



MONTANA STATE UNIVERSITY

[Montana State University](#) > [Policy and Procedures](#) > [Nondiscrimination Policy and Procedures](#) > Non-Discrimination Policies

100.00 Non-Discrimination Policies and Discrimination Grievance Procedures Interim Policy, August 24, 2012

SECTION CONTENTS

- [100.00](#) Non-Discrimination Policies
- [110.00](#) Title IX of Education Amendments of 1972
- [120.00](#) Sexual Harassment and Sexual Intimidation
- [130.00](#) Sexual Misconduct Definitions
- [140.00](#) Reporting Sexual Harassment and Sexual Misconduct
- [1450.00](#) Sexually Explicit Materials in the Workplace
- [1560.00](#) Disability Non-Discrimination
- [1670.00](#) Retaliation
- [1780.00](#) Consensual Relationships
- [1890.00](#) Discrimination and Harassment Training

Montana State University does not discriminate on the basis of race, color, ethnicity, national origin, sex, sexual orientation or preference, marital or parental status, age, religion, creed or political belief, mental or physical handicap or disability, or status as a covered veteran in admission, access to, or conduct of our educational programs and activities or in our employment policies and practices.

Montana State University is committed to providing a working environment for all employees and an educational environment for all students that supports and rewards career and academic goals on the basis of ability and work or academic performance. Harassment based on race, color, ethnicity, national origin, marital or parental status religion, sex, gender, sexual orientation or preference, age, disability, or veteran status is a form of discrimination and is prohibited.

The University is committed to taking positive and effective actions in the recruitment, hiring, training, and promotion of persons in all classes of employment to help overcome the present effects of past discrimination and increase opportunities for qualified women and minorities, persons with disabilities, and covered veterans. In addition, Montana State University assumes particular responsibility for providing opportunities for education and training for the state's

Native American peoples in the various disciplines and professions that are characteristic of this land-grant university.

Any student, employee, applicant for employment or admission, participant in University activities or other person who believes he or she was subject to discrimination in violation of the policies of the university may file a grievance under the university Discrimination Grievance Procedures ([Section 200.00](#) of this policy).

110.00 Title IX of Education Amendments of 1972

Title IX and its implementing regulation, at 34 C.F.R. § 106.31 (a), provide that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by the university.

Sexual harassment is a form of sex discrimination prohibited by Title IX. ~~Sexual harassment is unwelcome conduct of a sexual nature.~~ Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and ~~other verbal, nonverbal, or physical conduct of a sexual nature~~ sexual violence, including rape, sexual assault, ~~sexual battery and~~ sexual coercion or other sexual misconduct ~~as outlined in Section 120.00 and 130.00.~~

~~Sexual harassment of a student can deny or limit, on the basis of sex, the student's ability to participate in or to receive benefits, services, or opportunities in the school's program.~~

Any student, faculty or staff member with questions or concerns about sex discrimination or sexual harassment or who believes that he or she has been the victim of sex discrimination or sexual harassment may contact the Title IX Coordinator for assistance. The Title IX Coordinator is available to discuss options, explain university policies and procedures, and provide education on relevant issues.

~~Title IX complaints involving student complainants and student respondents will be referred to the Dean of Students for investigation, under the supervision of the Title IX Coordinator, and shall be subject to the Student Conduct Code. All other Title IX complaints may be filed with the Title IX Coordinator.~~

The Title IX Coordinator is:

Diane Letendre
Montana State University
P.O. Box 172430
Bozeman, MT 59717-2430

Tel: (406) 994-2042

Fax: (406) 994-7999

E-mail: dletendre@montana.edu

Location: 118 Hamilton Hall

120.00 Sexual Harassment and Sexual Intimidation

~~Sexual harassment is a form of sex discrimination prohibited by Title IX, Title VII of the Civil Rights Act of 1964 and the Montana Human Rights Act.~~ **Sexual harassment** includes unwelcome sexual advances, ~~sexual misconduct~~, requests for sexual favors, sexual misconduct, and other physical or verbal conduct of a sexual nature, when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of academic participation or activity, educational advancement, or employment;
- Submission to or rejection of such conduct by and individual is used as the basis for employment or academic decisions that affect the individual;
- Such conduct is so pervasive or severe that it has the purpose or effect of unreasonably interfering with an individual's work or academic performance or limiting participation in University programs; or
- The intent or effect of such pervasive or severe conduct is to create an intimidating, hostile, or offensive academic or work environment.

