

**Accountability Report Card Summary 2018**  
**Connecticut**

Connecticut has a relatively strong whistleblower law:

- Scoring 65 out of a possible 100 points; and
- Ranking 14<sup>th</sup> out of 51 (50 states and the District of Columbia)

Connecticut has broad coverage (26 out of 33 possible points) with average usability (20 out of 33) and some remedies (18 out of 33), plus the one bonus point awarded for employee notification of rights.

*Connecticut's full Whistleblower Report Card*      *page 2*  
*Narrative summary of Connecticut's law*          *page 6*

**Connecticut Accountability Index Report card**

Coverage, Usability & Strength — Rating on a 100 Point Scale

Protection of Employees - Conn. Gen. Stat. § 31-51m (2012)

Whistleblowing - Disclosure of Information to Auditors of Public Accounts- Conn. Gen.

Stat. § 4-61dd (2012)

Conn. Gen. Stat. § 31-51q (2012)

**A Breadth of Coverage (33 points possible from 10 factors).**

Does the statute cover disclosures of –

Factor	Maximum Points	Awarded Points
1. Violation of state or federal law, rules or regulations	6 points	6 Points <sup>1</sup>
2. Gross mismanagement	3 points	3 Points
3. Abuse of authority (including violations of agency policy)	3 points	3 Points
4. Waste of public funds or resources	3 points	3 Points
5. Danger to health and/or public safety and/or environment	5 points	5 Points
6. Communication of scientific opinion or alteration of technical findings	5 points	0 Points
7. Breaches of professional ethical canons	5 points	5 Points

Does the statute provide –

8. Employee may refuse to carry out illegal or improper orders	1 point	0 Points
9. Prohibition on “gag orders” to prevent employee disclosures	1 point	0 Points <sup>2</sup>

<sup>1</sup> “Any person having knowledge of any matter involving corruption, unethical practices, violation of state laws or regulations, mismanagement, gross waste of funds, abuse of authority or danger to the public safety occurring in any state department or agency or any quasi-public agency...or any person having knowledge of any matter involving corruption, violation of state or federal laws or regulations, gross waste of funds, abuse of authority or danger to the public safety occurring in any large state contract, may transmit all facts and information in such person's possession concerning such matter to the Auditors of Public Accounts.” Conn. Gen. Stat. § 4-61dd(a); 2011 Ct. ALS 48 § 17(a).

<sup>2</sup> While there is no explicit prohibition on prior restraints, Conn. Gen. Stat. § 31-51q (2012) states that “Any employer, including the state and any instrumentality or political subdivision thereof, who subjects any employee to discipline or discharge on account of the exercise by such employee of rights guaranteed by the first amendment to the United States Constitution or section 3, 4 or 14 of article first of the Constitution of the state, provided such activity does not substantially or materially interfere with the employee's bona fide job performance or the working relationship between the employee and the employer, shall be liable to such employee for damages caused by such discipline or discharge”

10. Whistleblower protection does not preclude collective bargaining or other rights	1 point	1 Point <sup>3</sup>
	<b><u>Maximum Score</u></b> <b><u>33 points</u></b>	<b><u>Awarded Score</u></b> <b><u>26 Points</u></b>

**B. Usability: Scope of Protection (33 points possible from 10 factors)**

Do the laws protect disclosures made to –

<b>Factor</b>	<b>Maximum Points</b>	<b>Awarded Points</b>
1. Any person or organization, including public media	24 points	0 Points

**Or** does the statute protect disclosures made to –

2. Any state executive or legislative body or person employed by such entities	4 points	4 Points <sup>4</sup>
3. Testimony in any official proceeding	4 points	4 Points <sup>5</sup>
4. Any state or federal law enforcement or investigative body or entity or its employees	3 points	3 Points
5. Any federal or non-state governmental entity	3 points	3 Points <sup>6</sup>
6. Co-workers or supervisors within the scope of duty	3 points	0 Points
7. Anyone as provided in paragraphs 2 thru 6 (above) without prior disclosure to another state official or supervisor	3 points	3 Points

Does the state law –

<sup>3</sup> The protection of employee who discloses employer's illegal activities or unethical practices shall not be construed to diminish or impair the rights of a person under any collective bargaining agreement. Conn. Gen. Stat. § 31-51m.

<sup>4</sup> The statute protects disclosures of information to an employee of the Auditors of Public Accounts or the Attorney General, an employee of the state agency or quasi-public agency where such state officer or employee is employed, an employee of a state agency pursuant to a mandated reporter statute or pursuant to subsection (b) of section 17a-28, in the case of a large state contractor, an employee of the contracting state agency concerning information involving the large state contract, or such employee's testimony or assistance in any proceeding under this section. Conn. Gen. Stat. § 4-61dd(d)(1); 2011 Ct. ALS 48 § 17(d)(1).

