



Vermont State Employees' Association

155 State Street, Montpelier, VT 05602;

Phone: (802) 223-5247

Fax: (802) 223-4035 E-mail: vsea@vsea.org

Website: www.vsea.org

March 28, 2014

Commissioner Kate Duffy
Department of Human Resources
110 State St.
Montpelier, VT 05602

Dear Commissioner Duffy,

It has come to VSEA's attention that the State of Vermont, including but not limited to the Department of Aging and Independent Living ("DAIL") and the Department of Human Resources ("DHR") are aggressively retaliating against one of VSEA's most visible and active elected leaders, John Howe. Mr. Howe is employed by DAIL as a VR Counselor II. Mr. Howe is also currently serving his second term as the Non-Management Unit ("NMU") trustee on the VSEA Board of Trustees', serves on VSEA's bylaws and legislative committees, serves as the chair of the VSEA personnel committee, serves as chair of the VSEA policy committee, serves as an NMU steward, serves as a VSEA council member, and serves on the VSEA NMU executive committee and bargaining team. Over the past three months, the State of Vermont has employed multiple, outlandish, retaliatory tactics against Mr. Howe in violation of the State Employees' Labor Relations Act, relevant collective bargaining provisions and state law concerning whistleblowing activities. The following several paragraphs outline a chronology of Mr. Howe's protected activity, and the State's egregious, unlawful responses.

Mr. Howe testified at the Senate Government Operations Committee on January 17, 2014 in support of an anti-privatization bill that would limit DAIL's ability to contract out the provision of state services. This testimony included statements to the effect of: dual management structures within VocRehab are wasteful, VABIR employees are doing the same job as state employees but are being paid far below the State's collectively bargained wages and that some VABIR employees receive public assistance.

On January 28, 2014, Mr. Howe had a reclassification grievance hearing. His grievance was denied on February 11, 2014. Mr. Howe has a contractually protected right to file a request for reclassification, and if that request is denied, to grieve that denial to the Commissioner of Human Resources.

On February 10, 2014, Mr. Howe's VABIR colleagues who shared his office were investigated, and asked many questions about their working relationship with Mr. Howe. These VABIR employees were summarily fired on March 10, 2014.

On February 17, 2014, Mr. Howe participated in VSEA Lobby Day. Mr. Howe publicly spoke with Secretary Jeb Spaulding at one of the VSEA Lobby Day events, asked for his support on an Anti-Privatization bill, and generally discussed the concerns that he had raised when he testified at the Senate Operations Committee in January. Mr. Howe also spoke with you, Commissioner Duffy, about

the problem of underpaid, non-state workers in the workplace, notably, VABIR employees. You agreed to look into these issues.

On February 19, 2014, Mr. Howe was advised by his supervisor, Betsy Choquette that he would be receiving supervisory feedback. Mr. Howe had no idea why Choquette would be issuing him feedback, and when he inquired as to her reasoning, Choquette stated that she had been ordered by DAIL managers, Diane Dalmasse and Karen Blake-Orne not to discuss the matter with him.

Choquette issued this feedback to Mr. Howe 16 days later, on March 7, 2014. The delay between telling Mr. Howe he was receiving feedback and actually issuing it, understandably caused Mr. Howe undue stress and anxiety, and was perceived as intentionally drawn out to cause this reaction.

After the supervisory feedback was issued, it became clear to Mr. Howe that he had been placed under investigation by the Department of Human Resources. Joe LaPorte, DHR investigator, investigated Mr. Howe's Reach-Up Community Placement volunteer, Felicia Pollard on March 20, 2014. She did not have a legal representative with her and was fearful during this investigation.

Later in March, LaPorte investigated Mr. Howe's former VABIR colleagues. When these individuals told LaPorte they did not wish to answer questions and did not believe they were under any obligation to do so, LaPorte threatened to subpoena them even though this was not possible as there was no underlying, pending legal matter. Being bullied under color of law by DHR's LaPorte, feeling scared, unrepresented, and unsure of their legal rights, they answered Mr. LaPorte's questions.

On March 21, 2014, VSEA held a meeting with the Commissioner of DAIL, Susan Wehry. Accompanying Wehry were her Deputy Commissioner and general counsel. Mr. Howe participated in this meeting as a DAIL employee and a VSEA steward. During this meeting, VSEA presented Wehry with a compilation of survey results from DAIL employees showing widespread evidence of fear of retaliation within DAIL. These survey results were matched with the State employee satisfaction survey results to corroborate the findings of a toxic work environment in Wehry's department. Mr. Howe was vocal during this meeting and gave examples retaliation experienced by DAIL employees.

On March 27, 2014, Mr. Howe was informed by Choquette and Regional Manager, Mark Ciociola at 3:48 p.m. that he was not to report to work until Tuesday, April 1, 2014. He was also instructed that when he did return he was not to go to his current workspace at 63 Pearl Street, but rather to report to the VR main office at 110 Cherry Street. He was told that upon his arrival to 110 Cherry Street, he would be moved into one of the most undesirable spaces in the building, an office that is the size of a closet and has no windows. Mr. Howe voiced his concerns about the continuity of services for his clients, and that a brand-new VABIR employee, unfamiliar with the individuals on Mr. Howe's caseload, would be sufficiently prepared to respond to the needs of his clients. His concerns were summarily dismissed. Around the same time, Mr. Howe also learned that the worksite placement volunteer, Felicia Pollard, was also being removed from under his supervision.

As outlined above, it is clear that Mr. Howe engaged in numerous activities that are protected by the State Employees' Labor Relations Act, the Non-Management Unit collective bargaining agreement, and

whistleblower laws. The retaliatory actions and tactics by DAIL and the Department of Human Resources are transparent, yet very unusual in that they are not in compliance with DHR's internal policies and procedures concerning employee investigations and discipline.

VSEA insists that the State of Vermont, notably DAIL and the Department of Human Resources cease and desist in this illegal behavior immediately. VSEA requests that the following actions are taken immediately so that further legal action against the State may be avoided: that the State discontinue any employment investigations against Mr. Howe immediately; that after the State discontinues its investigation, it notify Mr. Howe that there are no outstanding investigations against him; that the State return Mr. Howe to work immediately at his normal workstation at 63 Pearl Street; that the State instruct all agents or employees of VABIR that they are not to give work orders to classified employees, including Mr. Howe; and that the State send Mr. Howe a letter of apology for taking these discriminatory and unlawful actions against him and promise to never do so again in the future.

We look forward to your immediate attention to this most serious matter. Please respond to all of the above requests by close of business Tuesday, April 1, 2014.

Sincerely,



Shelley Martin
VSEA President



Mark Erwin Mitchell
VSEA Executive Director

cc: John Howe
Diane Delmasse, DAIL
Jeb Spaulding, Secretary of Administration
Senator Jeanette White, Chair of Senate Government Operations
Representative Donna Sweaney, Chair of House Government Operations