



Montana Department of Transportation
Civil Rights Bureau

EEO Worksite Meeting Topics

What is EEO? - EEO stands for Equal Employment Opportunity and is about ensuring that all employees have equal access to all the employment opportunities that are available

1. EEO Contact Persons

Project site representative & how to contact them.
Contractor's EEO Officer & how to contact them.

2. EEO Discrimination Complaint Procedures

Location of complaint procedures.
Steps in the complaint procedure.
Advise complainant to not discuss the complaint with anyone other than authorized investigators.

3. Confidentiality

Confidentiality is a trust that the complaint will not be talked about outside the investigation process.
Confidentiality doesn't mean others won't know about the complaint.
Confidentiality is an agreement that you won't talk to others about the complaint or investigation.
Confidentiality means the content of the complaint or investigation/ interviews will be communicated to others only on a "need to know" basis.

4. Retaliation

Is getting back at someone for complaining (getting revenge), opposing discrimination, or assisting in an investigation.
Retaliation is against the law.
Retaliation is denying the legal right to complain to someone; a right you wouldn't want someone deny to you.

If you retaliate against a person who has complained or someone close to them, it can be met with severe disciplinary action.

5. "Known or should have known"

Supervisors have be aware of inappropriate actions in their work area and to act on situations that violate policy, contract provisions, or may lead to a complaint.. If a supervisor knows or "should have know about it he/she has to take appropriate action even if someone does not complain about a situation.

For a supervisor not to act is considered "willful disregard" and penalties against the firm and the supervisor are more severe.

6. Protected Groups

Race - Race discrimination involves treating someone (an applicant or employee) unfavorably because he/she is of a certain race or because of personal characteristics associated with race (such as hair texture or certain facial features).

Race discrimination also can involve treating someone unfavorably because the person is married to (or associated with) a person of a certain race or because of a person's connection with a race-based organization or group

Color - Color discrimination involves treating someone unfavorably because of skin color . Color discrimination can also involve treating someone unfavorably because the person is married to (or associated with) a person of a certain color or because of a person's connection with an organization or group that is generally association with people of a certain color Court decisions have held that color discrimination exists on its own irrelevant from race in many cases. The color of a person's skin can, in many cases, be separated from their race or national origin.

National Origin - National origin discrimination involves treating people (applicants or employees) unfavorably because they are from a particular country or part of the world, because of ethnicity or accent, or because they appear to be of a certain ethnic background (even if they are not).

National origin discrimination also can involve treating people unfavorably because they are married to (or associated with) a person of a certain national origin or because of their connection with an ethnic organization or group.

Religion- Religious discrimination involves treating a person (an applicant or employee) unfavorably because of his or her religious beliefs. The law protects not only people who belong to traditional, organized religions, such as Buddhism, Christianity, Hinduism, Islam, and Judaism, but also others who have sincerely held religious, ethical or moral beliefs.

Religious discrimination can also involve treating someone differently because that person is married to (or associated with) an individual of a particular religion or because of his or her connection with a religious organization or group.

Creed – Is also a protected status in Montana. Creed is defined as, a formal statement of religious belief, confession of faith, or a system of belief, principles, or opinions.

Sex - (includes pregnancy, maternity gender, and sexual harassment) Sex discrimination involves treating someone (an applicant or employee) unfavorably because of that person's sex.

Sex discrimination also can involve treating someone less favorably because of his or her connection with an organization or group that is generally associated with people of a certain sex.

Harassment can include offensive remarks about a person's sex.

Disability - Disability discrimination occurs when an employer or other entity covered by the Americans with Disabilities Act (ADA of 1991 or ADA Amendments of 2008) or the Rehabilitation Act of 1974, treats a qualified individual with a disability who is an employee or applicant unfavorably because they have or are regarded as having a disability.

Age - The Age Discrimination in Employment Act (ADEA) forbids age discrimination against people who are age 40 or older. Montana Law protects workers of any age.

Marital Status – In Montana it is unlawful to discriminate against someone in employment because of their marital status.

Genetic Information – Under Title II of the Genetic Information Nondiscrimination Act (GINA,) it is illegal to discriminate against employees or applicants because of genetic information. GINA prohibits the use of genetic information in making employment decisions, restricts acquisition of genetic information by employers and insurers, and strictly limits the disclosure of genetic information.

7. Harassment – An individual is protected from harassment from within or outside the workforce.

Harassment is unwelcome conduct that is based on a protected status or class. Harassment becomes unlawful where:

- a) enduring the offensive conduct becomes a condition of continued employment, or
- b) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

8. Retaliation

It is illegal to fire, demote, harass, or otherwise "retaliate" because someone has engaged in a protected activity. Anti-discrimination laws prohibit retaliation against individuals for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit; or opposing employment practices that they reasonably believe discriminate against individuals.

The law forbids retaliation in any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

9. Hiring Minorities & Women

Applications are scored the same for all applicants.
Positions are offered to most qualified applicant.
Process applies to all personnel actions.
Except for Affirmative action?

