dollars (\$1000), e.g. for sign language interpreters, it is generally not necessary to use the Request for Reasonable Accommodation form or review process described below.

Department Review

1. After receiving an accommodation request, the supervisor shall notify the appointing authority and the Human Resources personnel assigned to support the Agency/Department.
2. Medical verification of the disability may be requested from the individual. Any information supplied pursuant to the request for medical verification shall be treated as confidential, to the extent required by law, and shall be kept separate from the Official Personnel File.
3. Supervisors and managers are required to enter into an interactive process with the employee requesting reasonable accommodation, and work with the employee to gather appropriate medical information and consider solutions.
4. The supervisor and Human Resources personnel assigned to support the Agency/Department shall review the accommodation request to:
 - o determine whether the individual is a qualified individual with a disability covered by this policy;
 - o analyze the job description for essential functions;
 - o review medical verification, if applicable;
 - o review the individual's current limitations;
 - o review the individual's suggested reasonable accommodation(s);
 - o investigate other possible accommodations; and
 - o determine if the individual can have the disability reasonably accommodated without undue hardship.
6. If there is no reasonable accommodation which will allow the employee to perform the essential functions of his or her present job (i.e. if steps 1 - 3 above have been exhausted), then the Accommodation through Reclassification procedures must be followed (See Attachment A).

Department Response

1. The supervisor or Manager shall be responsible for completing the department response section of the Request for Reasonable Accommodation form, to include a description of the accommodation proposed or provided, or a description of why an accommodation request was not granted. The original form must be submitted to the Chair of the RAC, with copies forwarded to the requesting individual, the appointing authority, and the Human Resources personnel assigned to support the Agency/Department. Whenever possible,

- an initial response will be communicated within ten (10) work days of receipt of the accommodation request.
2. In the following situations, an accommodation request initiated by an individual must be referred to the RAC:
 - If the cost of the proposed accommodation exceeds one thousand dollars (\$1000); has an impact on the duties of any other position; or has an impact on the workload or schedule of another employee.
 - If there is a dispute between the department and the individual requesting the accommodation as to the accommodation to be provided.
 - If, for whatever reason, it is determined that an accommodation request cannot be granted.
 3. Notwithstanding the above, nothing shall preclude a department from seeking an advisory opinion from the RAC.

Reasonable Accommodation Committee Review

1. After receiving the completed Request for Reasonable Accommodation form, the RAC will conduct its review to:
 - analyze the job description for essential functions;
 - review medical verification if applicable;
 - review the individual's current limitations;
 - review the individual's suggested reasonable accommodation(s);
 - investigate other accommodations; and
 - determine if the disability can be reasonably accommodated without undue hardship.
2. If deemed necessary by the Chair of the RAC, expert opinion will be solicited to determine if there is an appropriate accommodation under the circumstances which is possible.
3. The RAC will attempt to issue its decision within fifteen (15) work days of receipt of a Request for Reasonable Accommodation form. The RAC will communicate its decision in writing to the requesting individual and the appointing authority. The RAC will set forth the rationale for its decision.
4. The requesting individual is not required to accept an accommodation recommended by the RAC. However, if the individual rejects a recommended reasonable accommodation that would enable the individual to perform the essential functions of the position held or desired, and cannot as a result of that rejection perform the essential functions of the job, the individual will not be considered a qualified individual with a disability.
5. Any appointing authority or designee dissatisfied with a decision of the RAC may request, by letter to the RAC Chair, an opportunity to discuss the committee's decision within ten (10) days of receipt of the decision.

DIRECT THREAT

As an employer, the State may refuse to hire an applicant, or retain an employee who poses a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or sufficiently reduced by reasonable accommodation. If an individual is believed to pose a direct threat, the appointing authority or designee will complete a Request for Reasonable Accommodation form and forward it to the RAC for a decision. In cases of direct threat, the RAC will endeavor to render and communicate its decision within five (5) workdays of receipt of a Reasonable Accommodation Report. Determination will be made on the individual's present ability to safely perform the essential functions of the job. Factors to be considered include: (1) the duration of the risk; (2) the nature and severity of the potential harm; (3) the likelihood that the potential harm will occur; and (4) the imminence of the potential harm. An employee may be temporarily relieved from duty with pay until the RAC makes a decision.

REMEDIES

An employee aggrieved by a decision of the RAC may grieve the decision pursuant to the ADA/ADAAA Grievance Procedures (See Number 10.2). Any applicant who feels (s)he has been discriminated against as an applicant for employment with the State of Vermont may file a complaint through the ADA/ADAAA Grievance Procedures (See Number 10.2).

Nothing herein shall preclude an aggrieved individual from pursuing any other legal remedy. To explore other remedies, individuals may also contact the following:

Vermont Human Rights Commission
14-16 Baldwin St., Montpelier, VT 05633-6301
802-828-2480 (Voice); 877-294-9200 (TTY)
Human.rights@vermont.gov

Vermont State Employees' Association, Inc.
155 State Street, Montpelier, VT 05601
802-223-5247

Vermont Troopers' Association, Inc.
7 Baldwin Street, Montpelier, VT 05601
802-419-4829

Equal Employment Opportunity Commission
1 Congress Street, Boston, MA 02114
617-565-3200 (Voice/TDD)

ATTACHMENT A ACCOMMODATION THROUGH RECLASSIFICATION

INTRODUCTION

These procedures expand the State's Reasonable Accommodation Policy by providing classified Executive Branch employees broader access to positions they are able to perform at the same or lower pay grades, in lieu of Reduction in Force (RIF) when the employee is disabled and incapable of performing in his or her current job.

This process **does not** apply to temporary, exempt, or appointed State employees, although reassignment to similar non-classified positions for such employees will be considered if no other reasonable accommodation is available in the current position.

PROCEDURES

Reasonable accommodation alternatives in an employee's current job must be exhausted before reassignment to the duties of a different position is considered. Such an assignment is appropriately designated as a reasonable accommodation only when it is determined that no reasonable accommodation is available in the current job, as determined by the Reasonable Accommodation Committee (RAC). Any dispute over the reassignment should be referred to the RAC in accord with established procedures.