Sexual Intimidation includes any unreasonable behavior, verbal or nonverbal, which has the effect of subjecting members of either sex to humiliation, embarrassment, or discomfort because of their gender.

130.00 Sexual Misconduct

A. ~~For purposes of this policy, S~~sexual misconduct is any non-consensual physical contact of a sexual nature, including sexual intercourse without consent (rape); sexual assault and any other forms of sexual violence. Sexual misconduct may vary in its severity and consists of a range of behavior(s) or attempted behaviors that may be grounds for action under University policy.

B. ~~Prohibited conduct under the~~ Sexual Misconduct includes:

~~Non-Consensual Contact: Any intentional sexual touching however slight, with any object by a man or woman upon a man or woman, without consent.~~

~~Non-Consensual Intercourse: Any sexual intercourse (anal, oral or vagina), however slight, with any object by a man or woman upon a man or woman, without consent.~~

1. ~~Forced Sexual Intercourse without Consent:~~ Unwilling or nonconsensual sexual penetration (anal, oral or vagina), however slight, with any object or body part that is committed either by force, threat, intimidation or through exploitation of another's mental or physical condition of which the perpetrator was aware or should have been aware.

2. Sexual Assault: Unwilling or nonconsensual sexual contact.

3. ~~Sexual contact includes: Sexual activity includes-1)~~ intentional contact with the breasts, buttock, groin or genitals or touching another with any of these body parts; ~~2); or making another touch you the perpetrator~~ or themselves with or on any of these body parts; ~~3) any other intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or, including contact~~ by a penis, ~~object,~~ tongue or finger, ~~anal penetration by a penis, object, tongue or final~~ and oral copulation (mouth to genital contact or genital to mouth contact).

~~Consent: Effective consent cannot be given by minors, mentally disabled individuals or persons incapacitated by drugs and/or alcohol.~~

~~C. Sexual Exploitation/Coercion: Occurs when a person takes- Taking~~ nonconsensual or abusive sexual advantage of another for ~~his/her one's~~ own advantage or benefit, or to benefit or advantage anyone other than the one being exploited ~~or coerced and that behavior does not otherwise constitute one of the other sexual misconduct offenses.~~ Examples of sexual exploitation/~~coercion~~ includes, but are not limited to:

- Relationship violence (intimate relationship violence or domestic abuse)
- Prostituting another person
- Nonconsensual video or audiotaping of sexual activity
- Going beyond the boundaries of consent (such as letting friends hid in the closet to watch sexual intercourse)
- Engaging in voyeurism
- ~~Unwilling or nonconsensual sexual activity that arises from the use of verbal pressure or misuse of authority.~~
- Knowingly transmitting an STD or HIV to another person.

~~D. Consent: Consent is an understandable exchange of affirmative words or actions, which indicate a willingness to participate in mutually agreed upon sexual activity. Consent must be informed, freely and actively given. The lack of a negative response is not consent. An individual incapacitated by alcohol and/or drugs whether voluntarily or involuntarily consumed may not give consent. Effective consent also cannot be given by minors, or mentally disabled.~~

140.00 Reporting Sexual Harassment and Sexual Misconduct

Complainants. Students, staff or faculty who believe they have been sexually harassed [Section 120] or have been the victim of sexual misconduct [Section 130] may file a report with the Title IX Coordinator.

