

MONTANA DEPARTMENT OF TRANSPORTATION

NON-DISCRIMINATION TRAINING 2019



**“Discrimination is not intentional.
It’s just culturally embedded
in the industry.”**

DON PEEBLES, DEVELOPER

Embedded in our Minds:



Stereotypes we may have in our minds:

1. Ideas about groups of people;
2. Prejudice thoughts and feelings about those groups; and
3. Discrimination refers to actions towards them.

Cannot be erased from our culture by enacting laws – work in progress and part of progress is EEO training.

Civil Rights Act of 1964

Title VI

Prohibits discrimination in programs and activities that receive federal funding on the basis of race, color, national and origin.

Public transit, rest areas, limited English proficiency.

Other federal protections cover: age, sex, and disability

Title VII

Prohibits discrimination in employment on the basis of race, color, religion, sex or national origin.

Employees, applicants, former employees



Anti-Discrimination Federal Laws

[Age Discrimination in Employment Act](#) (29 U.S.C. §§ 621, et. seq.) prohibits discrimination in employment against individuals over age 40. (Note: Montana state law prohibits discrimination based on any age distinction).

[Americans With Disabilities Act of 1990](#) (42 U.S.C. §§ 12101, et. seq.) prohibits discrimination against individuals on the basis of disability.

[Civil Rights Act of 1871](#) ([42 U.S.C. § 1983](#)) provides protection against violating federal or constitutional rights by persons acting under color of state law.

[Title VI of the Civil Rights Act of 1964](#) (42 U.S.C. §§ 2000d, et. seq.) prohibits recipients of federal funds from discriminating on the basis of race, color, or national origin.

[Title VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972](#) (42 U.S.C. §§ 2000e, et. seq.) prohibits discrimination based on race, color, sex, religion, or national origin.

[Civil Rights Act of 1991](#) (42 U.S.C. § 1981) expands the scope of relevant civil rights statutes to provide adequate protection to victims of discrimination, and provides appropriate remedies for intentional discrimination and unlawful harassment in the workplace.

[Equal Pay Act of 1963](#) (29 U.S.C. § 206(d)) prohibits sex-based wage discrimination between men and women in the same establishment who perform jobs that require substantially equal skill, effort, and responsibility under similar working conditions.

[Lilly Ledbetter Fair Pay Act of 2009](#) clarifies that the laws against pay discrimination apply to every paycheck or other compensation a worker receives.

[Executive Order 11246](#), as amended, forbids employment discrimination based on race, color, religion, sex, or national origin by federal contractors and subcontractors and requires them to develop affirmative action plans and to take positive steps to eliminate employment bias.

[Family Medical Leave Act](#) (29 U.S.C. §§ 2601, et. seq.) requires affirmative duties to provide medical leave to employees.

[Title IX of the Education Amendments Act of 1972](#) (20 U.S.C. §§ 1681, et. seq.) prohibits sex discrimination in educational programs or activities that receive federal funds.

[Uniformed Services Employment and Reemployment Rights Act of 1994](#) (38 U.S.C. §§ 4301, et. seq.) protects the employment rights of and members of the United States military forces.

[Vocational Rehabilitation Act of 1973](#) (29 U.S.C. §§ 791, et. seq.) requires federal contractors to take affirmative action to employ and promote qualified disabled persons (Section 503) and prohibits discrimination against disabled persons in any program or activity receiving federal financial assistance (Section 504).

[Vietnam Era Veterans' Readjustment Assistance Act of 1974](#) (38 U.S.C. § 4212) as amended requires employers to take affirmative action to employ and advance disabled veterans and qualified veterans of the Vietnam era.



Anti-Discrimination Montana State Laws

[Montana Human Rights Act](#) (Mont. Code Ann. §§ 49-2-301, et. seq.) prohibits discrimination based on race, creed, religion, color, or national origin or because of age, physical or mental disability, marital status, pregnancy, or sex.

