



## **VERMONT STATE ETHICS COMMISSION**

### **2024 ANNUAL REPORT**

Submitted to the General Assembly January 17, 2025

*"Ethics is knowing the difference between what you have a right to do and what is right to do."*

-Potter Stewart

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This report: <https://ethicscommission.vermont.gov/reports>

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**John “Jack” Kennelly**, Esq.

Appointed by the Chief Justice of the Vermont Supreme Court

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**EXECUTIVE DIRECTOR**

Christina Sivret, Esq.

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Peggy Delaney

For Commissioner biographies see: <https://ethicscommission.vermont.gov/about-us/biographies>

## **INTRODUCTION**

Pursuant to 3 V.S.A. § 1226, the Vermont State Ethics Commission (“Commission”) submits its annual report to the General Assembly for calendar year 2024. As required by statute, this report summarizes the number and types of complaints made to the Commission and the disposition of those complaints; summarizes guidance provided by the Executive Director to State of Vermont public servants; provides an estimate of the number of trainings on the State Code of Ethics conducted by each branch of government; summarizes training activities undertaken by the Commission; and gives recommendations for legislative action to address governmental ethics.

## **ETHICS COMMISSION STAFF and RESPONSIBILITIES**

The Ethics Commission is made up of six volunteer commissioners, one part-time Executive Director, and one part-time Administrative Assistant. The Commission anticipates that a seventh commissioner will be appointed by the Speaker of the House in the coming months. It holds regular, public meetings at 10 a.m. on the first Wednesday of each month. The Executive Director’s responsibilities include setting meeting agendas; responding to inquiries and requests for advice; drafting all Ethics Commission documents, including complaint-related correspondence to advisory opinions; engaging in strategic planning; formulating policy; providing ethics education; testifying before the Legislature; and responding to media inquiries. Prior to 2022, the Executive Director was the Commission’s only employee. In 2022, the Commission hired a part-time administrative assistant to handle the administrative tasks of the Commission.

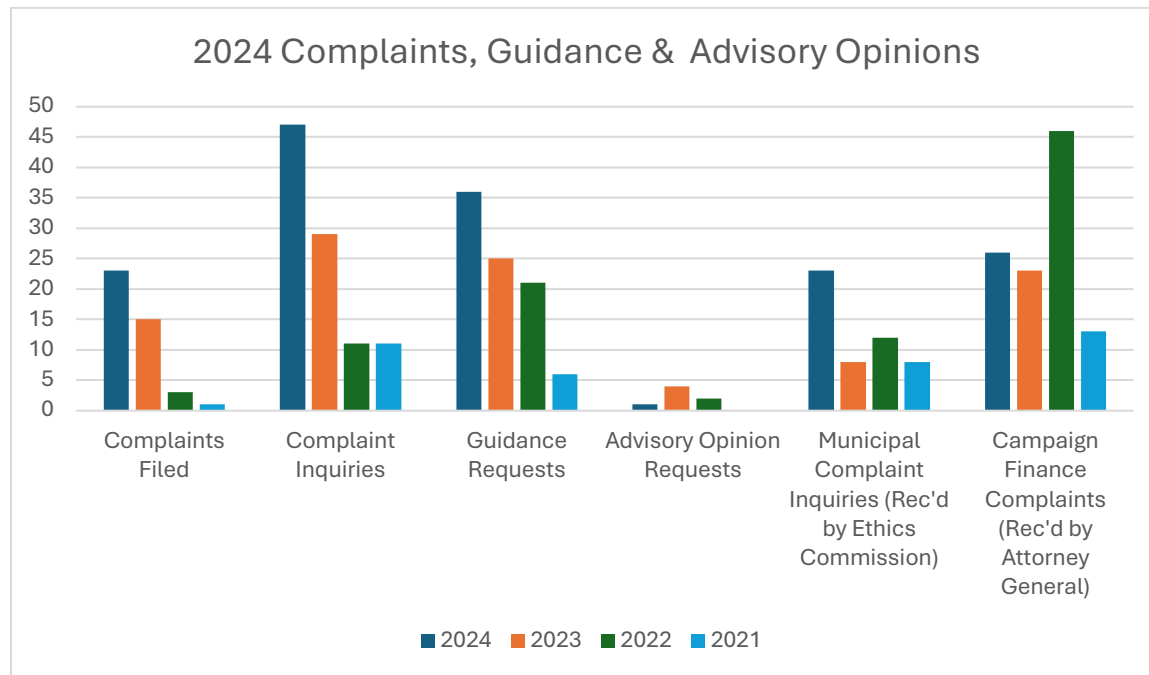
## **COMMISSION AUTHORITY**

The Commission has the authority to receive, review, and refer for investigation, written complaints from any source regarding government ethics in any branch of State government, as well as complaints about violations of the State’s campaign finance laws. 3 V.S.A. § 1223(a)-(b). The Commission also has the authority to receive, review, and refer for investigation written complaints from any source regarding violations of the new statewide Municipal Code of Ethics. 3 V.S.A. § 1223(b)(5).