1. When there is no other reasonable accommodation available within the employee's current position, Human Resources personnel assigned to support the Agency/Department must determine if there is another position **at the same pay grade** that Management intends to fill, and for which the employee meets the minimum qualifications and is able to perform, with or without reasonable accommodation. The Human Resources personnel must look first within the employing department, and second within the employing agency.
2. If there **is** such a position **at the same pay grade** within the employee's geographic area [i.e., within a thirty-five (35) road-mile radius of the regular duty station] which the employee is able to perform with or without reasonable accommodation, the employee **shall be required to perform the duties of the position** and will be **reclassified or reassigned** accordingly. No further reasonable accommodation steps are required after that point, except those accommodations which may be necessary to permit the employee to perform the new duties. The right of Management to require an employee to perform such duties shall be superior to the rights of any current classified State employee or current or former employee on the RIF list. This review shall normally be completed **within ten (10) calendar days** of the RAC determination that the employee can no longer perform the duties of his or her current position.
3. If there is **no position at the same pay grade** in the employing Agency under sections 1 & 2, above, the appointing authority shall, as soon as practicable,

notify the Commissioner of Human Resources and the RAC Chair of their need to determine whether there are any positions within the remainder of the classified service for which the employee is qualified and is able to perform, with or without reasonable accommodation. The employer shall provide the RAC Chair with all relevant documentation, including at least: the employee's current job description; a list of the employing agency's current vacant positions; and pertinent medical reports and Workers' Compensation medical end results, if applicable.


4. When the RAC Chair determines that the employing Agency has complied with all applicable reasonable accommodation steps, the employee shall be placed in a **Pre-Separation Accommodation through Reclassification** status. The employee shall be notified by the RAC Chair that (s)he has been placed in such status, and that the employee has the responsibility to meet with the Department of Human Resources' Recruitment Division to establish his or her parameters for assignment to a position. The Accommodation through Reclassification status shall last for **twenty (20) calendar days** and shall begin the date of the employee's receipt of notice.
5. An employee in an Accommodation through Reclassification status shall have, after establishing his or her parameters with the Department of Human Resources, the right to be assigned to the duties of positions that Management intends to fill that fall within these parameters and which are at the same or lower pay grade for which (s)he meets the minimum qualifications, and which (s)he is capable of performing with or without reasonable accommodation. That right shall be superior to the rights of any current classified State employees or current or former State employees on the RIF list. The employee shall be assigned to the duties of a position for which (s)he is eligible. Refusal of any one such assignment, or no response within five (5) workdays of notice, shall terminate any and all Accommodation through Reclassification status rights, and the employee will be considered to have resigned his or her State employment and will be separated accordingly. Any questions as to whether an employee is qualified must be resolved by the RAC.

NOTE: A position will not be considered "vacant" in any agency/department until such position has been cleared through the Accommodation through Reclassification process. Positions will not be RIF-cleared if there is an employee eligible for the position.

6. If there is no position available to the employee within the twenty (20) calendar day period of the Accommodation through Reclassification status, the appointing authority shall initiate a Medical RIF for the employee in accordance with the Injury on the Job Article of the current collective bargaining agreements. After that point, RIF reemployment priority will be established in accordance with applicable contractual RIF reemployment procedures.

7. Contract and/or regulatory provisions affecting status, seniority, salary, and benefits shall be applicable to any changes effected. In these instances, an employee's salary will be determined by the RIF reemployment provisions of the contract.

Approved:


Justin Johnson
Secretary of Administration

1/20/2016
Date

DISCRIMINATION COMPLAINTS

Number 3.3

Effective Date: September 13, 2015

Supersedes: Policy 3.3, dated July 1, 1999

Subject: DISCRIMINATION COMPLAINTS

Applicable To: All classified, exempt, appointed, and temporary employees of the Executive Branch of the State of Vermont

Issued By: Department of Human Resources

Approved By: Justin Johnson, Secretary of Administration

PURPOSE & POLICY STATEMENT

The State of Vermont is opposed to discrimination, and contractually and legally bound to prohibit unlawful discrimination in the workplace on the basis of race, color, religion, creed, ancestry, sex, marital status, age, national origin, disability, sexual orientation, gender identity, workers compensation, nursing mothers (breastfeeding), credit history, flexible work arrangements, parental and family leave, membership or non-membership in a Union, and any other factor that is prohibited by law. The purpose of this policy is to establish protocols for reporting and investigating allegations of prohibited discrimination. Sexual harassment is covered separately in Policy 3.1. Reasonable accommodation for qualified disability and the Americans with Disability Act (ADA)/ADA Amendments Act are covered by Policy 3.2.

Many of the above-listed forms of discrimination are unlawful under state and federal law. All are prohibited by the collective bargaining agreements between the State of Vermont and its respective Unions. Additionally, it is unlawful to retaliate against an employee for filing a complaint of prohibited discrimination, reporting prohibited discrimination, or acting as a witness for a person who has filed a complaint of prohibited discrimination. Allegations of prohibited discrimination and retaliation as described above will be appropriately addressed by management, including investigation where necessary.

All employees, including but not limited to non-supervisory staff, supervisors, managers, and appointing authorities, are expected to comply with this policy and take appropriate measures to ensure that discrimination does not occur. Disciplinary action, up to and including dismissal, may be taken against any employee who engages in discrimination or who otherwise violates this policy, applicable state and federal laws, or the collective bargaining agreements.

In addition, every manager and supervisor within the State of Vermont is responsible for providing a workplace free from discrimination. This duty includes disseminating this policy so that all employees are aware that they are not required to endure discrimination; discrimination will not be allowed; this policy, the collective bargaining agreement prohibitions, and state and federal discrimination laws will be enforced. Managers are responsible for ensuring that all new employees receive a copy of this policy; for posting this policy in prominent and accessible locations in the work place; and striving to provide employees with diversity training. Any manager or supervisor who does not respond to discrimination complaints consistent with the terms of this policy may be subject to disciplinary action.

DEFINITIONS

Discrimination - As used in this policy, the term discrimination is intended to include all forms of mistreatment or denial of privileges based upon impermissible factors as established by state or federal law, applicable regulations, or applicable collective bargaining agreements.

Victim - Throughout this policy, the term victim means the actual or alleged target of the discriminatory behavior. The term victim is not interchangeable with the term complainant because not all victims complain, nor are all complainants victims.

Complainant - An individual who brings allegations of discrimination to the attention of State officials.

REPORTING AND RESOLUTION OF COMPLAINTS

The State, through this policy, commits itself to take necessary action to deter discrimination in the workplace. However, the fulfillment of this commitment will, in large part, depend on the willingness of employees to report prohibited behavior. A timely response to discrimination is essential to protect victims from further unwelcome behavior and provides the best opportunity to initiate a thorough and effective investigation. It also ensures that the person responsible for objectionable behavior understands its impact on others.

