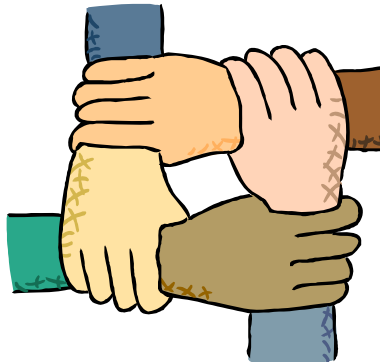


**MONTANA  
DEPARTMENT OF TRANSPORTATION  
Civil Rights Bureau**

# DISCRIMINATION COMPLAINT PROCEDURES



Revised July 2007



## DISCRIMINATION COMPLAINT PROCEDURES

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 of this information will be provided upon request.

For further information call (406) 444-6331, TTY (800) 335-7592, or Montana Relay at 711.

The MDT Civil Rights web site address is  
<http://mdtinfo.mdt.state.mt.us/civilrights/>.

The e-mail address to send your complaint form electronically is  
[mdtcrform@mt.gov](mailto:mdtcrform@mt.gov).

Montana Department of Transportation  
Civil Rights Bureau  
P. O. Box 201001  
2701 Prospect  
Helena, Montana 59620  
(406) 444-6335

**Montana Human Rights Bureau:** P. O. Box 1728 – Helena, Montana 59624.  
Phone: (406) 444-2884 or (406) 444-0532 (TTY). Human Rights Bureau  
Website: <http://erd.dli.mt.gov/humanright/hrhome.asp> or  
[www.montanadiscrimination.com](http://www.montanadiscrimination.com).

**United States Equal Employment Opportunity Commission:**  
Denver District Office, 303 E. 17th Avenue, Suite 510, Denver, CO 80203  
Phone: 303-866-1300; TTY: 303-866-1950  
EEOC Website: [www.eeoc.gov](http://www.eeoc.gov).

**MONTANA**  
**DEPARTMENT OF TRANSPORTATION**  
**DISCRIMINATION COMPLAINT PROCEDURES**

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## I. Policy

The Montana Department of Transportation (MDT) is committed to providing a workplace free of discriminatory practices. MDT's policy prohibits illegal discrimination in any form, including retaliation.<sup>1</sup>

## II. Purpose

The purpose of the Montana Department of Transportation Discrimination Complaint Procedure is to provide an avenue for resolving complaints by employees and/or job applicants who believe they have been adversely impacted by illegal discrimination.<sup>2</sup> Complaints may be brought under this procedure for discrimination based on race, color, religion, national origin, gender, age, mental or physical disability, marital status, political belief, creed and retaliation.

This complaint procedure will be posted in all facilities owned or operated by MDT. All MDT employees shall have access to the complaint procedure and at any time may request additional information regarding the procedure. **All MDT employees have the right to contact the Civil Rights Bureau in Helena headquarters at any time they choose, without following their usual chain of command and should do so if anything in this policy is unclear.**

## III. Informal Resolution of Complaints

When circumstances permit, you should attempt to resolve the problem through discussions with the individual you accuse of the discriminatory behavior. **This is not a requirement.** Attempts to resolve issues informally should begin as soon as possible after the first alleged offense.

## IV. Filing a Formal Complaint

MDT encourages you to use the internal complaint procedure for resolution of discrimination concerns. To allege discrimination<sup>3</sup>, you must report the discriminatory conduct by making a written or verbal complaint within 180 days of the alleged incident. The complaint can be delivered to the Civil Rights Bureau, the immediate supervisor, or **any** MDT supervisor even if he/she is not your supervisor. Any MDT supervisor who receives a complaint **must** promptly report the complaint to the MDT Civil Rights Bureau. **Failure by the supervisor to report a complaint may result in disciplinary action, up to and including termination.**

Internal complaint forms are located in this document or can be downloaded from the website at: <http://mdtinfo.mdt.state.mt.us/civilrights/docs/complaintproc.pdf>

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<sup>1</sup> Important words are defined throughout this document and at the end of this document.

<sup>2</sup> Not all unfair treatment in an employment situation is illegal discrimination.

<sup>3</sup> This could be discrimination you witnessed or experienced.

If you want to file an internal complaint, you should do so as soon as possible following the incident. If the complaint is not filed within 180 days of the last alleged incident, you will lose your right to file an internal complaint.

