



POLICY DIRECTIVE

Policy:	DOC 3.3.20 OFFENDER NONDISCRIMINATION
Effective Date:	03/20/2020 Page 1 of 2
Revision Date(s):	04/24/2026
Signature/Title:	/s/ Eric Strauss, Director

I. POLICY

The Department does not tolerate employees committing any forms of discrimination, harassment, or retaliation against offenders based on the offender's race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin, or in retaliation against an offender because the offender has opposed any discriminatory practices or because the offender has filed a complaint, testified, assisted, or participated in any manner in a discrimination investigation or proceeding. The Department is committed to resolving discrimination and harassment complaints in a fair and timely manner.

II. APPLICABILITY

All Department divisions, facilities, and programs.

III. DEFINITIONS (see Glossary)

IV. REQUIREMENTS

A. General Requirements

1. All administrators, supervisors, and Department employees must make every reasonable effort to ensure that offenders are not subject to discrimination, harassment, or retaliation within the context of the delivery of Department services or programs.
2. Any form of discrimination, harassment, or retaliation must not be tolerated.

B. Reporting and Investigation

1. An offender who believes the offender has been subjected to discrimination, harassment, or retaliation must report the allegation to the Department for prompt investigation and any appropriate actions.
2. Complaints may be made orally to appropriate Department staff or in writing; however, offenders are encouraged to put their complaint in writing.
3. Incarcerated offenders reporting a complaint of discrimination, harassment, or retaliation may file a formal grievance in accordance with *DOC 3.3.3 Offender Grievance Program*.
4. If a complaint of sexual harassment involves an incarcerated offender, the complaint will be handled in accordance with *DOC 1.1.17 Prison Rape Elimination Act of 2003 (PREA)*, and applicable facility or program procedures.
5. Offenders who are not incarcerated may report a complaint of discrimination, harassment, or retaliation by filing an *Offender Complaint Form* in accordance with *PPD 6.3.405 Offender Complaints*.

6. Any employee who believes an offender has been subjected to discrimination, harassment, or retaliation must report the incident(s) or action(s) to an administrator, supervisor, or HR as soon as possible after the alleged discrimination occurs.
7. Any administrator or supervisor who receives a complaint or becomes aware of offender discrimination, harassment, or retaliation will promptly relay the complaint to HR staff.
8. In accordance with ARM 2.21.4020, the Department will commence investigations regarding the circumstances and sufficiency of the complaint upon receiving the notice of allegations.
9. Upon receipt of a report alleging discrimination, harassment, or retaliation, the Department will take all appropriate steps to prevent the alleged conduct from continuing, pending completion of the investigation.
 - a. 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 perpetrator.
10. Neither Department administrators nor any employee will retaliate against any offender for filing a discrimination complaint or for participating in any way in the discrimination or harassment complaint process.
11. Upon receipt of the investigator's report, the appropriate manager will disclose, in writing, the results of the investigation to the offender, the accused, immediate supervisors, and the facility or program EEO officer or ADA coordinator.
 - a. 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.
12. In the case of a cause finding, the appropriate agency manager will:
 - a. initiate the appropriate disciplinary actions in accordance with ARM Title 2, Chapter 21, Subchapter 65, Discipline Policy;
 - b. inform the offender in writing that corrective action has been taken;
 - c. reemphasize to the involved parties that retaliation is illegal; and
 - d. contact the offender within 30 days to ensure the behavior has stopped and no retaliation has occurred.
13. In the case of a no-cause finding, the supervisor or manager will contact the offender within 30 days to ensure the offender has not experienced retaliation.
14. Nothing in this policy prohibits an offender from filing a complaint of unlawful discrimination or retaliation with the Montana Human Rights Commission concurrently.

V. CLOSING

Questions about this policy should be directed to Human Resources.

VI. REFERENCES

- A. §§ 49-3-205; 49-3-209, MCA
- B. ARM 2.21.4001, *et seq.*; ARM 2.21.6505, *et seq.*
- C. DOC 1.3.12 *Staff Association and Conduct with Offenders*; DOC 1.1.17 *Prison Rape Elimination Act of 2003*; DOC 3.3.3 *Offender Grievance Program*
- D. PPD 6.3.405 *Offender Complaints*