Upon request, the Commission may also issue non-binding ethical Guidance and Advisory Opinions to State of Vermont public servants and to municipal officers subject to the statewide Municipal Code of Ethics. Guidance must relate to the requester’s own actions and is confidential unless the recipient chooses to disclose it. 3 V.S.A. § 1225(a). Advisory Opinions also must relate to the requester’s own conduct, do not contain any personally identifying information, and are posted to the Commission’s website within thirty days of issuance. 3 V.S.A. § 1225(b). Guidance and Advisory Opinions for State of Vermont public servants are formulated by interpreting and applying the State Code of Ethics, which went into effect on July 1, 2022. Guidance and Advisory Opinions for municipal officers are formulated by interpreting and applying the statewide Municipal Code of Ethics, which went into effect on January 1, 2025.

Starting September 1, 2025, the Commission will have the authority to investigate ethics complaints, hold hearings, make findings, and issue warnings, reprimands, or make recommendations regarding unethical conduct in State government only. 3 V.S.A §§ 1227-1229. However, the Commission’s ability to act upon this authority will be dependent upon the legislature allocating increased staffing and resources for the Commission for FY26.

In addition to the above, the Commission also serves as an educational resource for all State of Vermont public servants and municipal officers subject to the statewide Municipal Code of Ethics, providing online ethics training on demand and in-person trainings upon request.



## COMPLAINTS

### The Complaint Process

Any person can submit a confidential written complaint to the Ethics Commission regarding ethical conduct in State or municipal government, or violations of campaign finance law. 3 V.S.A. § 1223. Complaints are filed using the [complaint form](#) found on the Commission’s website. Once received, the Executive Director performs a preliminary review of each complaint to determine whether the complaint should be referred for further action, closed, or whether additional information is required to make a determination. A complaint may be closed if the subject matter of the complaint does not implicate governmental ethics or campaign finance law. When a complaint is referred for further action, the receiving entity uses its own policies and procedures to investigate and to decide what, if any, action to take. Where a complaint alleges unethical conduct in State government, the receiving entity is required to consult the Commission regarding the application of the State Code of Ethics to the facts alleged in the complaint. On or before November 15 of each year, each receiving entity is required to submit data to the Commission regarding the status and disposition of cases that have been referred by the Commission. 3 V.S.A. § 1226.

Below are examples of the types of complaints the Commission might receive and refer to other entities for further action.

- Complaints alleging a crime, a violation of governmental conduct regulated by law, or a violation of campaign finance law are referred to the Attorney General or the relevant State’s Attorney.

- Complaints alleging a violation of the Department of Human Resources Personnel Policy and Procedure Manual are referred to the Commissioner of Human Resources.
- Complaints regarding conduct committed by a judicial officer are referred to the Judicial Conduct Board.
- Complaints regarding conduct committed by an attorney are referred to the Professional Responsibility Board.
- Complaints regarding conduct committed by a State Representative are referred to the House Ethics Panel.
- Complaints regarding conduct committed by a State Senator are referred to the Senate Ethics Panel.
- Complaints alleging a violation of the statewide Municipal Code of Ethics

### **Summary of Complaints**

Twenty-three written complaints were filed with the Ethics Commission in 2024.

- Two complaints were closed without being referred due to insufficient facts to support a claim of a violation of the State Code of Ethics.
- Four complaints were referred to the Senate Ethics Panel, two were closed after additional review and inquiry and two remain open.
- Two complaints alleged violations of the Vermont Rules of Professional Conduct by attorneys and were referred to the Professional Responsibility Board.
- Two complaints were referred to the House Ethics Panel and were closed after additional review.
- Seven complaints were referred to the Department of Human Resources for further action, where they were subsequently closed after additional review and inquiry.
- Six municipal ethics complaints were closed without being referred due to the lack of a referral option.

As in prior years, the Commission received more complaint inquiries than it did formal written complaints. In addition to the 23 complaints referenced above, the Commission received 47 complaint inquiries that did not result in the submission of a formal written complaint. Complaint inquiries covered a variety of topics, including municipal ethics; retaliation; conflicts of interest; preferential treatment; misuse of resources; misuse of positions; and failure to comply with other state or federal laws, rules, or policies.

### **Municipal Complaints**

Although the statewide Municipal Code of Ethics in H.875 (Act 171) didn't take effect until January 1, 2025, the Commission received 6 written complaints regarding municipal ethics and 23 complaint inquiries in 2024. The written complaints were closed and not referred due to the lack of a referral option.

## GUIDANCE

### Guidance Process

State of Vermont public servants and municipal officers subject to the statewide Municipal Code of Ethics may request confidential ethics Guidance from the Executive Director of the Ethics Commission regarding the requester's own actions, including actions related to managerial decision-making responsibilities. Guidance and requests for Guidance may be oral or in writing. 3 V.S.A. § 1225(b).