Therefore, all employees are encouraged to report any incidents of discrimination, based upon any of the prohibited factors, that they experience, witness, or of which they are aware. In some instances, such as where discriminatory or offensive behavior may be unintentional, informal and direct objection can be the best way to remedy a problem. In such instances, employees may identify objectionable actions to those who commit them, and try to resolve issues informally, but are not required to.

The following process allows employees to freely report incidents of discrimination, free from threats of reprisal, and protects the rights of all parties involved.

These Reporting and Resolution of Complaints procedures may be expanded upon by individual departments and agencies. Any specific departmental policies and procedures must first be reviewed and approved by the Department of Human Resources.

TO FILE A COMPLAINT

1. Any employee who believes (s)he has been the subject of discrimination shall report the alleged act(s) as soon as possible to any one of the following:

- an immediate supervisor;
- any agency management staff; or
- any member of the Department of Human Resources.

2. Employees who witness discriminatory acts are encouraged to report their observations to any of the appropriate state officials identified in this policy.

NOTE: Any employee represented by a Union, may consult with VSEA their respective Union to request its assistance. (S)he may also file a complaint of discrimination in accordance with the grievance procedures of the applicable Collective Bargaining Agreement ("CBA"). The employer shall ensure that complainants and respondents are advised of their right to Union representation under the circumstances required by the CBA.

COMPLAINT PROCESSING PROCEDURE

1. Referral to the Appropriate Authority

All complaints received by a supervisor, manager, or any other state official will be immediately referred to the Human Resources personnel assigned to support the Agency/Department of the employee who is the alleged victim or complainant of the discriminatory conduct.

2. Agency/Department Response

The Human Resources officer personnel assigned to support the Agency/Department will notify the appointing authority promptly, and the Department of Human Resources, to ensure a timely and complete review of the complaint. The Department of Human Resources and appointing authorities shall ensure that an investigation is conducted, as warranted, when any instance of discrimination comes to their attention, even in the absence of a complaint. The steps to be taken upon receipt of a complaint are:

a. Investigation

The responsibility for determining whether to investigate a complaint, who will investigate if warranted, and the scope of the investigation is with the appointing

authority, in conjunction with Human Resources. If in a single incident there are multiple victims employed by more than one department, or the individual accused of discrimination is a State employee not under the supervision of the same departmental head as the victim(s), the departments will coordinate with each other and the Department of Human Resources to identify a single responsible entity to conduct the investigation, where warranted. If the complaint is made against the head of an agency or department, the complaint will be forwarded to the Commissioner of Human Resources.

The investigator assigned may be an employee from the same department, the Department of Human Resources, or may be someone hired on a personal services contract to conduct the investigation.

b. Notification to Complainant, Victim, and Accused

The appointing authority shall issue written notices to complainants, victims, and those accused of discriminatory acts.

For a complainant who is not a victim, the notice should acknowledge the complaint and state that the agency is taking action and that any retaliation should be reported to the agency or Department of Human Resources.

For a complainant who is a victim, the notice should also state that the State will endeavor to prevent any additional prohibited activity, that an investigation will be done promptly, and that a written response will be provided when the investigation is completed.

If the complainant identifies specific State employee(s) accused of wrong doing, written notices should be provided to such accused employees. Departments should seek assistance from the Department of Human Resources before sending these notices.

3. Contents of Investigation Report

At a minimum, a report of an investigation into allegations of discrimination will include:

- a summary of the allegations and how they were brought to the attention of State officials;
- summaries of interviews with any alleged victims;
- summaries of interviews of any employees accused of or suspected of wrongdoing;
- summaries of interviews of any other witnesses who may possess information relevant to a fair resolution of the complaint; and
- any documents or other tangible evidence, or photographs or descriptions of such evidence, as appropriate.

4. Notification to Interested Parties

The victim will be provided a notice that the investigation is completed, and the appointing authority will identify and take steps to promptly remedy any discrimination and prevent its recurrence.

The use of this procedure does not preclude any victim of discrimination harassment from pursuing any other legal remedy. To explore other remedies, employees may also contact the following:

Equal Employment Opportunity Commission

1 Congress Street, Boston, MA 02114

617-565-3200 (Voice/TDD)

Vermont Attorney General's Office

109 State Street, Montpelier, VT 05609-1001

802-828-3171

Vermont Human Rights Commission

14-16 Baldwin St., Montpelier, VT 05633-6301

802-828-2480 (Voice); 877-294-9200 (TTY)

Human.rights@vermont.gov

Vermont State Employees' Association, Inc.

155 State Street, Montpelier, VT 05601

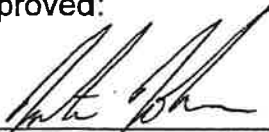
802-223-5247

Vermont Troopers' Association, Inc.

7 Baldwin Street, Montpelier, VT 05601

802-419-4829

Approved:



Justin Johnson
Secretary of Administration

9/11/2015

Date

Number 5.6 - EMPLOYEE CONDUCT

Effective Date: December 15, 1996

Applicable To: All classified employees, as well as exempt, appointed, and temporary, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

POLICY AND PROCEDURES

This policy is a guide for agencies and departments regarding general issues of employee conduct. It is understood, however, that individual departments may need to have more specific guidelines and may wish to issue guidelines that are appropriate to their program function and the roles of their employees.

REQUIRED CONDUCT

1. It shall be the duty of employees to fulfill to the best of their ability the duties and responsibilities of their position. Employees shall pursue the common good in their official activities, and shall uphold the public interest, as opposed to personal or group interests.
2. Employees shall devote their full time, attention, and effort to the duties and responsibilities of their positions during their scheduled work time, except when other activities are authorized by law, rule, or contractual agreement, or are approved by the appointing authority.
3. Employees shall conduct themselves in a manner that will not bring discredit or embarrassment to the State of Vermont, whether on or off duty.
4. Employees shall respect the legitimate privacy interests of their co-workers, superiors, and employer, both as to personal property and work product in the workplace. Employees have access only to information which is necessary for the performance of their job duties except as otherwise approved by their employer. Employees who wish to have access to information which is not required for the performance of their jobs may exercise their right as a citizen to request information under Vermont's access to public records statute (See 3 VSA 315).

PROHIBITED CONDUCT

1. Employees shall not use, or attempt to use, their positions to obtain special privileges or exemptions for themselves or others.
2. Employees shall not use, or attempt to use, State personnel, property, or equipment for their private use or for any use not required for the proper discharge of their official duties.