Mandatory Reporting for Employees. Any employee of the university who is informed of an allegation of sexual harassment or sexual misconduct involving a student **must** promptly notify the Title IX Coordinator. Campus employees serving in certain professional roles which enjoy a statutory privilege are not required to disclose information which is privileged under Montana law (e.g., medical providers, licensed professional counselors, rape crisis counselors). Therefore,

to the extent that these employees receive information in connection with the performance of their professional responsibilities, they are not required to report under this section unless otherwise required to do so by law. [Ref. §§ 27-1-1102, MCA and 50-16-530, MCA] Persons may file a report using the Title IX report form found here.[insert linkwww.montana.edu/titleIX/report.html.]

The Title IX Coordinator is:

Diane Letendre, Director
Office of Institutional Equity
Montana State University
P.O. Box 172430
Bozeman, MT 59717-2430

Tel: (406) 994-2042
Fax: (406) 994-7999
E-mail: dletendre@montana.edu
Location: 118 Hamilton Hall

Upon receipt of a report, the Title IX Coordinator, or designee, will promptly investigate in accordance with section 200.00 et seq. The Title IX coordinator will initiate actions to ensure that the educational and work environment is free of discrimination which includes stopping any harassment or sexual misconduct and preventing its reoccurrence. Additionally, the Title IX Coordinator shall take such steps as may be appropriate to remedy its effects.

Employees and students are expected to cooperate in investigations of complaints of discrimination. Failure to cooperate may result in disciplinary action.

1450.00 Sexually Explicit Materials in the Workplace

In keeping with the University's policy on sexual harassment, Montana State University desires to create a working environment for employees and a learning environment for students which is free of sexual harassment and intimidation. Materials such as calendars, posters, post cards, photographs and cartoons that contain sexually explicit images or language can create an intimidating, hostile or offensive environment and may subject persons of either sex to humiliation, embarrassment or discomfort because of their gender. Such materials are inappropriate and should be removed from the workplace.

This policy applies to space provided by the University for the conduct of its business such as offices, shops, classrooms, hallways, lounges and study carrels.

This policy does not apply to: (1) libraries, resource rooms, or research collections; (2) materials related to course content or assignments used in the educational setting; (3) displays and exhibits in galleries and museums, or (4) private rooms or family housing units rented from the University.

1560.00 Disability Non-discrimination

The University is committed to eliminating disability-based discrimination against qualified persons with disabilities and making reasonable accommodation for any known disability that interferes with an applicant's ability to compete in a selection process, an employee's ability to perform the essential functions of a job, a student's ability to meet the essential requirements of an academic program, or a person's ability to benefit from a University service or participate in a University sponsored or hosted event. Discrimination on the basis of disability is prohibited.

Applicants, employees, students or participants with a disability seeking an accommodation shall contact the appropriate person identified under the university's [Access for People with Disabilities](#).

1670.00 Retaliation

Retaliation against persons who file complaints, ~~or~~ serve as witnesses or otherwise participate in an investigation of a complaint of discrimination is a form of discrimination and is prohibited.

1780.00 Consensual Relationships

A consensual romantic relationship in which one party is in a position to evaluate the work of the other is a potential conflict of interest. When such a potential conflict of interest results between employees or an employee and a student, the employee shall promptly disclose the potential conflict of interest to his or her supervisor. The supervisor and the employee shall take steps to ensure that there is no conflict of interest.

The employee's failure to promptly disclose such a potential conflict of interest may require appropriate resolution, including discipline.

1890.00 Discrimination and Harassment Training

To educate staff and faculty on the importance of non-discrimination and the prevention of sexual harassment in the work environment and classroom, each Montana State University campus requires all employees (faculty, all Graduate Teaching Assistants, Graduate Research Assistants, Administrators and staff members) to complete discrimination and harassment prevention training on a biennial basis.

All new employees and Graduate Teaching Assistants and Graduate Research Assistants are required to complete the online training program (or an equivalent training program approved by Office of Institutional Equity) within the first 30 days of employment. Temporary employees and student employees may be required to complete the training program at the discretion of Office of Institutional Equity and/or in conjunction with the department of hire.

