

Montana State Library Commission Policy

Nondiscrimination

It is the policy of the Montana State Library Commission to provide equal employment opportunity (EEO) and the services of the agency to all persons regardless of race, color, religion, creed, sex, sexual orientation, national origin, age, mental or physical disability, marital status, or political beliefs with the exception of special programs established by law and implements and maintains an effective equal employment opportunity program.

The Library is an equal employment opportunity and prohibits discrimination in hiring, firing, promotions, compensation, job assignments and other terms, conditions, or privileges of employees.

PROCEDURE

Any employee or applicant for employment or agency client who believes he or she has been subjected to discrimination based upon any of these factors may follow the "Complaint Resolution Procedure" attached to this policy.

PREEMPLOYMENT INQUIRES

Except as may be required by the reasonable demands of a position, compliance with an affirmative action plan, or government reporting or record-keeping requirements, the State Library may not gather information concerning race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation or political beliefs prior to employment. The employer may obtain information required for tracking demographic information after employment.

The State Library requires pre-employment medical examinations only as necessary to determine ability to perform the physical duties of a particular position. Any pre-employment medical examination must be job-related. A conditional offer of employment must be made before a pre-employment medical examination can be conducted.

- a. Results of examinations are to be kept in separate files, which are treated as confidential, except that supervisors and managers may be informed regarding necessary restrictions and accommodations, and safety personnel may be informed if a disability might require emergency treatment.
- b. Examination results may not be used to refuse employment or make a distinction in employment unless a reasonable medical evaluation establishes inability of the particular applicant to safely and efficiently perform the duties of the position with reasonable accommodation, if necessary.

SEXUAL HARASSMENT

Sexual harassment of employees by any other persons is prohibited. The State Library shall:

- a. Provide employees with a work environment free of sexual harassment;
- b. Communicate the sexual harassment prevention policy and reporting procedures to employees and supervisors;
- c. Recognize the unique nature of complaints of sexual harassment;
- d. Encourage early reporting by employees; and
- e. Resolve complaints promptly, confidentially, and at the lowest management level possible.

Sexual harassment includes unwelcome verbal or physical conduct of a sexual nature when:

- a. Submission to the conduct is implicitly or explicitly made a term or condition of employment;

- b. Submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual; or
- c. The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment also includes harassment directed toward a person because of gender, a pattern of sexual favoritism, or harassment because of a person's sexual orientation.

Examples of prohibited sexual harassment include, but are not limited to:

- a. Propositions or pressure to engage in sexual activity;
- b. Repeated intentional body contact;
- c. Repeated sexual jokes, innuendoes, or comments;
- d. Constant staring or leering;
- e. Inappropriate comments concerning appearance;
- f. Display of magazines, books, pictures, or electronic documents with a sexual connotation;
- g. A pattern of hiring or promoting sex partners over more qualified persons; or
- h. Any harassing behavior, whether or not sexual in nature, directed toward a person because of the person's gender or sexual orientation.

Employees in supervisory positions are required to immediately report any suspected sexual harassment.

OTHER HARASSMENT

Examples of other prohibited harassment include, but are not limited to coercion of employees or others in the participation or non-participation in religious activities; or ethnic slurs, repeated jokes, innuendoes, or other verbal or physical conduct because of a person's nationality, race, color, age, physical or mental disability, marital status, religion, creed, sexual orientation or political beliefs if these actions create an intimidating, hostile or offensive working environment.

RETALIATION

State Library employees and Commission members may not retaliate or allow, condone, or encourage others to retaliate against any applicant, or current or former employee for opposing unlawful discriminatory practices, filing a discrimination complaint and/or testifying or participating in any other manner in a discrimination proceeding.

DESIGNATED OFFICER

The designated EEO and the ADA coordinator officer for the State Library is the Administrative Assistant (position #00003). This person is responsible for coordinating the department's EEO/ADA program and for resolving

COMPLAINT RESOLUTION PROCEDURE

The State Library is committed to resolving complaints of discrimination in a fair and timely manner. The complaint resolution procedure is a dispute resolution process used when an applicant, client, customer, or employee alleges that discrimination has taken place. Management must investigate when reports are received. Complaints concerning disability discrimination are submitted to the agency Americans with Disabilities Act (ADA) Coordinator. All other complaints are submitted to the agency Equal Employment Opportunity (EEO) Officer. This complaint resolution procedure may not cover members of a collective bargaining unit unless it is stipulated in the bargaining agreement.

Complainant's Responsibility:

Any applicant, client, customer, or employee who believes he or she or another person has been subjected to a discrimination of the equal employment opportunity policy is encouraged to report the incident(s) or action(s) to management as soon as possible after the alleged discrimination occurs. Early reporting is encouraged, because management's ability to investigate and act on reports diminishes with time.

Management's Responsibility

- (1) Any supervisor who receives a report of an alleged discrimination shall immediately notify the agency EEO Officer or ADA Coordinator.
- (2) Upon receipt of a report alleging discrimination, including sexual harassment, the agency shall take all appropriate steps to prevent the alleged conduct from continuing pending completion of the investigation. The agency 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.
- (3) The EEO Officer or ADA Coordinator shall initiate an investigation or select another appropriate management representative to initiate the investigation no later than 10 working days after receiving notice of the alleged discrimination. The investigation shall include verification of the report, a recommended course of action, and written documentation of the investigation. The investigator shall submit the results of the investigation to department or agency personnel officer. The factual report shall remain confidential and may not be disseminated except to persons having a need or right to know which outweighs the privacy rights of the persons involved.
- (4) Within 5 working days of receiving the investigator's factual report, the agency will, in writing, inform the complainant, any employees directly involved, their immediate supervisors, and the EEO Officer or ADA Coordinator of the results of the investigation and the agency's decision.
- (5) If the investigation establishes that there is insufficient evidence to find that illegal discrimination occurred, the agency will inform all parties involved that no action will be taken. If the investigation establishes that discrimination occurred, the agency will take appropriate action, including, but not limited to, disciplinary measures pursuant to the agency's disciplinary policy, which may include termination. The agency will, in writing, inform the complainant only that an action was taken, not the details of the action.
- (6) Neither the agency management nor any employee will retaliate against any employee for filing a discrimination complaint or for participating in any way in a complaint procedure.

OTHER COMPLAINT FILING OPTION (1) An applicant, client, customer, or employee may concurrently file a complaint of unlawful discrimination with the Human Rights Bureau (PO Box 1728, Helena, MT 59624-1728, phone 1-800-542-0807.) The complaint must be filed either:

- (a) within 180 days of the alleged incident; or
- (b) if the employee initiates action to resolve the alleged discrimination in accordance with this procedure or contract grievance procedure, within 300 days of the alleged incident.

The designated EEO and the ADA coordinator officer for the State Library is the Administrative Assistant (position #00003). This person is responsible for coordinating the department's EEO/ADA program and for resolving applicant/employee EEO or ADA complaints. The phone number is (406) 444-3384. The

IMPLEMENTATION OF THIS DEPARTMENT'S AFFIRMATIVE ACTION PROGRAM IS THE RESPONSIBILITY OF EACH MANAGER AND SUPERVISOR.