### Summary of 2024 Guidance Requests

Guidance requests have steadily increased since the passage of the State Code of Ethics in July 2022 and the implementation of the Code of Ethics training requirements. The Commission received 36 Guidance requests in 2024, of which 10 were from municipal officials. In some cases, requests touched on more than one topic within a single request.

- Preferential Treatment (15)
- Incompatible Outside Employment (1)
- Gifts (6)
- Conflicts of Interest and the Appearance of Conflicts of Interest (21)
- Post-Employment Restrictions (3)
- Misuse of Position (4)
- Other (3)



## ADVISORY OPINIONS

### Advisory Opinion Process

State of Vermont public servants may request an Advisory Opinion from the Executive Director regarding any issue related to government ethics and the requester's ongoing or prospective conduct. 3 V.S.A. § 1225(b). Starting on January 1, 2025, municipal officers subject to the statewide Municipal Code of Ethics may do the same. 24 V.S.A. § 1994(a).

In 2023 the Commission adopted and published [Advisory Opinion procedures](#), created an [Advisory Opinion request form](#), and drafted [Advisory Opinion FAQs](#), all of which can be found on the Commission [website](#).

The Commission reviews every request for an Advisory Opinion. However, the Commission may decline to issue an opinion for the following reasons:

- The subject matter of the request does not relate to the State Code of Ethics, codified in 3 V.S.A. Chapter 31, §§ 1201-1205; presents a question that falls outside the jurisdiction of the Commission; or would necessitate the interpretation of a statute outside of the Commission's jurisdiction;
- Involves past conduct that is not ongoing;
- Fails to provide sufficient factual background for the Commission to provide meaningful advice;
- Provides facts that appear inaccurate, questionable, or in dispute;
- Involves factual scenarios that are vague, highly unlikely, or overly speculative;
- Concerns rights or conduct that are the subject of pending litigation involving the requester;
- Involves an issue that is already answered by the plain language of the statute;
- The Ethics Commission determines that the advice sought would be inappropriate or not in the best interest of the public;
- The timeline specified in the request is too short to draft an opinion;
- For any other reason at the discretion of the Commission.

Requests for an Advisory Opinion are acknowledged within 5 business days of receipt. The Executive Director then reviews the request and notifies the requester whether it has been accepted, denied, or whether more information is needed to make a decision. If the request is accepted, the Executive Director will draft an Opinion for consideration by the full Commission. In drafting the Advisory Opinion, the Executive Director may consult with others who have information, facts, and/or knowledge relevant to the formulation of the opinion. The Commission endeavors to finalize Advisory Opinions within 30 days of receiving all relevant information. Final Advisory Opinions are posted on the Commission's

website within 30 days of issuance, and do not contain the requester’s personally identifying information. 3 V.S.A. § 1225(b).

**Summary of 2024 Advisory Opinion Requests**

The Commission received one request for an updated Advisory Opinion in 2024. The updated opinion can be found on the Commission’s website.

- [Revised Advisory Opinion No. 4-2023](#)  
Topics: Boards & Commissions, Conflict of Interest, Appearance of Conflict of Interest, Good Cause, Rule of Necessity

**YEAR IN REVIEW**

In the first half of 2024, the Ethics Commission focused its efforts on advocating for legislation related to financial disclosure requirements, municipal ethics, and the expansion of Ethics Commission jurisdiction. In May 2024, the legislature passed H.875, which established a statewide municipal code of ethics, expanded financial disclosure requirements for Executive Officers and candidates for certain offices, and established hearing and investigatory powers for the Commission.

During the second half of the year, the Ethics Commission turned its attention to creating a free online municipal ethics training for municipal officers, and handling an increased demand for Commission services, particularly guidance requests, complaints, and complaint inquiries.

| Complaints                           | Complaint Inquiries                  | Guidance Requests                   | Advisory Opinion Requests            |
|--------------------------------------|--------------------------------------|-------------------------------------|--------------------------------------|
| <b>44%</b> increase<br>2023 v. 2024  | <b>34%</b> increase<br>2023 v. 2024  | <b>44%</b> increase<br>2023 v. 2024 | <b>80%</b> decrease<br>2023 v. 2024  |
| <b>400%</b> increase<br>2022 v. 2023 | <b>163%</b> increase<br>2022 v. 2023 | <b>19%</b> increase<br>2022 v. 2023 | <b>100%</b> increase<br>2022 v. 2023 |

In December, Executive Director Christina Sivret, Commission Chair Paul Erlbaum, and Commissioner Jack Kennelly attended the 45<sup>th</sup> annual Council on Governmental Ethics Law (COGEL) conference in Los Angeles, CA. COGEL is a professional organization for government agencies and other organizations working in ethics, elections, freedom of information, lobbying, and campaign finance. Executive Director Sivret spoke on the panel, “I Will Survive: How Ethics Commissions Combat Existential Threats from Lawmakers, Lawyers, and More”, sponsored by the Campaign Legal Center. The other panelists were the Ethics Officer for Atlanta, and the Executive Director of the Alabama Ethics Commission. Vermont was invited to participate as a positive example of a state where ethics laws have been moving forward. The Executive Director and the commissioners also networked with government ethics professionals from other states and attended learning sessions on topics related to ethics education and training, enforcement, compliance, and professional development.

