

## **Discrimination Grievance Procedures for Allegations of Violations of the Discrimination, Harassment, Sexual Misconduct, Dating Violence, Domestic Violence, Stalking and Retaliation Policy**

**Subject:** Students, Personnel

**Effective Date:** March 6, 2014  
[Applies to allegations of Policy Violations first made on or after the effective date.]

**Review Date:** March 6, 2017

**Responsible Party:** Campus Title IX Coordinators

### **Scope**

This Policy applies to the following MSU Campuses:

MSU Bozeman (including Gallatin College)  
MSU Billings (including City College)  
MSU Northern  
Great Falls College-MSU

For the purpose of this Procedure, the term "University" applies to all campuses listed above.

### **100.00 Introduction and Purpose**

The purpose of these procedures is to provide a prompt and equitable resolution of reports of discrimination based upon race, color, religion, national origin, creed, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation. Any person believing that he or she has been subjected to discrimination or harassment on any of these bases may report any potential violation of policy to the University. These procedures address all reports of alleged discrimination or harassment, including conduct that violates the Discrimination, Harassment, Sexual Misconduct, Dating Violence, Domestic Violence, Stalking and Retaliation Policy (hereinafter referred to as "Policy Violations"). The procedures also address reports of retaliation [[link to retaliation definition in Policy](#)] against those who have opposed practices forbidden under the policy, those who have filed complaints or reports under the policy, and those who have testified or otherwise participated in enforcement of the policy.

### **200.00 University Reporting**

Reports of Policy Violations, whether by recipients of unwelcome behavior (referred to as "Complainants") or by third-parties (referred to as "Reporters"), should be made to the Responsible Official on the respective covered campus. The Responsible Officials, their staff

members and designees (collectively referred to in this Procedure as “the RO”) are trained to help you find the resources you might need, to explain all reporting options, and to respond appropriately to conduct of concern. All instances of retaliation should be reported and will be addressed in the same manner. The contact information for the RO is listed below.

### **MSU Bozeman**

**Director, Office of Institutional Equity/Title IX Coordinator**

**Office of Institutional Equity/Title IX**

Montana State University

P.O. Box 172430

Bozeman, MT 59717-2430

Tel: (406) 994-2042

Fax: (406) 994-7999

E-mail: [discrimination@montana.edu](mailto:discrimination@montana.edu) Location: 118 Hamilton Hall

### **MSU Billings**

**Director of Human Resources/Title IX Coordinator**

**Human Resources Office**

Montana State University Billings

1500 University Drive

Billings MT 59101

Tel: (406)657-2278

Fax: (406)657-2120

Email:

Location: McMullen Hall 310

### **Great Falls College MSU**

**Executive Director, Human Resources/Title IX Coordinator**

406-771-5123

Fax: 406-268-3709

[mbonilla@gfcmsu.edu](mailto:mbonilla@gfcmsu.edu)

**Associate Dean of Student Services/Title IX Coordinator**

406-771-5133

Fax: 406-268-4306

[camille.consolvo@gfcmsu.edu](mailto:camille.consolvo@gfcmsu.edu)

G-1 Administrative Area

2100 16<sup>th</sup> Ave. South

Great Falls, MT 59401

### **MSU Northern**

**Director of Human Resources/Title IX Coordinator**

**Human Resources Office**

Montana State University – Northern  
300 W 11<sup>th</sup> Street  
PO Box 7751  
Havre, MT 59501  
Tel: (406) 265-4147  
Fax: (406) 265-3530  
Email: [hr@msun.edu](mailto:hr@msun.edu)  
Location: Cowan Hall Rm 208

**Dean of Student Engagement/Title IX Deputy  
Student Union Building**

Montana State University – Northern  
300 W 11<sup>th</sup> Street  
PO Box 7751  
Havre, MT 59501  
Tel: (406) 265-4113  
Fax: (406) 265-3785  
Email: [hr@msun.edu](mailto:hr@msun.edu)  
Location: SUB Rm 204

Reports should be made as soon as possible after an incident and there are several avenues available for submitting a report [based on the contact information above]:

- Leave a voice message for the RO;
- File a report on the forms found on the links shown above;
- Send a private email to one of the RO staff;
- Mail a letter to the RO office;
- Visit one of the RO staff (you may wish to make an appointment first to ensure availability).
- Report to another trusted University official (e.g., Resident Assistant, Professor, Coach, Advisor) who will provide information to the RO as required under the policy.

If there is a complaint about the RO or any staff member that is part of the RO office, or if the RO or RO staff has a complaint, that complaint should be made to the President or Campus Executive Officer (“CEO”) for the affiliated campuses. The President or CEO will appoint another trained individual to take the place of the RO for purposes of the complaint.

