



**STATE OF MONTANA
DEPARTMENT OF CORRECTIONS
POLICY DIRECTIVE**

Policy No. DOC 1.3.20	Subject: NONDISCRIMINATION AND SEXUAL HARASSMENT
Chapter 1: Administration and Management	Page 1 of 4 and Attachments
Section 3: Human Resources	Effective Date: July 1, 1996
Signature: /s/ Mike Batista, Director	Revised: 07/27/2015

I. POLICY

The Department of Corrections is an equal employment opportunity employer and provider of correctional services in accordance with *ARM 2.21.4001 et seq.* The Department does not tolerate sexual or other harassment, or discrimination in employment or in provision of services based on race, color, age, physical or mental disability, marital status, creed, sex, political beliefs, genetic information, veteran’s status, culture, social origin or condition or ancestry, national origin, religious preference, or sexual orientation. The Department is committed to resolving discrimination and harassment complaints in a fair and timely manner.

II. APPLICABILITY

All divisions, facilities, and programs Department-owned and contracted, as specified in contract.

III. DEFINITIONS

Discrimination – Statements, decisions, or acts based on race, color, age, physical or mental disability, marital status, creed, sex, political beliefs, genetic information, veteran’s status, culture, social origin or condition or ancestry, national origin, religious preference, or sexual orientation.

Equal Employment Opportunity (EEO) – Hiring, firing, promotions, compensation, job assignments, and conditions or privileges of employment are nondiscriminatory unless based on a bona fide occupational qualification (BFOQ).

Office of Human Resources (OHR) – Located at the Department’s central office and includes all Department employees in positions classified as Human Resource Manager, Human Resource Specialist, and Human Resource Assistant.

Other Harassment – Harassment of employees, members of the public, or offenders because of a person’s race, color, age, physical or mental disability, marital status, creed, sex, political beliefs, genetic information, veteran’s status, culture, social origin or condition or ancestry, national origin, religious preference, or sexual orientation.

Sexual Harassment – In accordance with *2.21.4013, ARM*, physical, oral, written, or electronic communications of sexual nature in the form of repeated and unwelcome jokes, slurs, comments, visual images, or innuendos when used as an implicit or explicit term or condition of employment; when submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual; or when conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.

IV. DEPARTMENT DIRECTIVES

A. General Requirements

1. All administrators, supervisors, and Department employees will make every reasonable effort to ensure that employees, members of the public, and offenders are not subject to discrimination or harassment within the context of the delivery of Department services or programs.
2. Department facilities/programs will prominently display the Department's [EEO Policy Statement Poster](#) where Department employees, members of the public, and offenders can observe it. The Department's [Discrimination Complaint](#) form must be available and provided on request and individuals who wish to file a request should be encouraged, but not required to file a written complaint.

B. Office of Human Resources Assignments and Responsibilities

1. The Human Resources director, as the Department's Equal Employment Opportunity officer, is responsible for assigning the following:
 - a. a Department employee within the OHR with relevant training and expertise as the Department Americans with Disabilities Act (ADA) coordinator to assist all facilities and programs with ADA compliance;
 - b. additional facility-based ADA coordinators and/or EEO officers, when necessary.
2. The Department or facility EEO officers or ADA coordinators will confer with the Human Resources director, or designee, regarding allegations of illegal discrimination or harassment, or violation of state or federal anti-discrimination laws and will commence investigations regarding circumstances and sufficiency of the complaint within 10 working days of receiving notice of allegations in accordance with *DOC Policy 1.3.13 Administrative Investigations*.
3. Upon receipt of the investigator's report, the Human Resources director, or designee, will disclose, in writing, the results of the investigation to the complainant, the accused, immediate supervisors, and the facility or program EEO officer or ADA coordinator. The specifics of disciplinary action taken against any Department employee will not be included in the report unless Department legal counsel advises to do so.
4. In the case of a cause finding, the appropriate agency manager will:
 - a. take the appropriate disciplinary action in accordance with *ARM 2.21.65 Discipline Policy*;
 - b. advise the complainant that corrective action has been taken;
 - c. reemphasize that retaliation is unacceptable behavior; and
 - d. contact the complainant within 30 days to ensure the behavior has stopped and no retaliation has occurred.
5. In the case of a no-cause finding, the supervisor or manager will contact the complainant within 30 days to ensure the complainant has not experienced retaliation.

C. Nondiscrimination and Sexual Harassment Reporting

Subject: NONDISCRIMINATION AND SEXUAL HARASSMENT

1. When an employee, member of the public, offender, or other recipient of services provided by the Department believes he or she has been subject to discrimination, he or she must report the allegation to the Department for prompt investigation and any appropriate actions.
2. Any employee who believes another person has been subjected to discrimination under the Department nondiscrimination policy must report the incident(s) or action(s) to an administrator or OHR staff member as soon as possible after the alleged discrimination occurs.
3. Offenders filing a complaint of discrimination may file a formal grievance in accordance with *DOC Policy 3.3.3 Offender Grievance Program*, and applicable facility or program offender grievance procedures. In the case of a complaint of disability discrimination, the offender must file an informal resolution as required; however, the formal grievance will be processed regardless of whether the time limits set for filing the informal resolution were met.
4. Any administrator or supervisor who receives a complaint or becomes aware of discrimination or harassment will relay the complaint to OHR staff within 48 hours, whenever possible.
5. Upon receipt of a report alleging discrimination, including sexual harassment, the Department will take all appropriate steps to prevent the alleged conduct from continuing pending completion of the investigation. The Department will determine the steps to be taken by balancing the rights of the alleged victim, including the severity of the alleged conduct, and the rights of the alleged harasser.
6. Neither Department administrators nor any employee will retaliate against any employee, member of the public, or offender for filing a discrimination complaint or for participating in any way in the discrimination or harassment complaint procedure.
7. Nothing in this policy prohibits an employee, member of the public, or offender from concurrently filing a complaint of unlawful discrimination with the Montana Human Rights Bureau.

V. CLOSING

Provisions of this policy not required by statute will be followed unless the provisions conflict with negotiated labor contracts, which will take precedence to the extent possible.

Questions concerning this policy should be directed to the Office of Human Resources.

VI. REFERENCES

- A. *ARM 2.21.4001 et seq.*
- B. *Human Rights Commission Rules, Title 24, ch. 9, subch. 6 Proof of Unlawful Discrimination*
- C. *Gov. Exec. Order 24-81 Establishing State's EEO Program; Gov. Exec. Order 7-82 Prohibiting Sexual Harassment*
- D. *4-4056; ACA Standards for Adult Correctional Institutions, 4th Edition*
- E. *DOC Policies 1.3.13 Administrative Investigations; 3.3.3 Offender Grievance Program*

VII. ATTACHMENTS

[Discrimination Complaint](#)

[Fill-in Form](#)

[EEO Policy Statement Poster](#)