3. Employees are not permitted to solicit or accept any form of compensation from anyone except their employer for activities which are related to their position, unless it is provided for by law or approved by the employer. Prohibited compensation shall include any gift, reward, loan, gratuity or other valuable consideration, including free meals, provided to employees, their immediate family, or business associate(s). Activities related to the position include papers, talks, demonstrations, or appearances connected with the job. However, this prohibition shall not extend to uncompensated activities or compensation received for activities not related to the employees' jobs which are done on their own time.
4. Employees shall not engage in any employment, activity, or enterprise which has been or may be determined by the appointing authority to be inconsistent, incompatible, or in conflict with their duties as a State employee or with the duties, functions or responsibilities of the agency by which they are employed. The mere appearance of impropriety may constitute a conflict of interest. Employees shall consult with their appointing authority prior to engaging in such employment, activity, or enterprise. Employees whose employment, activity or enterprise pre-dates this policy or their employment with the State shall promptly consult with their appointing authority to resolve any issue of conflict of interest.
5. Employees may not engage in any outside employment, activity, or enterprise during work hours.
6. Employees shall not disclose, directly or indirectly, information which they receive or have access to by virtue of their official duties, either for the private gain or benefit of themselves or others, except as authorized by their superiors or by law.
7. Employees shall not discriminate against, intimidate, nor harass any employee because of race, color, religion, creed, ancestry, sex, marital status, age, national origin, handicap, membership or non-membership in the VSEA, filing a complaint or grievance, or any other factor for which discrimination is prohibited by law.

Number 8.1 - DUE PROCESS REQUIREMENTS (LOUDERMILL PROCESS)

Effective Date: March 1, 1996

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

State employees who are protected by the Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) or the Rules and Regulations for Personnel Administration from dismissal except for just cause (or cause) are entitled to some kind of hearing prior to their dismissal. Appointing authorities contemplating the dismissal of such an employee must provide them with both notice of the specific allegations under consideration, and an opportunity to respond to the charges, prior to imposing the dismissal.

NOTE: Managers and supervisor must contact their agency/department personnel officer for more details.

GENERAL GUIDELINES

When a tentative decision to dismiss an employee has been reached, the appointing authority, or the person delegated thereby to make or recommend such action to the appointing authority, must give employees an opportunity to respond to the specific allegations of misconduct. This generally occurs after the employer's investigation has been completed and the employee's conduct appears to justify dismissal. Prior to taking any disciplinary action, the appointing authority (or designee) should take the steps outlined below.

There are other management actions, disciplinary or otherwise, which may result in an employee losing an employment property right. While not required by the collective bargaining agreement, it may be appropriate in such circumstances to follow the procedures outlined in this policy. Any questions should be directed to the agency/department personnel officer, who should contact the Department of Personnel legal counsel for advise.

NOTIFICATION

1. The employer must notify the employee, in writing, that dismissal is contemplated as a result of certain specific charges, which must be outlined in the letter. Employees must also be told that they have the right to respond to the charges,

either orally or in writing, within the time frame outlined in number (3) below, and before final action is taken. This notice should inform employees of their right to be represented by the VSEA or private counsel, if applicable, in preparing and/or delivering such response. See Attachment A, *Sample Pre-Termination Loudermill Letter*. **This letter must be forwarded to the Department of Personnel legal counsel for review prior to mailing.**

2. The notice should give the employee twenty-four (24) hours after receipt thereof to inform the employer whether and in what manner they wish to respond.
3. If the employee wishes to respond in writing, such response should be given to the appointing authority (or the person delegated to make the decision or recommend one to the appointing authority) normally within four (4) calendar days of receipt of the written notice, unless an exception has been granted.
4. If the employee chooses to respond orally, a meeting with the appointing authority (or designee) should be held normally within four (4) calendar days of receipt of the written notice, unless an exception has been granted.
5. For record keeping purposes, the written notice to the employee should be sent certified mail, return receipt required. If the notice is hand-delivered, employees should sign a statement acknowledging receipt.

THE MEETING

1. The meeting should be held by the appointing authority or designee.
2. The purpose of the meeting is:

to give employees the opportunity to identify disagreement they have with the employer's version of the facts;
to identify witnesses who support their defense;
to identify any mitigating circumstances which should be considered;
to offer any other arguments which may be appropriate.

3. Employees have the right to have a representative of the VSEA or legal counsel, if applicable, present at any such meeting. Employees, however, must personally outline their version of the facts, and respond to any questions the appointing authority may have. This will ensure that the decision-maker will have a fair opportunity to evaluate the employee's version of events. The representative may then make such arguments as may be appropriate. The appointing authority may investigate further after the meeting, as deemed appropriate.
4. The purpose of this process is to serve as an initial check against mistaken decisions and to determine whether there are reasonable grounds to believe that the charges against employees are true and support the contemplated action. Employees **do not** have a right, as part of this process, to call witnesses to testify on their behalf or to cross-examine witnesses who may not support their interests.
5. The appointing authority does not need to justify the tentative decision to employees or their representative during the meeting.

PERFORMANCE CASES

The employer should also use the same process in dismissals for unsatisfactory performance. In such cases, the employer must provide employees with a copy of the final performance evaluation and any attachments thereto, and employ the process described above to afford employees the opportunity to respond to allegations of unsatisfactory performance prior to dismissal.

TEMPORARY RELIEF FROM DUTY

If it would be inconsistent with the interests of the State to have the employee continue working during this process, (s)he may be placed on temporary relief from duty, with pay, in accordance with the current Agreements between the State of Vermont and the VSEA. The letter notifying employees of temporary relief from duty (with reasons), must be provided in writing to employees within twenty-four hours (24) of when the employee is relieved from duty. Consult with the agency/department personnel officer for further information.

Attachment A

SAMPLE PRE-TERMINATION LOUDERMILL LETTER

(to be mailed certified, return receipt required)

Dear **(insert employee name)**:

As a result of your behavior described below, the **(agency or department)** is contemplating your dismissal from the position of **(insert position)**. You have the right to respond to the specific allegations listed below, either orally or in writing, before the final decision is made. You have the right to be represented by VSEA, if applicable, or private counsel during proceedings connected with this action.

The reasons(s) dismissal is contemplated is as follows: **(list reasons here)**

You must notify me within twenty-four (24) hours after receiving this letter whether you wish to respond to the above allegations. You must also then indicate whether you wish to respond in writing or orally in a meeting. If you do not respond within that time frame, a decision will be finalized based on the information available.

If you wish to make your response orally, I will schedule a meeting with you and, if applicable, your representative, within four (4) days of your receipt of this letter. Your written response would likewise be due four (4) days after you received this letter. If you request and are granted an extension of your time to respond in either form, you will have to take accrued leave, or be in an off-payroll status for the duration of the extension.