**1. 2024 Legislative Efforts**

**Municipal Ethics**

In January 2024, the Commission submitted a proposed framework for municipal ethics, as required by H.125 (Act 53). The framework was the result of research conducted throughout 2023, including



listening sessions with members of the public and municipal officials and a national survey of municipal ethics best practices. The recommendations were incorporated into two draft bills, which eventually merged to become H.875 (Act 171). H.875 was passed by the legislature in May 2024, and became law in June of 2024, with delayed effective dates in 2025 for several provisions. The primary purpose of the municipal ethics portion of the bill is to set minimum statewide standards while allowing municipalities to adopt supplemental (or maintain existing) ethics policies that do not conflict with the statewide code. The bill established a statewide Municipal Code of Ethics, with an effective date of January 1, 2025, and allows the Commission to provide municipalities with free training and advisory services; requires municipalities to investigate and record ethics complaints, which can be filed either with the municipality or with the Ethics Commission; requires municipalities to appoint an Ethics Liaison to serve as a point of contact for the Ethics Commission; and requires ethics training for certain municipal officers. *The draft version H.875 contained retaliation protections for anyone filing a written ethics case with a relevant entity, such as the State Ethics Commission, the municipality, the courts, or the Office of the Attorney General. However, in a decision the Ethics Commission strongly disagrees with, these protections were largely removed from the final version of the bill.*

### **Financial Disclosure**

In addition to addressing municipal ethics, H.875 expanded financial disclosure requirements for Executive Officers and candidates for non-federal statewide office, state senate, and state representative to bring them more in line with national best practices. Starting January 1, 2026, filers will be required to disclose individual stock holdings valued at \$25,000 or more; interests in virtual currencies or trusts valued at \$25,000 or more; municipal or State bond holdings issued in Vermont valued at \$25,000 or more; non-commercially reasonable loans made outside the ordinary course of business; and ownership interests in companies with business before municipal or State government. Financial disclosure will also be required for candidates for county office. Significantly, H.875 also established financial penalties of ten dollars a day, up to a maximum of \$1,000, for the late or non-filing of financial disclosure forms.

### **Expansion of Commission Authority**

Pursuant to H.875, beginning September 1, 2025, the Commission will have the authority to investigate, hold hearings, and issue findings regarding alleged ethical misconduct in State government. In cases where hearings conclude that unethical conduct has been committed, the Commission will be able to issue warnings or reprimands and recommend actions. This can include facilitated mediation, additional training and education, referrals to counseling and wellness support, or other remedial actions.

### **Commission Membership**

H.875 also expanded the Commission's membership from five members to seven, adding one member to be appointed by the Speaker of the House and one to be appointed by the Senate Committee on Committees. As of January 2025, only the Senate Committee on Committees has appointed a new member. The Speaker of the House is expected to do so in 2025.

## **2. Ethics Data Collection**

Pursuant to 3 V.S.A. § 1226(a), certain State entities are required report to the State Ethics Commission aggregate data on ethics complaints not initially submitted to the Commission, with the complaints separated by topic, and the disposition of those complaints, including any prosecution, enforcement action, or dismissal. In 2024, the reporting period covered June 10th, 2024 - the effective date of the

legislation - through November 15th, 2024. The data received from the various required reporters is summarized as follows:

#### **A. Office of the Attorney General**

The Office of the Attorney General is required to report complaints it receives regarding governmental misconduct, including campaign finance violations, to the Ethics Commission. 17 V.S.A. § 2904a. In 2024, their office reported 28 open campaign finance violation complaints. The Attorney General closed 22 cases in 2024 (including 13 that were filed in 2022; 1 from 2023; and 8 from 2024). Currently, the Attorney General reports 19 open complaints, and one open matter that arose from independent review.

#### **B. The Department of Human Resources**

The Department of Human Resource reported that it received one complaint implicating the ethics concepts reflected in the Stated Code of Ethics and in relevant policies in DHR's Personnel Policy Manual that was not referred by the Ethics Commission. The allegations in the complaint, which arose out of the Department of Environmental Conservation, recounted conduct which, in judgment of DHR implicated the Vermont Code of Ethics provision prohibiting the misuse of government resources, 3 V.S.A. § 1203f. The matter was investigated by DHR's Investigations Unit, and at the time of this report had not yet been resolved.

#### **C. The Office of the Court Administrator**

The Office of the State Court Administrator reported that during the relevant time period it had no complaints to report pursuant to 3 V.S.A. § 1226(a)(7).