<sup>5</sup> Conn. Gen. Stat. § 4-61dd(d)(1); 2011 Ct. ALS 48 § 17(d)(1).

<sup>6</sup> Whistleblower protection extends to disclosures made to any federal agency or any employee, member or officer thereof. Conn. Gen. Stat. § 31-51m(a)(4).

8. Require an investigation by state auditor or other investigative entity of whistleblower disclosures	1 point	0 Points
9. Have a statute of limitations of one year or longer for filing complaints	3 points (2 points if 6 months or longer and 1 point if 60 days or longer)	1 Point <sup>7</sup>
10. Allow qui tam or false claim actions for recovery of “bounty” in cases of fraud against the state	5 points (2 points if a qui tam statute of limited scope)	2 Points <sup>8</sup>
	<b><u>Maximum Score</u></b> <b>33 points</b>	<b><u>Awarded Score</u></b> <b>20 Points</b>

**C. Strength: Remedies against retaliation (33 points possible from 11 factors)**

Does the statute provide for –

<b>Factor</b>	<b>Maximum Points</b>	<b>Awarded Points</b>
1. Prohibition on retaliatory actions affecting a state employee’s terms and conditions of employment	4 points	4 Points
2. Opportunity for administrative challenge	4 points	4 Points <sup>9</sup>
3. Opportunities for court challenge	4 points	4 Points <sup>10</sup>
4. Trial by jury	3 points	0 Points <sup>11</sup>
5. Burden shifting upon prima facie showing.	1 point	1 Point <sup>12</sup>
6. Make whole remedies (court costs, attorney fees, back pay; restoration of benefits, etc.)	3 points	3 Points
7. Actual/compensatory damages	3 Points	0 Points

<sup>7</sup> Employee shall file a complaint no later than ninety days after learning of the specific allegedly retaliatory action. Conn. Gen. Stat. § 4-61dd(d)(2)(A); 2011 Ct. ALS 48 § 17(d)(2)(A).

<sup>8</sup> Connecticut False Claims Act, Title 4, Chapter 55e of General Statutes of Connecticut – false claims and other prohibited acts under state-administered health or human services programs.

<sup>9</sup> Employee must exhaust administrative remedies before bringing court action.

<sup>10</sup> “Any employee who is discharged, disciplined or otherwise penalized by his employer in violation of the provisions of subsection (b) may, after exhausting all available administrative remedies, bring a civil action.” Conn. Gen. Stat. § 31-51m(c).

<sup>11</sup> Whistleblower statute does not provide for trial by jury. We did not determine whether jury trial would be available under other statutes or the Connecticut Constitution. There is a constitutional amendment referring to jury trials in civil actions. Conn. Const. Art. I, Sec.19 (2004) but the issue when it may be available in whistleblower cases will depend on the subject matter of the civil action and the remedies sought.

<sup>12</sup> If any adverse personnel action is taken within two years of a protected disclosure, “there shall be a rebuttable presumption that the personnel action is in retaliation for the action taken by the employee under subsection (a) of this section or subdivision (1) of this subsection.” Conn. Gen. Stat. § 4-61dd(d)(4); 2011 Ct. ALS 48 § 17(d)(4).

8. Interim relief, injunction or stay of personnel actions	3 points	0 Points
9. Transfer preference for prevailing whistleblower or ban on blackballing	3 points	0 Points
10. Punitive damages or other fines and penalties	2 points	2 Points <sup>13</sup>
11. Personnel actions against managers found to have retaliated	3 points	0 Points
	<b><u>Maximum Score</u></b> <b>33 points</b>	<b><u>Awarded Score</u></b> <b>18 Points</b>

**Bonus Point (1 point): Posting or employee notice of whistleblower rights required.**

<b>Factor</b>	<b>Maximum Score</b>	<b>Awarded Score</b>
Posting	1 point	1 Point <sup>14</sup>

**Total Points**

**100 Points**

**65 Points**

<sup>13</sup> Damages sought may include punitive damages. Conn. Gen. Stat. § 31-51q.

<sup>14</sup> “Each state agency or quasi-public agency shall post a notice of the provisions of this section relating to state employees and quasi-public agency employees in a conspicuous place that is readily available for viewing by employees of such agency or quasi-public agency.” Conn. Gen. Stat. § 4-61dd(h); 2011 Ct. ALS 48 § 17(h).