You are provided this opportunity to respond so that you can present points of disagreement with what the employer believes the facts to be; to identify witnesses who

may support your defense; to identify any mitigating circumstances which should be considered; and to offer any other argument you wish to make.

You may be represented by the VSEA or private counsel, in preparing or presenting your response, whether in writing or at a meeting. It is requested that you personally present your version of the facts. Your representative may then make arguments on your behalf.

After having reviewed any new information, I will conduct further inquiry as is appropriate, and then make a prompt final decision on this action.

Sincerely,

(appointing authority or designee)

cc: Commissioner of Personnel

Number 9.1 - IMMEDIATE DISMISSAL

Effective Date: March 1, 1996

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The State of Vermont is committed to applying progressive discipline or corrective action with a view toward uniformity and consistency. However, circumstances may warrant dismissing an employee immediately without two (2) weeks' notice or two (2) weeks' pay in lieu of notice. This policy is intended to outline what circumstances might warrant immediate dismissal.

GENERAL GUIDELINES

The Disciplinary Action Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) must be adhered to when imposing discipline on an employee covered by the contract..

An employee may be immediately dismissed for any of the following reasons: gross neglect of duty; gross misconduct; refusal to obey lawful and reasonable orders given by supervisors; conviction of a felony; or conduct which places in jeopardy the life or health of a co-worker or of a person under the employee's care.

Whenever employees are required by their supervisor or management to give oral or written statements on an issue involving employees, which may lead to discipline against them, or whenever employees are called to a meeting with management where discipline is to be imposed on employees, they shall be notified of their right to request the presence of a VSEA representative. If so requested, the VSEA representative has the right to accompany employees to any such meeting.

An appointing authority should use discretion to impose a penalty that is reasonable for the offense. Dismissal will be justified for minor offenses if a chronic pattern of violation, not corrected after repeated discipline, is shown.

EXAMPLES OF ACTIONS THAT MAY WARRANT IMMEDIATE DISMISSAL

Following are some examples of gross misconduct that **may** warrant immediate dismissal of a State employee:

- Failure to meet reasonable standards of conduct such as: fighting or threatening physical harm to another.
- Theft or destruction of property.
- Intentional loss, damage, destruction, or unauthorized use of property, records, or information.
- Defiance of authority, refusal to obey reasonable and lawful orders, or wanton disregard of directives.
- Conviction of a felony.
- Conviction under any criminal drug statute for a violation occurring in the workplace, while on or off duty, or on duty away from the workplace.
- Falsification of records or use of official position for personal advantage.
- Abuse of patients, inmates, or students; or mistreatment of those charged to the care of the employee.
- Compromising the examination process for State employment through unauthorized possession, use, or furnishing to others of examination information or materials.
- Compromising the security of a State institution or facility.

WORKPLACE SAFETY AND SECURITY

Number 11.11

Effective Date: November 27, 2017

Supersedes: None

Applicable To: All employees of the Executive Branch of the State of Vermont

Issued By: Department of Human Resources

Approved By: Susanne Young, Secretary of Administration



PURPOSE AND POLICY STATEMENT

Vermont State government is committed to protecting the security of State employees, customers, and facilities while maintaining open access to government services. No single policy or process will effectively address the needs of all agencies, departments and facilities. This policy provides a framework for agencies and departments to create procedures specific to their security needs, in coordination with the Department of Buildings and General Services (BGS). This policy is not intended to create legal duties or responsibilities of the State of Vermont beyond those that exist under current law.

DEFINITIONS

Threats to Security. Threats to security include any direct, conditional or implied threat of violence, physical assault, damage to personal or state property or other conduct which is accomplished with the intent to cause fear, hostility, intimidation, or harm in the target person(s) or witnesses.

Threats to Safety. Threats to safety include matters defined as threats to security, but also include incidents such as physical hazards from unsafe conditions in State facilities, such as lack of heat, or the presence of dangerous chemicals, which are not intentionally caused.

Security Response Team. A team of personnel, responsible for developing a safety and security plan to a particular threat to the safety or security of a state employee, comprised of agency or department leadership, BGS Security and the Department of Human Resources (DHR).

State of Vermont Security Incident Reporting System.

The online system that includes pre-approved forms to register a threat incident with the Office of Security within BGS.

Designated Official

The designated official is the highest-ranking official of an Agency, Department or Office of State government or another employee so designated by the appointing authority, who is responsible for ensuring that the Emergency Procedures Plan for each State Office building is completed, employees are trained on the plan and emergency drills are conducted. The Designated Official may have responsibilities for a single building or multiple buildings.

Emergency Coordinating Manager

The Emergency Coordinating Manager (ECM) in each State Office building is responsible for coordinating messages and instructions to other departments and other emergency responders in the event of an emergency. In this role, the ECM will be the primary point of contact as the liaison between emergency responders when they arrive, and State employees involved in the incident.

Reviewing Official

An individual designated by the Commissioner of Buildings and General Services to review the basis for an appeal to a no trespass order.

RESPONSIBILITIES

1. Department of Buildings and General Services shall:

- A. In accordance with 29 V.S.A. §§ 171; 172, maintain a Security Division which shall be responsible for the safety and security of State facilities, lands, and occupants thereof. The Security Division shall lead the effort, in coordination with agencies and departments, to develop all State security plans and protocols, update plans as necessary, and coordinate responses to all security needs.
- B. Serve as the single point of contact for State Agencies and Departments, to receive reports of threats to the safety or security of State personnel and facilities, assess threats, determine appropriate protective measures, and coordinate the implementation of protective measures.

2. Appointing Authorities shall:

- A. In accordance with this policy, appointing authorities shall develop in coordination with BGS Security, specific agency/department/facility plans to ensure the safety and security of their employees, clients, and facilities. Plans will be proactive in nature by focusing on ways to prevent and reduce the risk that an incident may occur. All plans must be approved by both the Agency or Department appointing authority and by the BGS Commissioner or designee.
- B. Require staff to report all emergent threats to safety and security to BGS Security, and coordinate the response to threats in accordance with this policy.

THREATS TO SAFETY AND/OR SECURITY

1. Notification

- A. When an imminent threat to safety or security is detected, all personnel should follow facility security procedures and immediately call 911.
- B. Employees must immediately report threats and incidents to their supervisors.
- C. Supervisors and managers must immediately report threats to the BGS Office of Security at 802-828-0777, the Designated Official, internal agency or department safety personnel and the Emergency Coordination Manager.
- D. BGS Security must immediately notify Commissioners of the Departments of Human Resource and Buildings and General Services.
- E. The BGS Commissioner shall immediately notify the Secretary of Administration and any other Secretaries or Commissioners of affected employees at the facility to provide information and request action if necessary.