#### **D. The Professional Responsibility Board**

The Professional Responsibility Program reported that it received 13 complaints against State-employed attorneys. Of those 13 complaints, 8 were dismissed either at screening or on review of a screening dismissal by the Chair of the Professional Responsibility Board. One complaint was referred to the Bar Assistance Program. Four complaints remained pending at the time of the report. Two of the 13 complaints pertained to the requirement in 3 V.S.A. § 1203j that public servants must comply with laws, rules, and policies. Both of those cases were still pending at the time of the report.

#### **E. The Judicial Conduct Board**

The Judicial Conduct Board reported 25 complaints filed between June 10 and November 15, 2024. Of these complaints, 17 were noted as dismissed; in 3, the Board requested additional information; in 4, an "initial inquiry" had been completed and an investigation begun. One complaint was withdrawn.

#### **F. House Ethics Panel**

The House Ethics Panel reported that in 2024, it received two complaints about House members that were not referred to the Panel by the Commission. At the time of the report, the final dispositions of those complaints were still pending. Both complaints pertained to the requirement in 3 V.S.A. § 1203j that public servants comply with laws, rules, and policies.

**G. Senate Ethics Panel**

The Senate Ethics Panel reported on December 31, 2024 that, during the 2023-24 biennium, it received seven complaints. Six of these complaints were referred by the Ethics Commission. The Panel received an additional complaint from another source. Of the six referred by the Commission, one was referred to the Senate Sexual Harassment Panel; three were dismissed after a preliminary review determined that there was not probable cause to believe that an ethical violation had occurred; and, two of the matters remain open. The complaint that was directly received by the Panel was dismissed.

**3. Ethics Training**

Section 1205 of the State Code of Ethics requires all State of Vermont public servants take State Code of Ethics training within 120 days of State service and every three years thereafter. The Ethics Commission is one of five statutorily approved training providers. In 2022 the Commission partnered with the Center for Achievement in Public Service (CAPS), another approved training provider, to develop a comprehensive ethics training available to all State of Vermont public servants through the State Learning Management System (LMS) and on the Commission website.

Pursuant to § 1226(2)(B) of the Code, the Commission is required to provide an estimate of Code of Ethics trainings conducted by each branch of government in its annual report. The below numbers, broken down by branch of government, are derived from the number of people who have taken the training through LMS and the Commission website. The CAPS/Commission training is currently the only Code of Ethics training available to public servants in the executive and judicial branches of government, therefore the below numbers represent the total number of State of Vermont employees and public servants in the executive and judicial branches of government who completed the training as of December 31, 2024.

**CAPS/LMS TRAINING DATA**

| Department/Agency                | Completed | In Progress | Grand Total | Percentage Complete |
|----------------------------------|-----------|-------------|-------------|---------------------|
| Administration Agency            | 14        | 2           | 26          | 53.85               |
| Agriculture, Food & Mrkts Agency | 93        | 13          | 144         | 64.58               |
| Attorney General's Office        | 72        | 2           | 86          | 83.72               |
| Auditor of Accounts' Office      | 12        |             | 16          | 75.00               |
| Buildings & General Services     | 210       | 16          | 337         | 62.31               |
| Cannabis Control Board           | 6         | 1           | 20          | 30.00               |
| Children and Families            | 566       | 42          | 994         | 56.94               |
| Clerk of the House               | 4         |             | 5           | 80.00               |
| Commerce & Community Dev Agency  | 48        | 6           | 136         | 35.29               |

|   |     |    |     |       |
|---|-----|----|-----|-------|
| Corrections                               | 372 | 63 | 876 | 42.47 |
| Defender General's Office                 | 55  | 8  | 77  | 71.43 |
| Dept of Human Resources<br>External Users | 9   | 1  | 21  | 42.86 |
| Digital Services Agency                   | 276 | 18 | 343 | 80.47 |
| Disabilities Aging Ind. Living            | 238 | 13 | 335 | 71.04 |
| Education Agency                          | 100 | 9  | 155 | 64.52 |
| Enhanced 911 Board                        | 6   | 1  | 10  | 60.00 |
| Environmental Conservation                | 165 | 18 | 306 | 53.92 |
| Executive Office                          | 4   |    | 13  | 30.77 |
| Finance & Management                      | 18  | 1  | 26  | 69.23 |
| Financial Regulation                      | 53  | 6  | 100 | 53.00 |
| Fish & Wildlife                           | 86  | 4  | 168 | 51.19 |
| Forests, Parks & Recreation               | 90  |    | 153 | 58.82 |
| Green Mountain Care Board                 | 18  | 2  | 30  | 60.00 |
| Health                                    | 425 | 34 | 639 | 66.51 |
| Human Resources                           | 81  | 1  | 99  | 81.82 |
| Human Rights Commission                   | 3   | 2  | 5   | 60.00 |
| Human Services Agency                     | 33  | 7  | 64  | 51.56 |
| Joint Fiscal Office                       | 14  |    | 17  | 82.35 |
| Judiciary                                 | 436 | 7  | 466 | 93.56 |
| Labor                                     | 198 | 5  | 219 | 90.41 |
| Labor Relations Board                     | 1   |    | 3   | 33.33 |
| Legislative Offices                       | 39  | 1  | 64  | 60.94 |
| Libraries (18)                            | 15  | 2  | 18  | 83.33 |
| Lieutenant Governor's Office              |     |    | 2   | 0.00  |
| Liquor and Lottery                        | 27  | 3  | 76  | 35.53 |
| Mental Health                             | 136 | 6  | 198 | 68.69 |
| Military                                  | 44  | 5  | 157 | 28.03 |
| Natural Resources Agency                  | 17  |    | 34  | 50.00 |
| Natural Resources Board                   | 19  |    | 26  | 73.08 |
| Public Safety                             | 427 | 31 | 727 | 58.73 |
| Public Service Department                 | 52  | 2  | 54  | 96.30 |
| Public Utility Commission                 | 18  | 1  | 26  | 69.23 |
| Secretary of State's Office               | 39  | 5  | 74  | 52.70 |
| Secretary of the Senate                   | 2   |    | 6   | 33.33 |