Supervisors shall support the employee in providing a reasonable amount of work time for the employee to complete the training program. Training programs can be selected from resources such as online programs, presentations or self-study options as determined and pre-approved by administration and/or Office of Institutional Equity.

200.00 Discrimination Grievance Procedures

SECTION CONTENTS

[200.00](#) [Discrimination Grievance Procedures](#)

[210.00](#) [Jurisdiction of the ~~Human Resources | Affirmative Action Office \(HR|AA\)~~Office of Institutional Equity](#)

~~[220.00](#) [Complainant's Right to File with Agencies Outside the University](#)~~

~~[2320.00](#) [University's Right to Initiate an Investigation](#)~~

~~[2430.00](#) [Deadlines](#)~~

~~[2540.00](#) [Remedial action](#)~~

~~[250.00](#) [Confidentiality](#)~~

~~[260.00](#) [Reports to Law Enforcement](#)~~

The discrimination grievance procedures apply to complaints alleging violations of federal and state civil rights laws, ~~Board of Regents non-discrimination policies~~, Title IX of Education Amendments of 1972, [Board of Regents non-discrimination and Title IX policies](#) and the Montana State University Non-~~d~~Discrimination Policies, including complaints of sexual harassment, sexual violence, sexual misconduct- and harassment based on race, color, ethnicity, national origin, sex, sexual orientation or preference, marital or parental status, age, religion, creed or political belief, mental or physical handicap or disability, or status as a covered veteran.

~~For complaints alleging sexual violence or sexual misconduct, if the alleged perpetrator is a student, the Title IX Coordinator will direct that an investigation be undertaken by the Deputy Title IX Coordinator in the Dean of Students office or other designee to be conducted in accordance with [Student Code of Conduct](#) procedures.~~

These ~~complaint~~ procedures are internal to the University and have been adopted to provide:

1. Impartial [and prompt](#) investigation of complaints alleging prohibited discrimination;
2. Appropriate due process for any individual against whom a ~~formal~~ complaint of discrimination has been made; and
3. Prompt and equitable resolution of complaints when prohibited discrimination has been confirmed.

~~Individuals may file either informal or formal complaints as outlined below.~~

210.00 Jurisdiction of the ~~Human Resources | Affirmative Action Office (HR|AA)~~ Office of Institutional Equity [OIE]

The jurisdiction of the ~~Office of HR|AA~~ OIE is limited to complaints of discrimination arising under the University's Nondiscrimination Policies, Board of Regents policies, Title IX of Education Amendments of 1972 or any state or federal law or regulation prohibiting discrimination. The Office accepts complaints, investigates, issue findings, and makes recommendations for the remediation of complaints of discrimination filed by an individual or referred by a university official, agent or committee.

If, in the course of any university committee process, the committee identifies concerns about discrimination arising in the matter before it, the committee shall refer the discrimination concerns to the Office of ~~HR|AA~~ Intitutional Equity for consultation before acting on the matter.

~~220.00~~

~~In complaints of sexual harassment, sexual misconduct and sexual violence made by a student, informal resolution procedures involving direct interaction between the alleged perpetrator and the complainant will not be used.~~

~~Moved Upon receiving a complaint of sexual harassment, sexual misconduct or sexual violence involving students, the Title IX Coordinator, in coordination with the Dean of Students, may take immediate corrective actions, such as providing an escort to ensure that the complainant can move safely between classes and activities, and arranging for the complainant to re-take a course or withdraw from a class without penalty or adversely affecting the complainant's academic record. The complaining student will be encouraged to seek additional support services from the VOICE Center, the University Police, Counseling & Psychological Services, Student Health Services and other community resources that may be available.~~

~~Complainant's Right to File with Agencies Outside the University~~ [Moved]

~~Complainants may file complaints of discrimination directly with a state or federal government without filing a formal complaint with the University.~~

