

## What Employees Should Do

If you experience harassment or offensive behavior in your workplace, take the following steps as soon as possible:

- Make it known to the harasser that the behavior is unwelcome and/or report the incident to your immediate supervisor or any other supervisor not involved. Reinforce your efforts with a follow-up note, and keep a copy for your records.
- If the unwelcome behavior does not stop, report the behavior to your agency HR staff, EO officer, another supervisor, or director.
- Prepare and maintain written records of dates, times, and facts of all harassment, and record the names of all witnesses and any other victims of the harasser.
- Obtain copies of any written materials regarding the quality of your work to document a retaliatory, job-threatening action by a supervisor or co-worker.
- Document any physical or psychological concerns resulting from the incident.
- Immediately report concerns of retaliation to your supervisor, a higher-level manager, EO officer, or a member of the HR staff.
- Most of all, do not ignore harassment, resign your position, or believe your agency will not take your complaint seriously.

**Harassment based on any protected class is unlawful discrimination!**

To report a complaint, you may contact:

- An agency manager, EO Officer, or member of the human resources (HR) staff. State HR recommends using the Discrimination Complaint Resolution Form at <https://hr.mt.gov/Public/Policies> when filing a complaint within the department;
- The Montana Human Rights Bureau at (800) 542-0807;
- The EEOC at (800) 669-4000;

- The Employer Support of the Guard and Reserve (ESGR) at (800) 336-4590 or Veterans' Employment and Training Service (VETS) at (866) 487-2365 if you believe you have been discriminated against in employment because of military service or veteran status.
- If you are not personally a victim of harassment but observe actions against other employees that you believe to be harassment, you are encouraged to bring it to the attention of your agency's HR or EO officer.

For more information, contact the agency EO officer or HR staff.

You may also contact the State Human Resources Division at 444-3871.

Additional resources are available at:

- The State Human Resources Division resources and guides page: <https://hr.mt.gov/Public/Policies>
- The Montana Operations Manual: <https://howto.mt.gov/MOM>
- MT Human Rights: <https://erd.dli.mt.gov/human-rights/>
- EEOC: <https://www.eeoc.gov/>
- ESGR: <https://www.defense.gov/>
- VETS: <https://www.dol.gov/vets/programs/userra/>
- Employee Assistance Program: <https://hr.mt.gov/Programs/Workforce-Wellness>

The Interagency Committee for Change by Women (ICCW) functions under an executive order to create positive change for all state employees by promoting the full participation of women in state government. For more information about the ICCW, visit: <https://hr.mt.gov/Programs/ICCW>.

**Note:** Alternative accessible formats of this brochure are available upon request. Contact the State Human Resources Division, P.O. BOX 200127, Helena, MT 59620. Telephone: 406-444-3984; TTY: Montana Relay at 711.

Information for State of Montana employees, supervisors, and managers.

# HARASSMENT IS AGAINST THE LAW

Prepared by the:

- Interagency Committee for Change by Women
- State Human Resources Division, Department of Administration

## Right to a Work Environment Free of Illegal Harassment

Montana state government is committed to:

- providing a work environment free from discrimination and harassment;
- promoting a culture of individual dignity and respect;
- communicating the state's Equal Employment Opportunity (EEO), Nondiscrimination, and Harassment Prevention Policy and complaint resolution procedures to employees and supervisors;
- recognizing the unique nature of sexual harassment complaints and other forms of discriminatory harassment;
- encouraging early reporting of allegations;
- resolving complaints promptly, fairly, confidentially, and at the lowest possible level;
- prohibiting retaliation against an employee because he or she complained of being harassed or testified, assisted, or participated in any manner with an investigation of harassment.

Each agency is required to have an equal opportunity officer (EO) officer responsible for managing the agency's EO program.

The state's EEO, Nondiscrimination, and Harassment Prevention Policy is available at <https://hr.mt.gov/Public/Policies>.

## Sexual Harassment

Agency managers will not tolerate sexual harassment of employees, clients, customers, or other persons doing business with state government. Two categories of sexual harassment exist:

**Quid Pro Quo:** Requesting sexual favors in return for job benefits or opportunities. **Examples** may include, but are not limited to, sexual demands as a condition of employment; loss or threatened loss of a job for failing to comply with a supervisor's sexual demands; altering

employment benefits in exchange for sexual favors; or forcing an employee to resign because he or she did not submit to a sexual request.

**Hostile Working Environment:** Unwelcome sexual conduct that unreasonably interferes with an employee's job performance or creates an intimidating, hostile, or offensive work environment. Although a single occurrence or a pattern of sexually oriented behavior might not constitute illegal harassment, it is still unacceptable. **Examples** include, but are not limited to, displaying sexually suggestive objects, pictures, screen savers, cartoons, or posters; verbal abuse of a sexual nature; sexually oriented discussions, jokes, innuendoes, comments, or obscenities; and sexually suggestive letters, notes, emails, or text messages.

Harassment not involving sexual activity or language is also discriminatory if it is sufficiently patterned or pervasive and directed at employees because of their sex. This is **gender-based** harassment.

## Other Harassment

Agency managers will not tolerate harassment of employees, clients, customers, or other persons doing business with or on behalf of Montana state government.

Harassment based on race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, pregnancy, childbirth, or a condition related to pregnancy or childbirth, sexual orientation, gender identify or expression, political beliefs, genetic information, military service or veteran status, culture, social origin or condition, or ancestry is a violation of this policy, regardless of whether it rises to the level of a hostile work environment. **Examples** include, but are not limited to, oral, written, or electronic communication in the form of slurs, jokes, comments, images, innuendoes, or other verbal or physical conduct focused on a protected class.

Even mutually agreeable behavior, or behavior accepted between two or more people, can be offensive to others and is unacceptable.

## What Managers Should Do

Agency managers will take the following actions to prevent and stop harassment if it occurs:

- post the state's EO policy poster and complaint-resolution procedures in areas frequented by employees and the public;
- provide training for all employees;
- ensure employees acknowledge their understanding of the state's policy;
- express strong disapproval of harassment and encourage early reporting;
- lead by example;
- take allegations seriously, remain neutral, and document relevant information;
- promptly notify the agency HR staff or EO officer of allegations of harassment;
- follow complaint procedures outlined under the EEO, Nondiscrimination, and Harassment Prevention Policy;
- protect confidentiality to the extent possible;
- follow up with complainant and alleged wrongdoer prior to, during, and after an investigation;
- ensure there is no retaliation—it is illegal;
- take immediate and appropriate corrective action, including discipline, when harassment has occurred; and
- inform employees of their right to report allegations to the Montana Human Rights Bureau, Equal Employment Opportunity Commission (EEOC), Employer Support of the Guard and Reserve, or Veterans' Employment and Training Service as appropriate.

## Agency Liability

Under federal and state discrimination law, agencies may be liable for monetary compensation and other forms of relief to employees who are victims of harassment by:

- supervisors, whether or not the agency knew of the harassment; or
- co-workers and non-employees, when the agency knew or should have known of the harassment in the workplace and failed to take immediate corrective action.