2. Response

BGS security shall:

- (a) Evaluate reported threats to safety and security.
- (b) Refer the threat to the appropriate law enforcement entity when indicated.
- (c) Coordinate with the Security Response Team for that incident to assess the threat and to develop a safety/response plan to protect the employees or facility.
- (d) Coordinate messaging to employees, affected departments and agencies and DHR.
- (e) Maintain records of threats to safety and security.

3. No Trespass Orders

- A. All requests for No Trespass Orders must be made to the BGS Security Department. BGS Security will consult with the BGS Assistant Attorney General, and a recommendation on the issuance of the No Trespass Order will be made to the BGS Commissioner. The BGS Commissioner will make the final decision on the issuance of the No Trespass Order. BGS Security will work with local law enforcement to have the order served notifying DHR when such an order is issued. Initial No Trespass Orders will be issued for five (5) days and the Commissioner shall confer with the Attorney General's Office and the affected department to determine whether it is appropriate for the No Trespass Order to be extended.

B. In appropriate circumstances, BGS will issue a No Trespass Order to an individual who:

(1) poses an imminent threat to the safety, health, or welfare of state employees or state property; or

(2) causes significant disruption in the provision of state services or causes or threatens harm to users of state services or state property.

Individuals who engage in such behavior may be denied access to part or all of a state building through a written No Trespass Order.

Each No Trespass Order shall be in writing and shall specify:

(a) the reason for the order;

(b) a description of the specific behavior(s) leading to the order;

(c) the scope and duration of the prohibition;

(d) the potential consequences of violation of the order,

(e) alternative means of accessing relevant state services wherever possible, and

(f) a process in which to appeal the order and a contact for initiating an appeal.

C. The scope, duration, and other provisions of a No Trespass Order will be proportional to the underlying misconduct, and such orders will interfere with the right to access state property and services to the minimum extent necessary to effectuate the purpose of the order. Most No Trespass Orders will expire no later than six months from date of issuance. No Trespass Orders may be renewed upon request and approval of BGS, and orders of a longer duration may be considered in appropriate circumstances. If and when a No Trespass Order is under consideration for renewal, the subject of the order will receive notice of such consideration and an opportunity to contest the renewal per the requirements of paragraph E of this section.

D. A copy of all orders will be maintained by the BGS Office of Security and will be maintained at the facility. All violations of trespass orders must be immediately reported to local law enforcement and the BGS Office of Security.

E. Appeal Procedure

A No Trespass Order may be appealed by submitting an appeal, in writing, within fifteen (15) days of the Order issue date, to the Department of Buildings and General Services, Commissioner's Office, 2 Governor Aiken Avenue, Montpelier, VT 05633-5801. The reason for the appeal should be written as precisely as possible and should include the rationale for rescinding the No Trespass Order. The written appeal must also include the appellant's current contact information.

F. Consideration of Appeal

The BGS Commissioner, or his or her designee (Reviewing Official), shall review the basis for the appeal. The Reviewing Official may consider whether there has been a clear abuse of discretion by the official who authorized or who issued the No Trespass Order. The Reviewing Official may also consider any new information related to the incident that triggered the No Trespass Order.

The Reviewing official may consult with other State officials as needed in order to gather information or advice, and to review the impact that the appeal may have on the affected State employees and or agencies.

The Reviewing Official shall render a written decision within thirty (30) days of receipt of the appeal. The appeal decision may: uphold, modify or vacate the No Trespass Order. The decision of the Reviewing Official shall be final.

4. Safety Alerts

The State of Vermont has established the following protocols concerning Safety Alerts.

- A. Building level Safety Alerts shall be issued by the Designated Official (DO) at the request of leadership from any Agency, Department, or Division. Safety Alerts shall be disseminated by the DO to all employees, in all Agencies, Departments, and Divisions located within the State Office Building where the alert is issued. BGS Security and DHR must also receive all safety alerts as they are issued.
- B. In the event of an emergency the DO shall issue a building wide safety alert if in their opinion notification to employees will increase employee safety. The alert will inform facility occupants of the nature of the emergency and what immediate action to take. The DO is responsible for developing a facility communication plan for alerting all State employees, regardless of departmental affiliation, to emergency situations in their building. This plan can include the use of VTAAlert, Email, phone trees, Public address systems, text messages.
- C. Safety alerts which are deemed to be appropriate to disseminate beyond a single building to an entire department or agency shall be first approved for dissemination by the Commissioner or the Secretary of the requesting department or Agency.
- D. Safety alerts which are deemed to be appropriate to disseminate to all State employees shall be approved for dissemination by the Secretary of Administration or his/her designee.
- E. When notified of an emergency situation, the BGS Office of Security shall notify the DO of the building and assist the DO in developing a communication for building employees.

5. Restraining Orders

An employee who receives a protective or restraining order or civil abuse prevention order (abuse prevention, stalking or sexual assault orders) may provide the BGS Office of Security with a copy of such order and, if provided, BGS Security will coordinate with relevant appointing authorities in accordance with the applicable Department's safety plan and DHR. For additional information, please refer to DHR Policy for abuse prevention, stalking or sexual assault orders.

[http://humanresources.vermont.gov/sites/humanresources/files/documents/Labor Relations Policy EEO/Policy Procedure Manual/Number 17.7 DOMESTIC AND SEXUAL VIOLENCE POLICY.pdf](http://humanresources.vermont.gov/sites/humanresources/files/documents/Labor_Relations_Policy_EEO/Policy_Procedure_Manual/Number_17.7_DOMESTIC_AND_SEXUAL_VIOLENCE_POLICY.pdf)

6. Post Incident Review

- A. The BGS Office of Security will periodically coordinate with the Agency or Department Security Response Team to review and evaluate the need for continued protective measures and complete a post-incident review.
- B. The BGS Office of Security will prepare an after-action statement in the investigation report to include how the investigation was closed out, what risk/security abatement plan was put in place and what support was provided to the employee/s.
- C. If required, the BGS Office of Security shall work with the States Attorney's Office on casework for prosecution.

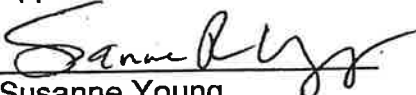
7. Reporting

All threats must be reported to the BGS Office of Security via the State of Vermont Security Incident Reporting System as soon as possible after the immediate threat has subsided or by phone at (802) 828-0777 if online reporting is not possible. An online report should be completed within 48 hours on a BGS Security Incident Reporting System incident report <https://sov.d3securityonline.com/VSOC/ealert/>. Supervisors must assist employees, when necessary, in providing complete details for the Security Incident Reporting System incident report.