~~Complaints of discrimination may be filed with:~~

~~Montana Human Rights Bureau
1625 11th Avenue
PO Box 1728
Helena, MT 59624-1728~~

Voice: 406-444-2884
Toll-free: 800-542-0807

U.S. Department of Education Office for Civil Rights
Seattle Office
915 Second Avenue, Room 3310
Seattle, WA 98174-1099
OCR.Seattle@ed.gov
Voice: 206-607-1600
Fax: 206-607-1601
TDD: 206-607-1647

EEOC
San Francisco District Office
350 The Embarcadero
Suite 500
San Francisco, CA 94105-1260
Phone: 1-800-669-4000
Fax: 415-625-5609
TTY: 1-800-669-6820

2320.00 University's Right to Initiate an Investigation

The University may investigate a complaint of discrimination at any time if, in the opinion of the ~~HR/AA OIE~~ Director, such action is warranted to resolve an incident of discrimination, even if no complaint has been filed. Unless otherwise specified, the investigation shall follow the procedures for the conduct of formal investigations described in [Section 300.00](#) except that there will be no complainant.

2430.00 Deadlines

The university will strive to complete investigations within sixty days from the date the charges were filed, unless good cause can be shown for the delay. The time needed to complete an investigation will vary depending on the complexity of the investigation and the severity and extent of the discrimination. If additional time to complete the investigation is required, notice shall be made in writing to all parties.

2540.00 Remedial Action

Remedial action means the administrative steps taken to remedy a situation that has led to a complaint.

The purposes of remedial action are to:

1. Prevent serious and immediate harm to the complainant and others;
2. Prevent retaliation against the complainant, respondent and/or witnesses;

3. End discriminatory or harassing behavior and prevent its recurrence; and
4. Provide appropriate training in issues related to discrimination.

At any time during the complaint process, the ~~HR/AA-OIE~~ Director and/or other appropriate administrator may take appropriate remedial action to ensure that these purposes are achieved. Respondents may not appeal remedial actions.

Remedial action may include, but shall not be limited to:

- Altering the complainant's or respondent's work or academic environment;
- Conducting workshops on discrimination or harassment for the unit, division or department;
- Meeting with the respondent and his or her supervisor(s) to discuss ways in which the behavior about which the complaint has been brought can be changed;
- Mediating or conciliating the complaint;
- Reassigning or transferring one or more of the parties to another course, advisor, work location or reporting relationship;
- Moving students to different rooms in the residence halls or to different halls;
- Transferring students or faculty to different course sections;
- Assigning alternate advisors, mentors, supervisors, or evaluators and providing academic support services such as tutoring;
- Issuing an informal, verbal reprimand;
- Providing counseling and medical services;
- Providing an escort to ensure that the complainant can move safely between classes and activities;
- Arranging for the complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the complainant's record;
- Suspending an employee with pay pending investigation;

The complainant shall be informed of any remedial action taken by the University.

250.00 Confidentiality

Confidentiality for the alleged victim will be respected to the extent possible. However, even if the alleged victim requests confidentiality or asks that the complaint not be pursued, the university is required to:

A. take all reasonable steps to investigate and respond to the complaint to the extent possible consistent with the alleged victim's wishes;

B. notify the alleged victim that the failure of the alleged victim to pursue a complaint may limit the campus' ability to fully address the matter; and

C. report the incident or assault to local law enforcement authorities if a health or safety emergency as defined by state or federal law is found by the campus to require such reporting.

In addition, Office of Institutional Equity, Title IX Coordinator or designee shall may disclose confidential information to the complainant, the respondent, potential witnesses, appropriate supervisors and administrators and other university official or agents as necessary to: (1) give the respondent fair notice of the charges, (2) conduct a prompt, thorough and impartial investigation, and (3) take any appropriate remedial or disciplinary action.