|                                  |             |            |             |              |
|----------------------------------|-------------|------------|-------------|--------------|
| Sergeant at Arms' Office         | 11          |            | 14          | 78.57        |
| State Ethics Commission          |             | 1          | 2           | 0.00         |
| State Treasurer's Office         | 25          | 2          | 42          | 59.52        |
| State's Attorneys and Sheriffs   | 2           |            | 2           | 100.00       |
| Taxes                            | 120         | 9          | 148         | 81.08        |
| Transportation Agency            | 1172        | 5          | 1242        | 94.36        |
| Vermont Commission on Women      | 2           |            | 2           | 100.00       |
| Vermont Criminal Justice Council | 9           |            | 12          | 75.00        |
| Vermont Health Access            | 277         | 18         | 356         | 77.81        |
| Vermont Veterans' Home           | 35          | 11         | 163         | 21.47        |
| VOSHA Review Board               | 1           |            | 1           | 100.00       |
| <b>Grand Total</b>               | <b>6195</b> | <b>384</b> | <b>9335</b> | <b>66.36</b> |

#### ETHICS COMMISSION WEBSITE TRAINING DATA

|  |            |
|--|------------|
| Vermont Climate Council                          | 16         |
| Vermont Fish & Wildlife Hunter Education Program | 20         |
| Department of Libraries                          | 0          |
| VHFA   | 1          |
| Vermont Bond Bank                                | 4          |
| Department of State's Attorneys & Sheriffs       | 0          |
| Natural Resources Board                          | 15         |
| VEDA   | 12         |
| VT 250 <sup>th</sup> Commission                  | 8          |
| Other  | 62         |
| <b>Grand Total</b>                               | <b>138</b> |

In addition to online training development, the Commission participated in three ethics trainings for government employees, including VTLEAD classes with the Center for Achievement in Public Service (CAPS) and a training for the Opioid Settlement Advisory Committee.

## RECOMMENDATIONS

Pursuant to statute, the Commission is required to provide the legislature with any recommendations related to government ethics and campaign finance laws. The following summarizes the recommendations of the Commission for this legislative session:

### **1. Begin to consider a method for enforcement of the municipal code of ethics**

In 2023, at the request of the legislature, the Ethics Commission researched and developed a proposed municipal ethics framework for Vermont. At the time, the Ethics Commission did not include enforcement options in the report, as it didn't think the issue was ripe for discussion. The Ethics Commission has now updated the report with options for the legislature to consider with respect to enforcement of the statewide Municipal Code of Ethics. The update can be found below.

### **2. Expansion of funding and staffing of the Commission**

The Commission is currently staffed with one part-time Executive Director and one part-time administrative assistant. This is the same staffing level that existed prior to the passage of the State Code of Ethics in 2022. Since that time, the Ethics Commission has experienced continuously increasing demand for its services. Additionally, the passage of H.875, which expands the scope of services provided by the Commission to include municipalities, has further increased the Commission's workload. The Ethics Commission recommends that the Legislature provide increased funding for the Commission to support the addition of one full-time Legal Counsel and one full-time staff attorney.

### **3. Expansion of membership of the Commission**

When fully functioning, the Ethics Commission will have 7 members. Each of the legislative bodies now has an appointment to the Commission. The judicial branch is represented by two appointees. However, the executive branch remains unrepresented. The Ethics Commission recommends that the legislature add an appointment for the Governor. This could be accomplished by increasing the number of members on the Commission, or by converting an existing appointment to an appointment for the Governor. If the legislature decides to add a commission member, we recommend adding a second appointment for a member of the executive branch, such as the Secretary of State, to ensure the Commission maintains an odd number of members for voting purposes.

