#### 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.

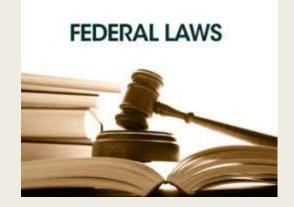
Other federal protections cover: age, sex, and disability

#### Title VII

Prohibits discrimination in <a href="mailto:employment">employment</a> 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.

<u>Civil Rights Act of 1991</u> (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.

<u>Title IX of the Education Amendments Act of 1972</u> (20 U.S.C. §§ 1681, et. seq.) prohibits sex discrimination in educational programs or activities that receive federal funds. <u>Uniformed Services Employment and Reemployment Rights Act of 1994</u> (38 U.S.C. §§ 4301, et. seq.) protects the employment rights of and members of the United States military forces.

<u>Vocational Rehabilitation Act of 1973</u> (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.

<u>Veterans' Preference in Employment</u> (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.

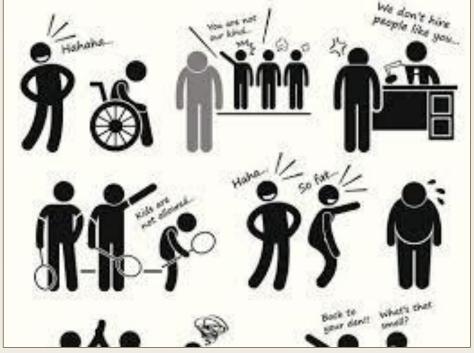
Montana Code Annotated § 39-2-215 requires public employers to provide a private place and reasonable breaks to allow women to breastfeed or express milk and prohibits discrimination against them for such activity.

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 BASIS OF COMPLAINT: (Mark all that apply)			
Complaint Form	Federal & State	State Only	MONTANA 🛕
COMPLAINANT INFORMATION	□Race □Color	□Sexual Harassment □Sexual Orientation (MDT	MINT
Name:	∟Age	employees only) □Political Belief □Genetic Material	MUIA
Address:			DEPARTMENT OF TRANSPORTATION
Phone No.:	□Sexual Orientation	□Veteran Status	
Email:	□Gender Identity □Disability	□Physical Disability □Mental Disability	
I am filing a complaint on behalf of:  self someone else  NARRATIVE  You MUST file your complaint within 180 calenda 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 necessary, to your complaint. Someone from the Off business days of receiving the complaint.	dates. Attach any additional d		Non- Discrimination & Accessibility
	If you believe discriminat MDT's programs or se		ADA, Title VI, and Title VII
Mail, fax or hand deliver complaints to: Montana Department of Transportation	MDT Office o 2701 Prospect Aven Helena, MT	f Civil Rights ue, PO BOX 201001	

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

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For additional copies of this document or

questions, please contact the EEO Specialist at:

(406) 444-6334

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# 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**

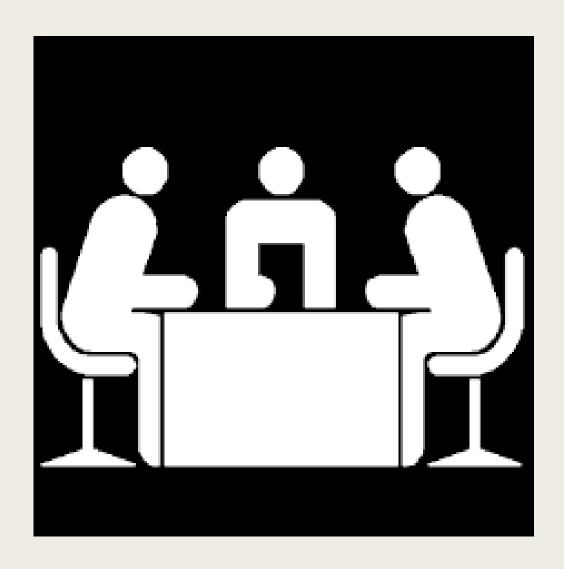
When a complaint is received in OCR, if at all possible, we try to resolve it through conflict resolution.

#### 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



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

## **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: <u>www.eeoc.gov</u>



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