### **210.00 Criminal Reporting**

Please remember that if someone is in immediate danger or needs immediate medical attention, the first place to report is 911. You may also report to the appropriate University or city/county police department shown below:

**MSU Bozeman:** University Police Department: (406-994-2121), 7<sup>th</sup> and Kagy in the Roy Huffman Building or Bozeman City or Gallatin County Police Departments.

**MSU Billings:** University Police Department (406-657-2222) located in the Southwest Corner of Parking Garage or call the Billings or Yellowstone County Police Department

**Great Falls College-MSU:** Great Falls Police Department (406-771-1180).

**MSU Northern:** Havre Police Department (406-265-4361).

Some forms of discrimination and harassment may also be crimes. For example, sexual assault, domestic violence, stalking and rape are crimes. Complainants and witnesses are encouraged to make criminal reports to law enforcement, even if it is uncertain whether the particular conduct is a crime.

Calling local law enforcement can help you:

- obtain emergency and nonemergency medical care;
- get immediate law enforcement response for your protection;
- understand how to provide assistance in a situation that may escalate to more severe criminal behavior;
- arrange a meeting with victim advocate services;
- find counseling and support;
- preserve evidence (which is very important in a criminal case);
- initiate a criminal investigation; and
- answer questions about the criminal process.

Appropriate campus officials are available to assist in reporting to local law enforcement, if requested. Complainants may also decline to report to law enforcement officials. However, if a health or safety emergency, as defined by state or federal law, is found by the University to exist, the University is required to report alleged criminal incidents to appropriate law enforcement authorities.

### **220.00 Confidentiality of Complaints and Reports**

Parties in these processes, including the Complainant, the individual accused of a Policy Violation (referred to as “Respondent”), and witnesses, have privacy rights and reasonable expectations of confidentiality in the investigation of matters subject to this procedure. In addition, the integrity of the process depends on ensuring reasonable expectations of confidentiality.

The RO will keep confidential the complaint, report, witness statements, and any other information provided by the Complainant, Respondent, or witnesses to the extent possible, but may disclose such information as follows:

- To the Complainant, Respondent, (including their attorneys) or witnesses, as necessary to give fair notice of the allegations and to conduct the investigation;
- To law enforcement consistent with state and federal law and University Policy;

- To other University officials who have a need to know in performing their official University business;
- To government agencies who review the University's compliance with federal law;
- To Montana University System Officials and the Montana Board of Regents of Higher education as necessary to perform their duties; and
- 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, or to respond to lawfully issued subpoenas.

The investigation Report of Findings and any written decision resulting from the appeals process will be disclosed only to the Complainant, Respondent, RO, and Discipline Authorities<sup>1</sup> subject to the protection of confidentiality as may be appropriate under the circumstances and in accordance with the requirements of FERPA. This information will also be provided to University officials as necessary to prepare for subsequent proceedings (e.g., University President, CEO, Appeals Officer, and University Legal Counsel). If otherwise required by law or legal process, the Report may be provided to other entities subject to the requirements of FERPA.

Information about complaints and reports, absent personally identifiable information, may be reported to University officials and external entities for statistical and analysis purposes pursuant to federal and state law and University policy.

If a Complainant or Reporter desires full confidentiality, he/she should speak to on-campus mental health counselors or health service providers (where available), or on or off-campus victim advocate counselors who can maintain confidentiality. Campus counselors are available at MSU Bozeman, MSU Billings, and MSU Northern to students free of charge and can be seen on an emergency basis.

#### 220.10 Anonymous and Third Party Reporting

The RO accepts anonymous and third-party reports of conduct alleged to violate this Policy and will follow up on such reports, to the extent possible. The individual making the report is encouraged to provide as much detailed information as possible to allow the RO to investigate and respond as appropriate. The RO may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the RO to conduct a meaningful and fair investigation.

#### 220.20 Reporter or Complainant Requests No Investigation

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<sup>1</sup> In the case of employees, the Discipline Authority is the University Administrator with the authority to impose discipline in accordance with applicable employment policies and procedures and collective bargaining agreements. In the case of students, the Discipline Authority is the Dean of Students or other University official with the authority to impose sanctions on students in accordance with applicable policies and procedures.

If a Reporter or Complainant requests that no investigation of an incident be conducted, the RO will consider the reasons for the request, including concerns about continued safety of the person reportedly harmed and members of the campus community. The RO must balance considerations about the continued health and safety of members of the community against a Reporter's or Complainant's desire not to have the report investigated, and the RO retains the right to initiate a formal or informal investigation. The RO may consult with appropriate campus officials, but the RO will make the ultimate decision about whether to conduct a formal investigation or respond to the report in another manner, including taking informal actions, such as those described below in Section 320.00A.