### **4. Development of mediation options for ethics complaints**

The Commission recognizes that a number of concerns brought to the Commission could best be resolved through alternative dispute resolution, particularly in the municipal context. The Ethics Commission sees the value in offering mediation services to assist in resolving complaints. Such mediation services should be conducted by an independent party or entity, with no interest in, or knowledge of, the underlying complaint. The Commission recommends that the legislature consider supporting the development of mediation services to be offered by or through the Ethics Commission.

### **5. Improvements and corrections to H.875**

Following the last legislative session, the Ethics Commission has identified several areas where the language of H.875 could be clarified or otherwise improved. The Commission recommends addressing

these issues. For example:

- a. There is confusion over the definition of “municipality.” For example, the Ethics Commission has heard from officials in Water Districts and Fire Districts operating under the assumption that the statewide Municipal Code of Ethics applies to them. Whether the statewide Municipal Code of Ethics should cover School Districts is another matter that has yet to be discussed. The Commission recommends further discussion of how municipality is defined.
- b. Limiting the municipal officials who are required to take ethics training to a subset of those who are subject to the statewide Municipal Code has led to confusion regarding who is required to take the training. For clarity, and for the benefit of those subject to the municipal code of ethics, the Commission recommends expanding the training requirement to all cover municipal officials subject to the Municipal Code of Ethics.
- c. Expand the applicability of the statewide Municipal Code of Ethics to include all municipal officials. When compared to other states, Vermont is an outlier in the application of a statewide municipal code to a subset of municipal officials only.
- d. Executive Officer Financial Disclosures. Executive Officer Financial Disclosures. Clarify that the effective date for both Sec. 5, amending 3 V.S.A. § 1211(a), and Secs. 7, amending 3 V.S.A. § 1221(a), is January 1, 2026.
- e. Financial Disclosures. 3 V.S.A 1211(a)(6)(A)-(E) provides for the disclosure of individual stock holdings and interests in trusts, bespoke investment accounts, virtual currencies, and State and municipal bonds valued at \$25,000 or more. The Ethics Commission initially recommended a disclosure threshold of \$10,000 or more. We recommend that the current \$25,000 threshold be lowered to bring Vermont in line with national standards, where disclosure requirements are commonly set between \$1,000-\$10,000.
- f. The Ethics Commission strongly recommends establishing statutory protections from retaliation for municipal officials and members of the public who file written municipal ethics complaints.

## **6. Improvements to lobbyist disclosures**

Lobbyist activity continues to increase in the state and has an increasing impact on legislation. The State Ethics Commission urges the legislature to consider changes to lobbyist disclosures in Vermont. In national surveys, Vermont’s on-line system has received high marks for its ease of access by the public. However, the strength of required lobbyist disclosures in Vermont as low when compared with New England states. Vermont requires fewer substantive disclosures from both individual lobbyists, and lobbyist employers and firms.<sup>1</sup> In addition, Vermont law does not require any audits of lobbyist disclosures. Thus, there is minimal scrutiny of the information that is submitted by lobbyists.

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<sup>1</sup> According to the non-profit “F Minus”, which tracks lobbyist disclosures pertaining to climate change: “Vermont makes it hard to know. Lobbyists report their compensation but don’t have to report positions or bill numbers. Expenses are reported in considerable detail, including line items for Advertising and Telemarketing, but this information would be a lot more useful if it could be conclusively linked to legislation.”

## **7. Improvements to candidate disclosures related to lobbying**

In the previous session, the legislature updated several of the disclosure requirements for candidates. The Commission encourages the legislature to add an additional requirement these disclosure provisions. At present, candidates for office are required to disclose whether their spouses or domestic partners are lobbyists and, if so, they are required to disclose lobbying firm as well (if applicable). 17 V.S.A. § 2414 (a)(7). The Commission believes that the voting public would also benefit from the disclosure of the issues that the lobbyist spouse/domestic partner is lobbying.

# **Update to the 2024 Municipal Ethics Report**

## **ENFORCEMENT OF THE MUNICIPAL CODE OF ETHICS**

### **INTRODUCTION**

In 2024, after directing the Ethics Commission to prepare a proposal for a municipal ethics framework for Vermont, the legislature passed a statewide Municipal Code of Ethics. The Code mirrors the State Code of Ethics in that it sets a floor for ethical standards in municipal government but allows municipalities to adopt ethics policies that supplement the State Code of Ethics or set higher ethical standards.

In preparing municipal ethics framework, the Ethics Commission did not make recommendations for an enforcement protocol. The Commission now offers three potential enforcement options with respect to municipal ethics:

(1) a localized format, wherein all enforcement takes place at the local level, under municipal control and subject to rules and procedures developed by each municipality;

(2) a regional format, wherein regional boards are established to investigate municipal ethics complaints; and,

(3) a statewide format, where the State Ethics Commission adjudicates municipal ethics complaints.

Each of these options, which are meant to serve as a starting point for further discussions, has distinct pros and cons.

## **THREE POTENTIAL ENFORCEMENT STRUCTURES**

### **1. Municipalities Enforce Ethics Rules**

Under this option, each municipality would continue to oversee compliance with and the enforcement of ethics rules according to their own individualized complaint investigation policies and procedures.