## **State Legislation Protecting State Employee Whistleblowers (updated June 2018)**

### **State-** Connecticut

**Statute-** Protection of Employees- Conn. Gen. Stat. § 31-51m (2012); Whistleblowing-Disclosure of Information to Auditors of Public Accounts- Conn. Gen. Stat. § 4-61dd (2012); Conn. Gen. Stat. § 31-51q (2012)

**Provisions** - Connecticut has three statutes that protect state employee whistleblowers. Under the first statute, Protection of Employees, no employer, including the state, shall discharge, discipline, or otherwise penalize any employee because the employee, or a person acting on his behalf, reports verbally or in writing, a violation or suspected violation of any state or federal law to a public body, including the legislature or one of its committees or any federal agency or employee, or because an employee is requested by a public body to participate in an investigation, hearing, or inquiry by that public body, or a court action. This prohibition shall not apply when the employee knows that such report is false.

Any employee who is discharged, disciplined, or otherwise penalized by the employer for making a protected disclosure, may, after exhausting all available administrative remedies, bring a civil action, within 90 days of the date of the final administrative determination or within 90 days of such violation, whichever is later, in the superior court for the reinstatement of his previous job, payment of back wages and reestablishment of employee benefits to which he would have otherwise been entitled if such disciplinary action had not occurred. Recovery in such cases shall be limited to such items, provided that the court may allow the prevailing party his costs, together with reasonable attorney's fees. An employee found to have knowingly made a false report shall be subject to disciplinary action by his employer up to and including dismissal. The statute does not interfere with the rights of a person under any collective bargaining agreement.

The Whistleblowing statute provides that: any person having knowledge of any matter involving corruption, unethical practices, violation of state laws or regulations, mismanagement, gross waste of funds, abuse of authority or danger to the public safety occurring in any state department or agency or any quasi-public agency may transmit all facts and information in such person's possession concerning such matter to the Auditors of Public Accounts. The Auditors shall review the matter and report their findings and any recommendations to the Attorney General, which shall make such an investigation as he deems appropriate. Upon the conclusion of an investigation, the Attorney General shall, where necessary, report any findings to the Governor, or in matters involving criminal activity, to the Chief State's Attorney.

The Auditors of Public Accounts may reject any complaint received pursuant to subsection (a) of this section if the Auditors of Public Accounts determine one or more of the following: (A) There are other available remedies that the complainant can reasonably

be expected to pursue; (B) The complaint is better suited for investigation or enforcement by another state agency; (C) The complaint is trivial, frivolous, vexatious or not made in good faith; (D) Other complaints have greater priority in terms of serving the public good; (E) The complaint is not timely or is too long delayed to justify further investigation; or (F) The complaint could be handled more appropriately as part of an ongoing or scheduled regular audit.

No state officer or employee shall take or threaten to take any personal action against any state or quasi-state employee in retaliation for such employee's disclosure of information to an employee of the Auditors of Public Accounts or the Attorney General, the state agency or quasi-public agency where such state officer or employee is employed, or for the employee's testimony or assistance during any investigation under the statute. Employees have two administrative options they may take in reporting retaliation for protected disclosures. First, they may file a complaint with the Chief Human Rights Referee, no later than ninety days after learning of a threatened or taken personnel action. If the referee finds a violation, they may award the employee reinstatement to their former position, back pay, reestablishment of benefits, reasonable attorneys' fees, and any other damages. Second, the employee may file an appeal with the Employees' Review Board within ninety days of learning of the specific incident. The employee may also file a civil complaint after exhausting administrative remedies.

If a personal action against an employee occurs or is threatened or taken not later than two years after the employee transmits facts and information concerning a matter to the Auditors of Public Accounts or the Attorney General, there shall be a rebuttable presumption that the personnel action is in retaliation for the action taken by the employee.

Each state agency or quasi-public agency shall post a notice of the provisions of this section relating to state employees and quasi-public agency employees in a conspicuous place that is readily available for viewing by employees of such agency or quasi-public agency. No person who, in good faith, discloses information in accordance with the provisions of the Act shall be liable for any civil damages resulting from the good faith disclosure.

No officer or employee of a state shellfish grounds lessee shall take or threaten to take any personnel action against any employee of a state shellfish grounds lessee in retaliation for (A) such employee's disclosure of information to an employee of the leasing agency concerning information involving the state shellfish grounds lease, or (B) such employee's testimony or assistance in any proceeding under this section.

Conn. Gen. Stat. § 31-51q (2012) provides that an employer, including a state employer, shall not subject any employee to discipline or discharge on account of the exercise by such employee of rights guaranteed by the First Amendment to the U.S. Constitution, as well as sections of the Connecticut Constitution. Such right is granted provided such activity does not substantially or materially interfere with the employee's bona fide job performance or the working relationship between the employee and the employer.

Employer shall be liable to employee for damages caused by such discipline or discharge, including punitive damages and for reasonable attorney's fees.