Confidential information may also be disclosed to:

1. University officials who have a need to review the report to perform official University business including taking remedial and/or disciplinary action;
2. Attorneys for the complainant and respondent;
3. Officials of the Montana University System, the Montana Board of Regents of Higher Education or other duly constituted board.
4. As necessary to respond to litigation or formal investigation of a complaint filed or appealed to the Board of Regents, State and federal agencies and the court.

If any information to be disclosed includes education records under the Federal Education Rights and Privacy Act [FERPA], the requirements of the FERPA will be followed before release of the education records.

Because investigations may involve matters of individual privacy, parties involved in an investigation, including witnesses, shall keep information concerning the investigation confidential. While an individual may choose to waive his or her personal right to confidentiality by disclosing information to others outside the complaint investigation process, he or she is not free to breach the privacy rights of others.

260.00 Reports to Law Enforcement.

Anyone who believes he or she has been the victim of discrimination which may also be a criminal offense such as rape, sexual assault, hate crimes, etc. may file a complaint with law enforcement with or without assistance from the Title IX Coordinator. The Title IX Coordinator or designee will report complaints of sexual violence to the appropriate law enforcement agency when requested to do so by the alleged victim.

If a resport of sexual violence presents a health or safety emergency as defined by state and federal law, the university will disclose the complaint and related information to the appropriate law enforcement agency.

300.00 ~~Discrimination~~-Complaint and Investigation Procedures

SECTION CONTENTS

- 300.00 ~~Discrimination Complaint Procedures~~ Filing a Complaint**
 - ~~310.00 Meeting with HR|AA~~**
 - ~~320.00 Responsibilities of University Faculty, Students and Staff~~**
 - ~~330.00 Formal Complaint Procedures~~**
 - ~~340.00 Confidentiality~~**
 - 3510.00 Investigation Procedures**
 - 3620.00 Report of Findings**
 - 3730.00 Appealing the Report of Findings**
 - 3840.00 Disciplinary Action**
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~~310.00 Meeting with HR|AA~~

~~Any person with concerns about discrimination may meet informally with HR|AA staff to discuss options available for dealing with those concerns. HR|AA staff will discuss formal and informal strategies for eliminating the discrimination and explain the university's discrimination grievance procedures. Any person who believes they have been discriminated against in violation of university policy may elect to file a formal written complaint (see Section 330.00 of this policy) at any time~~

~~320.00 Responsibilities of University Faculty, Students and Staff~~

~~Individuals who experience discrimination and harassment may choose to discuss their experiences with a trusted advisor, professor, Dean of Students or other administrator rather than with HR|AA staff. Complaints of sexual harassment, sexual misconduct, sexual violence and discrimination should not be referred back to the offending party. Instead, anyone who receives information about discrimination or sexual harassment, sexual misconduct or sexual violence should promptly report the matter to the Office of HR|AA (406-994-2042) [hraa@montana.edu].~~

~~Employees or students who commit and/or supervisors who knowingly condone or fail to report incidents of discrimination are subject to disciplinary actions when instances of discrimination are identified and confirmed.~~

~~Employees and students are expected to cooperate in investigations of complaints of discrimination. Failure to cooperate may result in disciplinary action.~~

330300.00 Formal Complaint Procedures Filing a Complaint

Any person who wishes to file a ~~formal~~ complaint of discrimination may do so by submitting the complaint ~~in writing~~ to the Office of ~~HR|AA~~Office of Institutional Equity. ~~Complaints of discrimination will be investigated by an authorized representative of the University.~~

A complaint should contain the following:

1. Detailed description of the alleged discriminatory conduct or incident(s), sexual harassment, sexual misconduct or sexual violence including dates, times, and location, whenever possible;
2. Names of any witnesses to the alleged violation; and
3. Documentation in support of the allegation(s).

~~HR|AA~~OIE staff, the Title IX ~~Coordinator and/or Deputy Title IX Coordinator(s) or designees~~ may assist the complainant in preparation of the complaint, identifying witnesses and clarifying the relief sought by the complainant. The complainant may submit further evidence or additional information that may assist in the investigation at any time during the investigation.