[Governmental Code of Fair Practices](#) (Mont. Code Ann. §§ 49-3-201, et. seq.) prohibits governmental agencies from discriminating based on race, creed, color, sex, disability, age, marital status, familial status, national origin, and political beliefs and ideas.

[Wrongful Discharge From Employment Act](#) (Mont. Code Ann. §§ 39-2-901, et. seq.) prohibits discharge from employment without “good cause.”

[Montana Constitution of 1972, Article X, Sec. 1](#) provides: “The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.”

[Montana Code Annotated § 20-1-501](#) provides: “every educational agency and all educational personnel will work cooperatively with Montana tribes or those tribes that are in close proximity, when providing instruction or when implementing an educational goal or adopting a rule related to the education of each Montana citizen, to include information specific to the cultural heritage and contemporary contributions of American Indians, with particular emphasis on Montana Indian tribal groups and governments.”

[Montana Military Service Employment Rights Act of 2005](#) (Mont. Code Ann. §§ 10-1-1005, et. seq.) protects employment rights of Montana National Guard members and members of the United States military.

[Veterans’ Preference in Employment](#) (Mont. Code Ann. §§ 39-29-101, et. seq.) provision in the Montana Code Annotated provides that the University must give a preference in employment to a disabled veteran, eligible relative, or veteran, in that order, over any nonpreferred applicant holding substantially equal qualifications.

[Montana Code Annotated § 49-4-101](#) prohibits discrimination in employment on the basis of disability.

[Montana Maternity Leave Act](#) (Mont. Code Ann. §§ 49-2-[310](#), [311](#)) prohibits discrimination based on pregnancy and requires employers to provide a reasonable leave of absence for pregnancy.

[Montana Code Annotated § 39-2-215](#) requires public employers to provide a private place and reasonable breaks to allow women to breastfeed or express milk and prohibits discrimination against them for such activity.

[Montana Code Annotated § 49-2-307](#) prohibits educational institutions from discriminating on the basis of race, creed, religion, sex, marital status, color, age, physical disability, or national origin or because of mental disability.

Protected Classes

- Race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, pregnancy, childbirth, or a medical condition related to pregnancy or childbirth, sexual orientation, gender identity or expression, political beliefs, genetic information, military service or veteran's status, culture, social origin or condition, or ancestry.



Discrimination - What Is It?

Treating a person less favorably because of their protective class.

Disparate Treatment

- Treating some people less favorably than others because of their protective class.
- *Intentional*

Disparate Impact

- When a facially neutral policy or practice has a significant disparate impact on a protected group.
- *Can be unintentional*

Example: Requiring a college degree for an Administrative Assistant position

How to File a Complaint

- Contact Office of Civil Rights – Call, email, fax, write, or in-person.
- File within 180 days of the last alleged discriminatory act.
- Complaint forms are available online or by Office of Civil Rights.

Civil Rights Discrimination Complaint Form

COMPLAINANT INFORMATION

Name: _____
 Address: _____
 Phone No.: _____
 Email: _____

I am filing a complaint on behalf of:
 self someone else

NARRATIVE

You MUST file your complaint within 180 calendar days of incident. You are not required to use this form to file a complaint. In your complaint, explain in as much detail as possible, how you were discriminated against. Include all relevant names and dates. Attach any additional documentation, as necessary, to your complaint. Someone from the Office of Civil Rights will be in contact with you within 7 business days of receiving the complaint.