10. EEO Covers

Employment
Upgrading
Demotions or Transfers.
Layoff or Termination.
Selection for Training.
Rates of Pay or other forms of Compensation.
Recruitment or Recruitment Advertising.

11. Affirmative Action Programs

Policy to Ensure Equal Opportunity.
Documentation of all Processes, Prove we tried = "Good Faith Effort".
Based on equalizing work crew with available labor force

12. EEO Officer's Duties

Establish & Administer Company's Affirmative Action program.
Maintain open communication with minorities & women's groups.
Train supervisory personnel relative to their EEO responsibilities.
Perform complaint investigations.
Provide information through:

- a. Handbooks
- b. Meetings
- c. Notices & Posters
- d. Other appropriate means, i.e. – videos

13. Bulletin Board

See <http://www.mdt.mt.gov/publications/forms.shtml#eeo> for required materials.

Ensure all employees know the location and contents of the bulletin board.

Required accessibility 24 hours a day.

14. Subcontractors

Have to abide by same provisions as the Prime does.
EEO contract provisions apply to all interactions between the prime contractor and:

- a. Sub-Contractors
- b. Material Suppliers
- c. Vendors

- d. State Personnel
- e. General Public

Have to submit to the inquiries of the Prime's EEO officer.
Must provide documentation of EEO compliance.
Subcontractor employees may join Prime for EEO meetings.

15. DBE Firms

DBE program is an affirmative action program to assist minority and/or woman owned businesses.

Prime contractors have to monitor DBE to ensure that:

- a. The DBE firm is doing its own work.
- b. The Prime knows and has access to DBE firm's owner.
- c. Qualified DBE firms are certified by MDT/Civil Rights Bureau.
- d. If an issue call the EPM and DBE Program Manager.((406) 444-6331)

16. On-The-Job Trainees

Assigned to some projects as a bid item.

It is an affirmative action program to teach Highway construction skills.

Primary objective is to target minorities and women.

Trainees are new to highway construction.

Regular skilled employees are to treat trainees with respect and courtesy.

Regular skilled employees are encouraged to help trainees acquire the skills to gain employment.

It is easy to see what trainee is doing wrong however it's important to compliment what they are doing right.

Davis-Bacon

17. What are the Davis-Bacon & Related Acts?

The Davis Bacon and Related Acts (DBRA) requires all contractors and subcontractors performing work on federal or District of Columbia construction contracts or federally assisted contracts in excess of \$2,000 to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area.

These prevailing wage rates and fringe benefits are determined by the Secretary of Labor for inclusion in covered contracts.

Federal-aid highway workers are to be paid weekly. It is against the law to pay bi-weekly or monthly. If this happens report to state inspector.

18. Zone Pay

Is not per deim.

Is an additional wage for working away from a community and community

amenities/services.

There are three zones circling different Montana cities.

Each zone is 30 miles wide.

Each zone pays a different amount. The shortest practical, maintained route from the County Courthouse to the center of the project determines the zone pay.

19. OJT Trainees

The objectives of the OJT Program are to:

- a. provide training and improve the skills of women and minorities so that they have the opportunity and access to the higher paying skilled trade jobs and journeyman positions, and
- b. broaden the labor pool to meet the projected future labor needs in the construction industry.

20. Site of Work

Some work sites close to a project are covered by Davis-Bacon, some are not.

What is covered is determined before contractor bids and carefully determined before Hand.

State inspectors check wages against work sites for accurate payment.

If not being paid Davis-Bacon for work on a site close to the project you can ask the State Inspector why.

21. Wage Issues and Resolving Payroll Problems

Discuss wage issue with superintendent first.

Have your copies of your records with you.

If not satisfied with superintendents explanation, “respectfully” request payroll to audit the situation and provide an explanation.

Keep records of all conversations – Who, What, When, Where, Why.

If still not satisfied contact 'MDT Civil Rights Bureau at 444-6331.

22. Labor Complaints

If uncomfortable discussing issues with the firm or superintendent you can contact any of the following:

Montana Department of Transportation (MDT) Inspector OR Call MDT/Civil Rights Bureau @ 444-6331OR

Write to: MDT/Civil Rights Bureau
PO Box 201001
2701 Prospect Avenue
Helena, MT 59620-1001

You are protected from retaliation for reporting.

Resources for additional information

Federal Highway Administration Homepage

<http://www.fhwa.dot.gov/>

US Equal Employment Opportunity Commission

<http://www.eeoc.gov/>

US Department of Labor

<http://www.dol.gov>

U.S. Department of Justice, Americans with Disabilities Act Homepage.

<https://www.ada.gov>

Montana Human Rights Bureau

<http://erd.dli.mt.gov/human-rights>

Office of Federal Contract Compliance Programs

Technical Assistance Guide for Federal Construction Contractors

https://www.dol.gov/ofccp/taguides/TAG_FedContractors_SubContractors.htm

Montana Department of Transportation Civil Rights Bureau

<http://www.mdt.mt.gov/business/contracting/civil.shtml>