

**Accountability Report Card Summary 2009**  
**Mississippi**

Mississippi has a mediocre state whistleblower law:

- Scoring only 50 out of a possible 100 points; and
- Ranking 29<sup>th</sup> out of 51 (50 states and the District of Columbia).

Mississippi has a fairly narrow statute (19 out of 33 possible points) with limited usability (8 out of 33) and relatively strong remedies (23 out of 33).

*Mississippi's full Whistleblower Report Card* *page 2*  
*Narrative summary of Mississippi's law* *page 5*

**Mississippi Accountability Index Report card**

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

Protection of Public Employee from Reprisal for Giving Information to Investigative  
Body or Agency- Miss. Code Ann. § 25-9-171 *et. seq.* (2005)

**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	3 points
6. Communication of scientific opinion or alteration of technical findings	5 points	0 points
7. Breaches of professional ethical canons	5 points	0 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
10. Whistleblower protection does not preclude collective bargaining or other rights	1 point	1 point
	<b><u>Maximum Score</u></b> <b><u>33 points</u></b>	<b><u>Awarded Score</u></b> <b><u>19 points</u></b>

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

Do the laws protect disclosures made to –

<sup>1</sup> “Improper governmental action” means any action by a state employee, other than the one providing information, which is undertaken in the performance of the employee’s official duties, whether or not the action is within the scope of the employee’s employment and which is (i) in violation of any federal or state law or regulation, or an abuse of authority or results in substantial abuse, misuse, destruction, waste or loss of public funds or public resources; (ii) of substantial and specific danger to the public health or safety; or, (iii) discrimination based on race or gender.

<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	0 points
3. Testimony in any official proceeding	4 points	3 points <sup>2</sup>
4. Any state or federal law enforcement or investigative body or entity or its employees	3 points	2 points <sup>3</sup>
5. Any federal or non-state governmental entity	3 points	0 points
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 –

8. Require an investigation by state auditor or other investigative entity of whistleblower disclosures	1 point	0 points Investigation not mandatory
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)	0 points <sup>4</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)	0 points
	<b><u>Maximum Score</u></b> <b><u>33 points</u></b>	<b><u>Awarded Score</u></b> <b><u>8 points</u></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	4 points	4 points

<sup>2</sup> Testified to a state investigative body.

<sup>3</sup> State investigative body.

<sup>4</sup> No mention in the statute. However, other state statutes may prescribe the limitation period.



April 16, 2009

State Legislation Protecting State Employee Whistleblowers

State- Mississippi

**Statute-** Protection of Public Employee from Reprisal for Giving Information to Investigative Body or Agency- Miss. Code Ann. § 25-9-171 *et. seq.* (2005)

**Provisions-** Under Mississippi law no state agency shall dismiss or otherwise adversely affect the compensation or employment status of any public employee because the public employee testified or provided information to a state investigative body about improper government action whether or not the testimony or information was given under oath. “Improper governmental action” means any action by a state employee, other than the one providing information, which is undertaken in the performance of the employee’s official duties, whether or not the action is within the scope of the employee’s employment and which is (i) in violation of any federal or state law or regulation, or an abuse of authority or results in substantial abuse, misuse, destruction, waste or loss of public funds or public resources; (ii) of substantial and specific danger to the public health or safety; or, (iii) discrimination based on race or gender. The term does not include personnel action for which other remedies exist, including, but not limited to, employee grievances, dismissals, suspensions, violation of the state personnel system, labor agreement violations, or any personnel action which may be taken under federal or state law.

**The term “state investigative body” means the Mississippi Attorney General, State Auditor, the Ethics Commission, standing committees of the Legislature, or any district attorney. Upon receipt of a signed written complaint of alleged improper governmental action, a state investigative body shall have the authority to investigate the complaint in accordance with its powers and duties under Mississippi laws.**

Also, under Mississippi law, any person who is a whistleblower, and who as a result has been subjected to workplace reprisal or retaliatory action, is entitled to the legal remedies provided by the statute. The statute defines a “whistleblower” both as (1) a state employee who in good faith reports an alleged improper government action to a state investigative body, initiating an investigation; or, (2) an employee who in good faith provides information to a state investigative body, or an employee who is believed to have reported improper governmental action to such a body The term “reprisal or retaliatory action” means, but is not limited to, demotion, reduction in pay, suspension, dismissal, denial of promotion or employment. A governmental entity is not precluded from taking any action in accordance with established personnel policies against an employee who knowingly and intentionally provides false information to a state investigative body.