This rubric would present several advantages:



- Where municipalities have adopted supplemental, municipal-specific ethics policies, local decision-makers will have more expertise and experience applying those policies to municipal complaints.
- Decisions would be made by individuals familiar with local issues and dynamics.
- Documents and witnesses are more likely to be maintained and available at the local level.

However, there are downsides to this approach:

- A frequent concern raised by members of the public and municipal officials seeking assistance from the Ethics Commission (one also voiced frequently by citizens during the Commission's listening sessions leading up to passage of H.875), is about impartiality in addressing ethics complaints at the local level.
- There is a high likelihood that interpretations of the statewide Municipal Code of Ethics would be inconsistent throughout the state. In addition, it is possible that interpretations may vary even within a municipality, depending on the adjudicating ethics body.
- In smaller communities, there is a substantial risk that conflicts of interest may create difficulty in adjudicating matters (either because of excess recusals or because of the close-knit nature of smaller towns and villages).
- Meaningful data would be difficult to collect and interpret because of the diffuse nature of this option. As such, the legislature may have future difficulties in gaining information that would inform of necessary changes and amendments to the law.

## **2. Regional Ethics Boards Are Created to Enforce Ethics Rules**

Under this approach, the state would establish regional ethics boards to receive and investigate complaints. Each regional board would be made up of residents from municipalities within the region. The board would then be tasked with investigating and hearing complaints that are filed against municipal officials and employees within the region. In this model, regional boards would be responsible for accepting and investigating complaints; adjudicating those complaints (where appropriate); and enforcement (where appropriate); or some combination thereof.

There are several benefits to this approach:

- The approach would allow the public to have greater confidence that complaints are being handled in an impartial manner, while maintaining a level of local control.
- Because adjudication would come from a smaller number of entities when compared to the municipal enforcement model, there is greater likelihood of consistency in application.
- Reduces the burden on individual municipalities, because the municipality would no longer have to conduct its own investigations or hearings.

The potential challenges of this approach include:

- By establishing new regional boards, the approach would require the establishment of a new layer of bureaucracy for ethics matters. This potentially adds costs and inefficiencies.
- The added layer of the regional boards would likely extend the time in which matters get investigated and adjudicated.
- Although the regional boards would be made up of municipal representatives, some municipalities would not have a representative on the regional board.

### **3. The State Ethics Commission Enforces the Municipal Code of Ethics**

Under this option, the Vermont State Ethics Commission would play the primary role in investigating and adjudicating municipal ethics complaints. The Commission would be able impose sanctions or recommend corrective actions. Respondents would have the right to appeal the adjudication to the Superior Court.

This approach has several benefits:

- Centralized enforcement of the Code would ensure consistency of application of the Code.
- Because the Commission has no perceived affiliation with any municipal government, this approach would likely give confidence of impartiality to complainants and respondents alike.
- Reduces burdens on individual municipalities, because the municipality would no longer have to conduct its own investigations or hearings.
- Because the Commission is solely dedicated to ethics issues, the Commission may be able to bring consistent expertise to municipal ethics matters with lower overall costs and higher efficiency than other options.
- The enforcement process would be simplified for municipalities.
- This enforcement method would allow for robust collection of data, which might then be more readily usable for the legislature in amending the law as necessary.

The negative aspects of this approach might include:

- The length of investigations and adjudications may extend longer than other options, because the Commission would need to gather information, and interview witnesses throughout the state for each case.
- The Commission is currently inadequately budgeted and staffed to manage a statewide municipal caseload and would require significant upscaling.
- Because each municipality may have municipal-specific ethics policies, a determination would have to be made regarding whether the Commission would have authority to handle complaints of this nature, and, if so, it may be at a disadvantage in interpreting and adjudicating these unique, localized prohibitions.

- In matters where corrective action is called for, the Commission would likely have higher monitoring costs than at the local level.

## **RECOMMENDATION**

The Commission recommends a hybrid approach to enforcement of the Municipal Code of Ethics. Under this structure, municipalities would receive, investigate, and adjudicate complaints. Respondents would then have the right of appeal to the State Ethics Commission. The Commission would receive investigative reports and documentation, from the municipality. The Commission would then conduct an appeals hearing on the matter and decide whether the municipality's determination should be upheld, dismissed, or amended. The Respondent would have the right to appeal the Ethics Commission's decision to the Superior Court. This structure attempts to balance the interests and local expertise of the municipality with the consistency and expertise of the Commission.

## **CONCLUSION**

The Ethics Commission believes its most productive role at this time is to continue to implement the ethics legislation that has been passed during the last three years, and to raise awareness about the Code of Ethics through training and the continued provision of ethics advice and guidance. In the end, government integrity is recognized only when the public is confident that its servants are doing the right thing. The Ethics Commission is committed to its role in that effort.

Respectfully submitted:



Vermont State Ethics Commission,  
Christina Sivret  
Executive Director

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