You also have the right to file civil rights complaints with the following agencies:

Montana Human Rights Bureau (HRB)  
PO BOX 1728  
Helena, Montana 59624  
(406) 444-2884  
(406) 444-0532 (TTY)  
<http://www.erd.dli.mt.gov/humanright/hrhome.asp>

**or**

United States Equal Employment Opportunity Commission (EEOC)  
Denver District Office  
303 E. 17<sup>th</sup> Avenue, Suite 510  
Denver, CO 80203  
(303) 866-1300  
(303) 886-1950 (TTY)  
[www.eeoc.gov](http://www.eeoc.gov)

You must file the HRB complaint within 180 days of the alleged discriminatory incident. This deadline is extended to 300 days **if, and only if**, you have filed an internal complaint with MDT. The HRB will not consider your complaint if it is filed after the deadline has passed.

You must file your complaint with EEOC within 300 days of the alleged discriminatory act.

It is necessary to file a charge with the HRB or EEOC in order to preserve your right to file a private lawsuit at a later date.

## **V. Investigation Procedure**

When the Civil Rights Bureau receives your complaint, an investigation **must** begin within five (5) working days. The Civil Rights Bureau Chief will notify the Human Resources Division Administrator, the MDT Director and Deputy Director, MDT's Chief Legal Counsel, and the appropriate Division/District Administrator. The Civil Rights Bureau Chief will conduct the investigation or assign an investigator to conduct the investigation.

If your complaint is not being investigated in an appropriate and timely manner, you should complain to any management personnel. If any management personnel receive any indication that a discrimination complaint is not being investigated in an appropriate

and timely manner, s/he must report that information to the MDT Director, MDT Deputy Director, or the Chief Counsel for MDT. **Failure by management personnel to report complaints of this nature may result in disciplinary action, up to and including termination.**

When necessary, the MDT Director, the Deputy Director, or the Human Resources Division Administrator may elect to have someone other than Civil Rights Bureau staff conduct discrimination investigations. District Administrators may be requested to assign a District staff person to assist the investigating team with District investigations.

An investigation may include, but is not limited to, interviewing witnesses; reviewing hard copy information (such as personnel files, training records, safety records, and other disciplinary actions); gathering any other information related to the complaint, and completing a detailed written report to include a finding of “cause” or “no cause” along with recommendations for relief as appropriate. When necessary, the MDT legal staff is available to assist the investigator.

The investigative process **must** be completed within sixty (60) days of receipt of the complaint. The findings shall be distributed to you, the Human Resources Division Administrator, and the appropriate Division/District Administrator. In the case of a “cause” finding, a copy of the report must be given to the supervisor of the offending employee. The supervisor will be responsible for carrying out the recommendations. **If the supervisor fails to do so, it may result in disciplinary action, up to and including termination.**

The Civil Rights Bureau Chief shall:

- monitor the complaint from the time it is filed through completion to ensure that a proper and timely investigation has been completed and,
- ensure an appropriate follow-up procedure is in place to confirm that recommendations have been implemented, the discriminatory behavior has ceased, and retaliation is not occurring.

If during MDT’s internal investigation a complaint is filed with the HRB or the EEOC, the MDT internal investigation shall continue with the added participation of an MDT staff attorney who will coordinate and reconcile the two investigations.

**Failure to conduct the investigation in a proper and timely manner, interference with the investigation, or failure to cooperate with the investigator may result in disciplinary action, up to and including termination.** If you do not cooperate with the investigation or if you provide false information to the investigator, your complaint may be prematurely concluded with a “no cause” finding.

## **VI. Confidentiality**

The privacy of persons involved in the complaint proceedings cannot be guaranteed. Information might become public knowledge in any of the following ways:

- the complainant, the accused, or witnesses discuss confidential information with someone not involved in the investigation;
- the complainant, the accused, or witnesses disseminate confidential information to persons not involved in the investigation;
- if a case proceeds to the HRB, MDT may be required to submit evidence containing confidential information about persons other than the complainant;
- once the HRB completes its findings, the HRB complaint file will become public record unless a person follows the procedure outlined in Mont. Admin. R. 24.8.210.
- a court determines that the employee's right to privacy is outweighed by the public's right to know [Mont. Const. art. II, § 9];
- if an employee describes a situation that violates a Federal or State civil rights law, MDT may take immediate action to stop the behavior.

## VII. Retaliation Prohibited

Retaliation is taking any adverse action against an employee who has engaged in protected activity. Adverse action includes refusal to hire, refusal to promote or denial of a promotion; threats or reprimands; negative job performance evaluations; harassment; adverse treatment; limiting or suspending access to an internal complaint or grievance process; and giving negative job references. This list is not all inclusive.