BASIS OF COMPLAINT: (Mark all that apply)

- | | |
|--|---|
| <input type="checkbox"/> Federal & State | <input type="checkbox"/> State Only |
| <input type="checkbox"/> Race | <input type="checkbox"/> Sexual Harassment |
| <input type="checkbox"/> Color | <input type="checkbox"/> Sexual Orientation (<i>MDT employees only</i>) |
| <input type="checkbox"/> National Origin | <input type="checkbox"/> Political Belief |
| <input type="checkbox"/> Age | <input type="checkbox"/> Genetic Material |
| <input type="checkbox"/> Sex | <input type="checkbox"/> Veteran Status |
| <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Physical Disability |
| <input type="checkbox"/> Gender Identity | <input type="checkbox"/> Mental Disability |
| <input type="checkbox"/> Disability | <input type="checkbox"/> Marital Status |
| <input type="checkbox"/> Low-Income | <input type="checkbox"/> Religion/Creed |
| <input type="checkbox"/> Limited English Proficiency | <input type="checkbox"/> Pregnancy |
| | <input type="checkbox"/> Culture/Social Origin/Ancestry |
| | <input type="checkbox"/> Hostile Work Environment |
| | <input type="checkbox"/> Retaliation |



ADA, Title VI, and Title VII

Mail, fax or hand deliver complaints to:

Montana Department of Transportation
 Office of Civil Rights
 2701 Prospect Avenue
 PO BOX 201001
 Helena, MT 59620-1001

Fax: (406) 444-7243

If you believe discrimination is occurring in any of MDT's programs or services, please contact:

MDT Office of Civil Rights

2701 Prospect Avenue, PO BOX 201001
 Helena, MT 59620-1001
Voice: (406) 444-6334
TTY: (800) 335-7592
Fax: (406) 444-7243

MDT attempts to provide accommodations for any known disability that may interfere with a person participating in any service, program, or activity of the Department. Alternative accessible formats (e.g. large print, audio cassettes, etc.) of this document will be provided upon request. For further information, please call (406) 444-9229, or TTY (800) 335-7592 or Montana Relay at 711.

1,000 copies of this public document were produced at an estimated cost of \$.03 a copy for a total of \$30.00 for printing.

For more information on at ADA, Title VI, Title VII, or non-discrimination at MDT, visit our website:
mdt.mt.gov/business/contracting/civil/eoo.shtml

For additional copies of this document or questions, please contact the EEO Specialist at (406) 444-6334

Rev 08/2016

Office of Civil Rights Complaint Process



- File a complaint in writing and sign.
- OCR reviews complaint and conduct an intake interview with complainant.
- Determines whether to proceed with investigation.
- Notify Complainant and District Administrator that an investigation will take place.
- Conduct interviews of witnesses and review relevant documents.
- Make a final investigative report of *Cause* or *No Cause*.
- Closing and/or final conference.
- Other parties might be present if there is Cause find (Complainant, OCR Operations Chief, MDT Director, etc.)
- Disciplinary action, if any will be discussed and decided by management, Legal, and HROS.

Conflict Resolution

When a complaint is received in OCR, if at all possible, we try to resolve it through conflict resolution.

What it is:

- A good faith effort to mediate a disagreement or misunderstanding;
- A vehicle to resolve disputes and restore productivity quickly;
- A tool to improve working relationships and communication.

What it is not:

- Answer to all complaints;
- Always successful.



Montana Human Rights Bureau Process



Montana Department of
LABOR & INDUSTRY
Employment Relations Division

- File complaint within 180 days of last alleged discriminatory act.
- File within 300 days if filed an internal complaint and internal investigation is complete within 120 days.

- Contact information:

Address: Montana Human Rights Bureau
P. O. Box 1728
Helena MT 69624

Phone: 406-444-2884
800-524-0807

TTY: 406-444-0532

Website: <http://erd.dli.mt.gov/human-rights/filing-a-complaint>

U.S. EEOC Process

United States Equal Employment Opportunity Commission



- File within 180 days of last alleged discriminatory act.
- File within 300 days if Human Rights Bureau also enforces the law in question.

Address: San Francisco District Office
350 The Embarcadero
Suite 500
San Francisco CA 94105

Phone: 800-669-4000
TTY: 800-669-6820

Website: www.eeoc.gov



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