8. Waivers

Agencies and Departments with BGS-approved security and threat response plans may carry out those plans with notification to and in consultation with BGS Security and DHR. Waivers will be reviewed and issued by BGS Commissioner and will be reviewed annually at a minimum or more frequently at the Commissioner's discretion.

Approved:


Susanne Young
Secretary of Administration

11/17/17
Date

Number 17.7 - DOMESTIC AND SEXUAL VIOLENCE POLICY

Effective Date: May 11, 2012

Applicable To: All classified, exempt, appointed, temporary, and contractual employees in the Executive Branch of the State of Vermont

Issued By: Department of Human Resources

Approved By: Jeb Spaulding, Secretary of Administration

PURPOSE & POLICY STATEMENT

The State of Vermont desires to achieve working environments for its employees that are free of any form of discrimination, intimidation or harassment. Toward that end, the State recognizes the significant and deleterious effects of domestic or sexual violence in its workplaces. The State believes in a workplace environment that supports safe, respectful, equitable relationships, and that challenges any social norm that supports domestic or sexual abuse.

The State will provide employees subject to domestic or sexual violence with an opportunity to simultaneously address their personal needs and work obligations. The State does not discipline or discriminate against employees because they are victims/survivors of domestic or sexual violence. Employees subjected to domestic or sexual violence should work with the State to identify their needs, discuss any need for appropriate leave, or otherwise identify how to best balance their personal circumstances and job duties.

GENERAL GUIDANCE

The State acknowledges that victimization can lead to absences, late arrivals, earlier departures, or decreased productivity. These employment issues may be a result of legal obligations, medical needs, safety planning, and/or trauma. Employees subject to abuse may request consideration for work schedule changes, use of appropriate leave, and/or request a leave of absence to help address related difficulties. The State should continue to work with employees during any and all stages of the abuse and/or recovery process. The State encourages victims/survivors and other affected employees to contact community agencies (listed below) for assistance, resources and referrals. Many provide free services for safety planning, accessing protection orders, counseling, support groups, shelter, advice and legal assistance. The State will attempt to make appropriate information, referrals, and resources available to victims and other employees.

The State encourages all employees to take advantage of available resources. You may contact the listed resources twenty-four hours a day and seven days a week:

Vermont Network Against Domestic and Sexual Violence, visit
<http://www.vtnetwork.org>,
Vermont Domestic Violence Hotline at 1-800-228-7395,
Vermont Sexual Violence Hotline at 1-800-489-7273, and
United Way Information and Referral, dial 211.

You may also contact our Employee Assistance Program (“EAP”), and/or your local human resources administrator. Employee discussions with EAP are confidential, and EAP may be contacted as follows:

Invest EAP
(888) 834-2830 (Toll free line available 24/7), and
www.investeap.org Password: vteap.

Employees who commit or threaten to commit domestic or sexual violence

State employees must refrain from committing or threatening to commit domestic or sexual violence. The State will take appropriate disciplinary action if an employee commits or threatens to commit domestic or sexual violence consistent with its legal, collective bargaining, and policy obligations. Any employee who commits acts/threats of domestic or sexual violence at the workplace or while using workplace resources, could also be subject to disciplinary action which may include, but is not limited to, dismissal. If appropriate, law enforcement will be contacted, which may result in arrest, criminal charges, and/or prosecution. Workplace resources include, but are not limited to, telephones, cellular phones, fax machines, computers, e-mail, mail, automobiles, pagers, office supplies, photocopy machines and work time.

If an employee intentionally uses his/her position or workplace resources to enable a perpetrator to harm/contact a victim, both the employee and perpetrator (if an employee) will also be subject to disciplinary action, which may include, but is not limited to, dismissal. If appropriate, law enforcement will be contacted, which may result in arrest, criminal charges, and/or prosecution.

The State strives to provide a safe and secure workplace for all state employees. When staff members are subjected to domestic or sexual violence, there may be times when enhanced security protocols are appropriate. The State of Vermont will evaluate workplace safety options when it learns of domestic and/or sexual violence or threats, and will consider the safety of identified staff and co-workers. Employees should immediately report known safety threats to their supervisors

and/or managers, who should alert the appointing authority and Buildings and General Services ("BGS") security.

The State recognizes that perpetrators and/or potential perpetrators may also need assistance and resources. The State will provide, when appropriate, referrals to community agencies, our Employee Assistance Program, and/or certified Batterer Intervention and/or Sex Offender Treatment Programs. We encourage all employees to take advantage of these resources. To find a Batterer Intervention Program in your area, call (802) 223-1302, or visit <http://vtnetwork.org>. To find a Sex Offender Treatment Program in your area, call (802) 247-3132 or (503) 643-1023, or visit <http://www.atsa.com/request-referral>.

AGENCY OF ADMINISTRATION

Department of Human Resources

SEARCH

CONTACT

EMPLOYEE WHISTLEBLOWER PROTECTION

Reporting Fraud: Employee Whistleblower Protection

The State of Vermont protects State employees who make good faith reports of “waste, fraud, abuse of authority, violations of law, or a threat to the health of employees, the public, or persons under the care of the state ...” The State also protects employees who refuse to violate an illegal order, when an employee timely asserts a good faith, reasonable belief that the order violates the law.

In addition, the State protects employees who talk to Legislators or testify before the General Assembly, provided employees do not disclose confidential information and clearly state they are not speaking on the State’s behalf.

Employees, supervisors and managers are encouraged to refer to the statute available on this page for details regarding employee rights and management’s responsibilities under this law. (See “Vermont Whistleblower Statute” under “Forms and Documents”.) The Vermont Whistleblower Protection law can also be found at 3 V.S.A. §§ 971-978.

The short training video is available. [Whistleblower Protection Overview \(https://outside.vermont.gov/sov/webservices/web_files/Presentation/index.htm\)](https://outside.vermont.gov/sov/webservices/web_files/Presentation/index.htm) is a practical guide for employees, supervisors, managers, leaders and HR administrators regarding how to operate under this law in the workplace. Text of the narrative is available within the presentation, under “Notes.”