Engaging in protected activity does not preclude a supervisor from exercising legitimate supervisory functions or taking appropriate disciplinary action against any employee when misconduct or MDT policy violations occur.

Protected activity is defined as filing, testifying, assisting, or participating in an investigation, proceeding, or hearing of a Civil Rights charge.

MDT will not tolerate retaliation against employees who engage in protected activity.

**Any act of retaliation by a supervisor and/or coworker may result in serious disciplinary action, up to and including termination.**

## VIII. False Statements Prohibited

Any employee filing a complaint or providing information to the investigator must provide accurate and truthful information that MDT can rely upon if the proceedings advance to contested case hearing or trial. **Making a false claim will not be tolerated and may result in disciplinary action, up to and including termination.**

## IX. Definitions

A **“CAUSE” FINDING** is the conclusion by the investigator that illegal discrimination has occurred.

A **COMPLAINANT** is a person who files a complaint. Complaints may be filed by or on behalf of permanent, temporary, short term, seasonal, and contracted employees as well as by applicants for employment.

A **COMPLAINT** is a statement by or on behalf of one or more employees or job applicants who are members of a protected class and who have been aggrieved by discriminatory or retaliatory conduct.

**DISCRIMINATION** or **DISCRIMINATORY CONDUCT** is defined as treating an employee or applicant differently because of race, color, creed, religion, sex, mental or physical disability, age, national origin, marital status, political beliefs, or retaliation.

A **HOSTILE WORK ENVIRONMENT** is created by acts or omissions directed toward one or more members of a protected class or harassment. The conduct must be so severe or pervasive that it alters conditions of employment and creates a working environment that is so intolerable that a reasonable person would consider voluntary termination as the only reasonable alternative.

**INAPPROPRIATE BEHAVIORS** are unwelcome, offensive, negative, derogatory, insulting, deprecating, or belittling behaviors that are directed toward one or more members of a protected class or referencing the protected class as a whole. Stereotyping based upon membership in a protected class is also inappropriate behavior.

A **“NO CAUSE” FINDING** is the conclusion of the investigator that a “cause” finding is not supported by a preponderance of the evidence.

A **PROPONDERANCE OF THE EVIDENCE** is the greater weight of the evidence.

**PROTECTED CLASS** refers to those groups of persons who are protected from discrimination by law. The protected groups are age, race, color, sex, religion, national origin, creed, disability, marital status, and political belief.

**MONTANA DEPARTMENT OF TRANSPORTATION**

**DISCRIMINATION COMPLAINT FORM**

NAME: \_\_\_\_\_

ADDRESS: Home \_\_\_\_\_

Work \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

<b>BASIS OF DISCRIMINATION</b> (Check the appropriate box or boxes)		<b>AREA OF DISCRIMINATION</b> (Check the appropriate box or boxes)	
<input type="checkbox"/>	Sex	<input type="checkbox"/>	Performance Appraisal
<input type="checkbox"/>	Sexual Harassment	<input type="checkbox"/>	Recruitment
<input type="checkbox"/>	Race/Color	<input type="checkbox"/>	Selection Process
<input type="checkbox"/>	National Origin	<input type="checkbox"/>	Promotion
<input type="checkbox"/>	Religion	<input type="checkbox"/>	Disciplinary Action
<input type="checkbox"/>	Creed	<input type="checkbox"/>	Transfer
<input type="checkbox"/>	Age	<input type="checkbox"/>	Termination
<input type="checkbox"/>	Disability	<input type="checkbox"/>	Layoff (RIF)
<input type="checkbox"/>	Marital Status	<input type="checkbox"/>	Training
<input type="checkbox"/>	Political Belief	<input type="checkbox"/>	Demotion
<input type="checkbox"/>	Retaliation for Civil Rights Activity	<input type="checkbox"/>	Programs & Services offered by MDT
<input type="checkbox"/>		<input type="checkbox"/>	Other (specify)

Explain the problem in detail. Include all important information such as dates, places, etc. Use attachment if necessary.

What action do you suggest be taken to correct this problem?

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

### **Publications statement**

MDT attempts to provide accommodations for any known disability that may interfere with a person participating in any service, program or activity of the Dept.

Alternative accessible formats of this information will be provided upon request.

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2000 copies of this booklet were produced at an estimated cost of \$. each for a total of \$ . For copies that were mailed, the individual cost was approximately \$ . per copy.