The ~~HR|AA Director~~OIE Director may limit the complaint to the specific allegation(s) of discrimination over which the ~~Office of HR|AA~~OIE has jurisdiction, and refer other allegations to the appropriate office, employee or committee. The complainant shall be informed in writing of any limitations of the original complaint due to lack of jurisdiction.

Each complaint will be promptly investigated to determine what occurred.

Upon receiving a complaint of sexual harassment, sexual misconduct or sexual violence involving students, the Title IX Coordinator, in coordination with the Dean of Students, may take immediate corrective actions, such as providing an escort to ensure that the complainant can move safely between classes and activities, and arranging for the complainant to re-take a course or withdraw from a class without penalty or adversely affecting the complainant's academic record. The complaining student will be encouraged to seek additional support services from the VOICE Center, the University Police, Counseling & Psychological Services, Student Health Services and other community resources that may be available.

~~The respondent shall receive a written Notice of the Complaint.—A summary of the allegations of the complaint will be submitted with the notice.—The respondent will have the opportunity to respond to the allegation(s) during interviews with the investigator and may submit a written response and documentary evidence at the interview or at any time after the interview.—~~

~~The parties are expected to cooperate with the investigation, present documentation on his or her behalf, and identify witnesses to the incident(s) giving rise to the complaint.~~

310.00 Complainant's Right to File with Agencies Outside the University

Complainants may file complaints of discrimination directly with a state or federal government without filing a formal complaint with the University.

Complaints of discrimination may be filed with:

Montana Human Rights Bureau

1625 11th Avenue

PO Box 1728

Helena, MT 59624-1728

Voice: 406-444-2884

Toll free: 800-542-0807

U.S. Department of Education Office for Civil Rights

Seattle Office

915 Second Avenue, Room 3310

Seattle, WA 98174-1099

OCR.Seattle@ed.gov

Voice: 206-607-1600

Fax: 206-607-1601

TDD: 206-607-1647

EEOC

San Francisco District Office

350 The Embarcadero

Suite 500

San Francisco, CA 94105-1260

Phone: 1-800-669-4000

Fax: 415-625-5609

TTY: 1-800-669-6820

Any person may file a complaint with the police when the complaint involves a criminal offense, such as sexual assault, sexual intercourse without consent or other criminal offense.

~~340.00 Confidentiality~~

~~The University will treat information received and collected during an investigation as confidential to the extent possible. The HR/AA Director, Title IX Coordinator or Deputy Title IX Coordinator(s) and staff shall disclose confidential information to the complainant, the respondent, potential witnesses, appropriate supervisors and administrators and other university official or agents only as necessary to: (1) give the respondent fair notice of the charges, (2) conduct a thorough investigation, and (3) take any appropriate remedial or disciplinary action.~~

~~Confidential information may also be disclosed to:~~

~~University officials who have a need to review the report to perform official University business including taking remedial and/or disciplinary action;~~

~~Attorneys for the complainant and respondent;~~

~~Officials of the Montana University System, the Montana Board of Regents of Higher Education or other duly constituted board.~~

~~As necessary to respond to litigation or formal investigation of a complaint filed or appealed to the Board of Regents, State and federal agencies and the court.~~

~~If any information to be disclosed includes education records under the Federal Education Rights and Privacy Act, the requirements of the FERPA will be followed before release of the education records.~~

~~Because investigations may involve matters of individual privacy, parties involved in an investigation, including witnesses, shall keep information concerning the investigation confidential. While an individual may choose to waive his or her personal right to confidentiality by disclosing information to others outside the complaint investigation process, he or she is not free to breach the privacy rights of others.~~

3500.00 Investigation Procedures

The parties have the right to an adequate, reliable and impartial investigation, the right to an equal opportunity to identify witnesses and supporting evidence and the right to appeal. Each complaint will be promptly investigated to determine what occurred.