Forms and Documents

Find forms and documents

(<https://humanresources.vermont.gov/tags/employee-whistleblower-protection>)

Vermont Statutes

Title 3: Executive

Chapter 27: STATE EMPLOYEES LABOR RELATIONS ACT

Sub-Chapter 04A: Whistleblower Protection (pages 1 – 4)

and

Sec. 1. 1 V.S.A. § 317(c), as amended May 2014 (page 5)

Chapter 27: STATE EMPLOYEES LABOR RELATIONS ACT

Sub-Chapter 04A: Whistleblower Protection

§ 971. Intent of subchapter

A state employee, as a trustee and servant of the people, shall be free to report, in good faith and with candor, waste, fraud, abuse of authority, violations of law, or a threat to the health of employees, the public, or persons under the care of the state without fear of reprisal, intimidation, or retaliation. (Added 2007, No. 128 (Adj. Sess.), § 1, eff. May 13, 2008.)

§ 972. Definitions

As used in this subchapter:

(1) "Department head" means a secretary of an agency, commissioner of a department, director of an office, or any other appointing authority in charge of an agency of state government.

(2) "Illegal order" means a directive to violate, or to assist in violating, a federal, state, or local law.

(3) "Public body" means:

(A) a department head or employee specifically designated or assigned to receive a complaint that constitutes protected activity under this chapter;

(B) a board or commission of state government;

(C) the Vermont state auditor;

(D) a state or federal agency that oversees the activities of a state agency;

(E) a law enforcement officer as defined in 20 V.S.A. § 2358(c)(1);

(F) a federal or state court, grand jury, petit jury, law enforcement agency, or prosecutorial office;

(G) the general assembly or the United States Congress; or

(H) an officer or employee of an entity listed in this subdivision (3) when acting within the scope of his or her duties.

(4) "Retaliatory action" includes any adverse performance or disciplinary action, including discharge, suspension, reprimand, demotion, denial of promotion, imposition of a performance warning period, or involuntary transfer or reassignment that is given in retaliation for the state employee's involvement in a protected activity, as set forth in section 973 of this title.

(5) "State employee" means an individual employed on a permanent or limited status basis by the state of Vermont. (Added 2007, No. 128 (Adj. Sess.), § 1, eff. May 13, 2008.)

§ 973. Protected activity

(a) A state agency, department, appointing authority, official, or employee shall not engage in retaliatory action against a state employee because the state employee refuses to comply with an illegal order or engages in any of the following:

(1) Providing to a public body a good faith report or good faith testimony that alleges an entity of state government, a state employee or official, or a person providing services to the state 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 the state.

(2) Assisting or participating in a proceeding to enforce the provisions of this subchapter.

(b) No state agency, department, appointing authority, official, or employee shall attempt to restrict or interfere with, in any manner, a state employee's ability to engage in any of the protected activity described in subsection (a) of this section.

(c) No state agency, department, appointing authority, or manager shall require any state employee to discuss or disclose his or her testimony, or intended testimony, prior to an employee's appearance to testify before the general assembly if he or she is not testifying on behalf of an entity of state government.

(d) No employee may divulge information that is confidential under state or federal law. An act by which an employee divulges such information shall not be considered protected activity under this section.

(e) In order to establish a claim of retaliation based upon the refusal to follow an illegal order, the employee shall assert at the time of the refusal his or her good faith and reasonable belief that the order is illegal. (Added 2007, No. 128 (Adj. Sess.), § 1, eff. May 13, 2008.)

§ 974. Communication with general assembly

(a) No entity of state government may prohibit a state employee from engaging in discussion with a member of the general assembly or from testifying before a legislative committee; provided, however, that an employee may not divulge confidential information, and an employee shall be clear that he or she is not speaking on behalf of an entity of state government.

(b) No state employee shall be subject to discipline, discharge, discrimination, or other adverse employment action as a result of the employee providing information to a legislator or legislative committee; provided, however, that the employee does not divulge confidential information, and that the

employee is clear that he or she is not speaking on behalf of any entity of state government. The protections set forth in this subchapter shall not apply to statements that constitute hate speech or threats of violence against a person.

(c) In the event that an appearance before a committee of the general assembly will cause an employee to miss work, he or she shall request to be absent from work and shall provide as much notice as is reasonably possible. The request shall be granted unless there is good cause to deny the request. If a request is denied, the decision and reasons for the denial shall be in writing and shall be provided to the employee in advance of the scheduled appearance. The protections set forth in this section are subject to the efficient operation of state government, which shall prevail in any instance of conflict. (Added 2007, No. 128 (Adj. Sess.), § 1, eff. May 13, 2008.)

§ 975. Enforcement and preemption

(a) Nothing in this subchapter shall be deemed to diminish the rights, privileges, or remedies of a state employee under other federal or state law or under any collective bargaining agreement or employment contract, except the limitation on multiple actions as set forth in this section.

(b) A state employee who files a claim of retaliation for protected activity with the Vermont labor relations board may not bring such a claim in superior court.

(c) A state employee who files a claim under this subchapter in superior court may not bring a claim of retaliation for protected activity under a grievance procedure or similar process available to the employee. (Added 2007, No. 128 (Adj. Sess.), § 1, eff. May 13, 2008.)

§ 976. Remedies

A state employee who brings a claim in superior court may be awarded the following remedies:

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

(2) back pay, lost wages, benefits, and other remuneration;

(3) in the event of a showing of a willful, intentional, and egregious violation of this subchapter, an amount up to the amount of back pay in addition to the actual back pay;

(4) other compensatory damages;

(5) interest on back pay;

(6) appropriate injunctive relief; and

(7) reasonable costs and attorney's fees. (Added 2007, No. 128 (Adj. Sess.), § 1, eff. May 13, 2008.)

§ 977. Posting

Every state agency and department shall distribute a copy of this law by August 1, 2008, and shall post and display notices of state employee protection under this subchapter in a prominent and accessible location in the workplace. (Added 2007, No. 128 (Adj. Sess.), § 1, eff. May 13, 2008.)

§ 978. Limitations of actions

An action alleging a violation of this subchapter 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 shall be brought within 180 days of the date of the alleged retaliatory action. (Added 2007, No. 128 (Adj. Sess.), § 1, eff. May 13, 2008.)

Sec. 1. 1 V.S.A. § 317(c), as amended May 2014:

(c) The following public records are exempt from public inspection and copying:

* * *

(41) documents reviewed by the Victim's Victims Compensation Board for purposes of approving an application for compensation pursuant to 13 V.S.A. chapter 167, except as provided by 13 V.S.A. §§ 5360 and 7043(c);

(42) except as otherwise provided by law, information that could be used to identify a complainant who alleges that a public agency, a public employee or official, or a person providing goods or services to a public agency under contract has engaged in a violation of 1 law, or in waste, fraud, or abuse of authority, or in an act creating a threat to health or safety, unless the complainant consents to disclosure of his or her identity.