



Montana State University – Great Falls Policy and Procedure Manual

SUBJECT: 400 Human Resources

Policy 401.3

Procedures for Resolving Complaints of Unlawful Discrimination

Effective:

Revised:

The complaint procedures in place at MSU—Great Falls are designed to guarantee students, employees and applicants for employment a consistent, expeditious and equitable means of addressing a complaint while protecting the complainant’s right to file a complaint without fear of reprisal. Additionally, the College’s complaint procedure designates internal and external forums for review and final settlement of complaints. Student complaint procedures can be found in the catalog and on the College’s website.

A complainant shall not use paid work time to prepare and pursue a complaint. An employee may request to use other appropriate paid leave, accrued compensatory time or leave of absence without pay to prepare a complaint. Use of leave or compensatory time shall be requested and approved consistent with administrative rules and institutional policies relating to the type of leave requested. Time spent by the employee attending a hearing is paid work time only during the complainant’s regular work shift and shall not exceed eight (8) hours per day.

An employee other than the complainant may, at the College’s discretion, be given paid work time to participate in an investigation or hearing. Other employees may request to use appropriate paid leave, leave of absence without pay, or accrued compensatory time to attend a hearing. Use of leave or compensatory time shall be requested and approved consistent with administrative rules and College policies relating to the type of leave requested.

Informal Complaint Procedure (Level One)

Employees who believe they have been discriminated against are encouraged to attempt to resolve the complaint through an informal process whenever possible before filing a formal complaint. When feasible, this informal resolution should occur within ten (10) working days of the occurrence of the alleged offense. Ideally, the complaint should be discussed and resolved with the individual against whom there is a complaint. If the complainant is unable or unwilling to discuss the matter with this individual, the situation should be discussed with the immediate supervisor of that individual.

Should a complaint remain unresolved at the informal level, the complainant may proceed to Level Two.

Formal Internal Complaint Procedure (Level Two)

A formal complaint shall be filed in writing within twenty-five (25) working days from the occurrence of the alleged offense. The formal complaint shall be filed with the College’s Human Resources Director.

A written complaint shall state specifically the law, written rule, policy and/or procedure violated; how the complainant was treated differently or by more or less exacting standards than other employees; when the alleged offense occurred; and the remedy desired by the complainant. Complaints may be written out in the complainant’s own format, or individuals may obtain a Formal Complaint Form from Human Resources.

If warranted, the Human Resources Director shall authorize and/or conduct an investigation according to the College’s Investigation Procedures. In some cases, the Human Resources Director may appoint an investigator or investigative team to gather information relevant to the complaint. The person against



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whom the complaint has been filed (the respondent) will be notified of the complaint at a time deemed appropriate by the Human Resources Director and/or the investigator. The Human Resources Director will submit a written report of findings and recommendations to the Dean within fifteen (15) working days of the date the formal complaint was filed. If extenuating circumstances require an extension of this timeframe, the complainant will be notified in writing. The Dean will notify the complainant and the respondent in writing of the findings. If disciplinary action is warranted, the Dean will notify the respondent and his or her supervisor of this decision.

The complaint is resolved at Level Two if the complainant and the respondent either accept the written response or fail to advance the complaint to Level Three within the allotted timeframe.

Appeal to the College's Dean (Level Three)

If a complainant or respondent wishes to advance the complaint to Level Three, they shall appeal to the Dean in writing within ten (10) working days of the Level Two response.

The Dean shall hear the appeal, review the complaint and relevant information, and issue the final administrative decision within twenty (20) days of the complainant's appeal, or the Dean shall notify the complainant, the respondent and the involved supervisory personnel concerning any additional actions ordered which will delay the decision.

At the discretion of the Dean, the appellate review may include: review of the written complaint; review of the Human Resources Director's report; and/or review of the record of any investigation or hearing. The Dean may also authorize further investigation, conduct a discussion with the complainant and/or the respondent, or order a hearing.

The Dean's final decision will be issued in writing to the complainant and the respondent. The respondent and his or her supervisor shall be notified of any decisions regarding disciplinary action. This is the final internal step of the formal complaint procedure.

Failure to Act

If the employee fails to respond within the timeframe established for any level, the complaint is considered resolved in favor of the last response given by the College. A complaint may not be re-filed unless there is new evidence that has a substantial bearing on the case or there is a recurrence of the alleged discriminatory behavior.

If the recipient of the complaint or appeal fails to respond within the timeframe established for a given level, the complainant may proceed to the next appropriate level of the procedure.

Waivers

Any procedural level or timeframe may be waived upon written consent of both parties.



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Complaint Resolution

A complaint is resolved when:

1. The final steps of the complaint procedures are completed; *or*
2. The complainant fails to advance the complaint in the required timeframe; *or*
3. The complainant voluntarily leaves College employment; *or*
4. The complainant dies, unless the complaint involves pay or fringe benefits.

An employee may concurrently file a complaint of unlawful discrimination with the Montana Human Rights Commission. The complaint must be filed within 180 days of the alleged incident or, in the case of alleged sexual harassment, within 300 days of the alleged incident.

EXTERNAL APPEAL PROCESS

Employees who wish to appeal the Dean's final decision may submit such an appeal in writing to the President of Montana State University—Bozeman within thirty (30) days of the issue of the Dean's decision.

The decision of the President may be appealed in writing to the Commissioner of Higher Education within thirty (30) days of the final decision by the President. A final appeal may be made to the Montana Board of Regents, which concludes MSU's external appeal process.

Employees may file complaints with the Human Rights Commission and/or secure legal counsel at any point in the complaint process.