The parties will be notified of the time frame for the investigation, the outcome of the investigation and the right to file an appeal. The parties will be provided with a status update of the investigation after approximately 30 days if the investigation is not completed. The investigation will be completed in 60 calendar days in most cases as provided in section 230.00.

The respondent shall receive a written Notice of the Complaint. A summary of the allegations of the complaint will be submitted with the notice. The respondent will have the opportunity to respond to the allegation(s) during interviews with the investigator and respondent may submit a written response, names of witnesses and documentary evidence at the interview or at any time during the investigation. The complainant may provide names of witnesses and additional materials at any time during the investigation.

~~-as provided in section 230.00~~

The parties are expected to cooperate with the investigation, present documentation on his or her behalf, and identify witnesses to the incident(s) giving rise to the complaint.- The OIE Director may investigate or assign a representative to investigate the complaint. Once the investigator has been appointed:

1. The investigator shall consult with the complainant to review the complaint, clarify the allegations, discuss desired outcomes from the investigation and obtain detailed information about the allegation(s).

2. The investigator shall inform the respondent of the complaint, and summarize the allegation(s) to be investigated.
3. The investigator shall collect and review written documents related to the complaint, interview the complainant and respondent, identify and interview witnesses, and collect such other evidence as may be relevant to the investigation.
4. Upon completion of the investigation, the investigator shall prepare a written report.

The Complainant and the Respondent have the right to have an attorney or non-attorney advisor present during interviews with the investigator, at their own expense. Advisors may be present only to advise the parties; they may not participate directly in the interview or other proceedings.

3610.00 Report of Findings

The Report of Findings will:

1. Present the contentions of the parties;
2. Summarize the general testimony of witnesses, if any;
3. State the findings of fact;
4. Determine whether the allegation(s) of the complaint are supported by the preponderance of credible evidence, ~~using the reasonable person standard—that is, from the perspective of an objectively reasonable person of the same gender in the same situation;~~
5. Determine if other University policies have been violated; and
6. If appropriate, recommend disciplinary and/or remedial action.

~~The report of findings shall be submitted to the HR/AA Director/Title IX coordinator.~~ Each party will be provided with a copy of the report, subject to the protection of confidentiality as may be appropriate under the circumstances.

3720.00 Appealing the Report of Findings

If the investigator finds there was no violation of university policy, the case shall be closed unless the complainant disputes the finding, in which case, he or she may appeal to the President within ten (10) business days of receipt of the report. ~~If either party disputes the findings, he or she may appeal to the President within ten (10) business days of receipt of the report. The appeal shall identify the specific findings that the appellant disputes and an explanation of the reasons each finding is disputed. If neither party appeals, the report of findings will be the final University decision.~~

~~Upon completion of the appeal in any case that results in a finding that If the investigator finds there was a violation of university policy, the matter will be referred to the appropriate parties for disciplinary and/or remedial action. If the respondent disputes the finding, he or she may appeal to the President within ten (10) business days of receipt of the report.~~

~~If neither party appeals, the report of findings will be the final University decision.~~

3830.00 Disciplinary Action

Disciplinary action may result from findings of reasonable cause violations of university policies and may be imposed by the appropriate administrator or supervisor after the time for appeal has elapsed or the appeal process is completed. If the respondent is a student, the matter will be referred to the Dean of Students who will meet with the respondent and complainant and determine the appropriate disciplinary sanction to be imposed, up to and including expulsion from the university. An employee respondent may grieve any disciplinary action ~~through~~ imposed through the grievance procedures applicable to his or her employment status. In such a case, only the nature and appropriateness of the disciplinary action may be grieved.

The Report of Findings (or the decision on appeal of the Report of Findings, if applicable) is the final University decision on the issue of whether violation of university policy occurred. The Dean of Students, or applicable grievance body may receive a copy of the Report of Findings and any decision after an appeal, but may not re-investigate, re-hear the appeal or make any changes to the Report.

The parties will be notified in writing if a sanction has been imposed and will be advised of the nature of the sanction imposed against the respondent as allowed under the state and federal privacy laws.