



## DETROIT PUBLIC SCHOOLS



### **THE WHISTLEBLOWERS' PROTECTION ACT Act 469 of 1980**

AN ACT to provide protection to employees who report a violation or suspected violation of state, local, or federal law; to provide protection to employees who participate in hearings, investigations, legislative inquiries, or court actions; and to prescribe remedies and penalties.

History: 1980, Act 469, Eff. Mar. 31, 1981.

*The People of the State of Michigan enact:*

#### **15.361 Definitions.**

##### Sec. 1.

As used in this act:

- (a) "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied. Employee includes a person employed by the state or a political subdivision of the state except state classified civil service.
- (b) "Employer" means a person who has 1 or more employees. Employer includes an agent of an employer and the state or a political subdivision of the state.
- (c) "Person" means an individual, sole proprietorship, partnership, corporation, association, or any other legal entity.
- (d) "Public body" means all of the following:
  - (i) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of state government.
  - (ii) An agency, board, commission, council, member, or employee of the legislative branch of state government.
  - (iii) A county, city, township, village, intercounty, intercity, or regional governing body, a council, school district, special district, or municipal corporation, or a board, department, commission, council, agency, or any member or employee thereof.
  - (iv) Any other body which is created by state or local authority or which is primarily funded by or through state or local authority, or any member or employee of that body.
  - (v) A law enforcement agency or any member or employee of a law enforcement agency.
  - (vi) The judiciary and any member or employee of the judiciary.



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### **15.362 Discharging, threatening, or otherwise discriminating against employee reporting violation of law, regulation, or rule prohibited; exceptions.**

#### Sec. 2.

An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because the employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, a violation or a suspected violation of a law or regulation or rule promulgated pursuant to law of this state, a political subdivision of this state, or the United States to a public body, unless the employee knows that the report is false, or because an employee is requested by a public body to participate in an investigation, hearing, or inquiry held by that public body, or a court action.

### **15.363 Civil action in circuit court for injunctive relief or actual damages; "damages" defined; clear and convincing evidence required.**

#### Sec. 3.

(1) A person who alleges a violation of this act may bring a civil action for appropriate injunctive relief, or actual damages, or both within 90 days after the occurrence of the alleged violation of this act.

(2) An action commenced pursuant to subsection (1) may be brought in the circuit court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has his or her principal place of business.

(3) As used in subsection (1), "damages" means damages for injury or loss caused by each violation of this act, including reasonable attorney fees.

(4) An employee shall show by clear and convincing evidence that he or she or a person acting on his or her behalf was about to report, verbally or in writing, a violation or a suspected violation of a law of this state, a political subdivision of this state, or the United States to a public body.

### **15.364 Court judgment; order; remedies; awarding costs of litigation.**

#### Sec. 4.

A court, in rendering a judgment in an action brought pursuant to this act, shall order, as the court considers appropriate, reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages, or any combination of these remedies. A court may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, if the court determines that the award is appropriate.

### **15.365 Violation; civil fine.**



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Sec. 5.

(1) A person who violates this act shall be liable for a civil fine of not more than \$500.00.

(2) A civil fine which is ordered pursuant to this act shall be submitted to the state treasurer for deposit in the general fund.

### **15.366 Diminishment or impairment of rights; collective bargaining agreement; protection of confidentiality of communications; disclosures.**

Sec. 6.

This act shall not be construed to diminish or impair the rights of a person under any collective bargaining agreement, nor to permit disclosures which would diminish or impair the rights of any person to the continued protection of confidentiality of communications where statute or common law provides such protection.

### **15.367 Employer not required to compensate employee for participation in investigation, hearing, or inquiry.**

Sec. 7.

This act shall not be construed to require an employer to compensate an employee for participation in an investigation, hearing or inquiry held by a public body in accordance with section 2 of this act.

### **15.368 Posting notices of protections and obligations required.**

Sec. 8.

An employer shall post notices and use other appropriate means to keep his or her employees informed of their protections and obligations under this act.

### **15.369 Short title.**

Sec. 9.

This act shall be known and may be cited as “the whistleblowers' protection act”.



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