If the RO initiates an investigation in these circumstances, the Grievance Procedure shall be followed to the extent reasonably applicable.

### **300.00 Role of the RO**

The RO is charged with coordinating the University's compliance with federal civil rights laws, all of which are listed at the end of these Procedures. The RO is not an advocate for either the Complainant or the Respondent. The RO will explain to both parties the informal and formal processes outlined below and the confidentiality provisions as outlined above. The RO is available to provide both parties the following information:

- options for obtaining medical and counseling services;
- making a criminal report;
- receiving advocacy services;
- options for changing academic, living, transportation, and working situations; and
- other helpful campus and community resources.

The RO will offer to coordinate with other campus officials, when appropriate, to implement interim remedial measures such as those described in Section 340.00. The RO will describe the investigation process. The RO will explain the right of the Respondent to review and respond to allegations and evidence against him or her. The RO will explain to both parties their rights to have an attorney or other advisor, including a union representative for union employees, with them during their interviews and during any stage of these procedures.

If an individual does not want to pursue a complaint, the RO will inform the individual that the University is limited in the actions it can take without the cooperation of the individual. The RO will also explain to parties and witnesses that retaliation for reporting alleged violations of the policy, or participating in an investigation of an alleged violation, is strictly prohibited and that any retaliation should be immediately reported and will be promptly addressed.

The RO will provide to any student or employee who reports that he/she has been a victim of sexual misconduct, dating violence, domestic violence, or stalking, whether occurring on or off campus, a written explanation of the student or employee's rights and options under this Discrimination Grievance Procedure.

The RO will be responsible for collecting and maintaining investigation records. Such records shall be kept for a period of seven years.

### **310.00 Immediate Action and Interim Remedial Action**

The University may take interim measures to assist or protect the parties during the grievance process, as necessary and with the Complainant's consent. Remedial Actions such as those described in Section 340.00 may be taken on an interim basis.

### **320.00 Resolution**

If a Complainant chooses to file a complaint, there are two avenues for resolution of an alleged Policy Violation: formal and informal resolution. The Complainant has the option to proceed informally, except cases involving allegations of sexual misconduct. In cases involving allegations of sexual misconduct, informal resolution is not appropriate, even if both the Complainant and Respondent indicate a preference for informal resolution.<sup>2</sup> The RO is available to explain the informal and formal resolution procedures.

All references to days shall mean calendar days unless otherwise noted.

#### **A. Informal Process and Resolution**

If the Complainant, the Respondent, and the RO all agree that an informal resolution should be pursued, the RO shall attempt to facilitate a resolution of the conflict that is agreeable to all parties. Under the informal process the RO shall be required only to conduct such fact-finding as is useful to resolve the conflict and as is necessary to protect the interests of the parties, the University and the community. Typically, an informal investigation will be completed within twenty (20) days of receipt of the complaint. If it becomes necessary to extend the process, both parties will be notified of a revised expected resolution timeframe.

A Complainant or Respondent always has the option to request a formal investigation. The RO also always has the discretion to initiate a formal investigation. If at any point during the informal process, the Complainant, the Respondent, or the RO wishes to cease the informal process and to proceed through formal grievance procedures, the formal process outlined below in Section B will be initiated.

The informal resolution must adequately address the concerns of the Complainant, as well as the rights of the Respondent, and the overall intent of the University to stop, remedy and prevent Policy Violations. Informal actions might include, but are not limited to: providing training to a work unit; having an informal discussion with an individual whose conduct, if not stopped, could rise to the level of discrimination or hostile environment harassment; having a

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<sup>2</sup> The U.S. Department of Education, Office for Civil Rights, Dear Colleague Letter, dated April 4, 2011, p. 8, states: [I]n cases involving allegations of sexual assault, mediation is not appropriate even on a voluntary basis.

confidential conversation with a supervisor or instructor; or taking appropriate personnel action.

## **B. Formal Process**

**Step 1:** The RO discusses concerns with Complainant, and the Respondent as appropriate, including providing information about the policy and procedures and other helpful resources. RO also considers whether immediate or interim actions or involvement of other University offices is appropriate. The RO determines whether the office has jurisdiction to investigate the matter. The RO's jurisdiction is limited to reports of Policy Violations.

Option 1: If the RO determines that there is no jurisdiction, the RO will offer to assist the Complainant and, as appropriate, the Respondent, in finding appropriate campus and off-campus resources for addressing the issue of concern.

Option 2: If the RO determines that there is jurisdiction, the RO will proceed to Step 2.

**Step 2:** The RO conducts or oversees the conducting of a fair and impartial investigation of the alleged Policy Violation and proceeds to Step 3. Typically an investigation will be completed within forty (40) days of receipt of the complaint unless it is necessary to extend the time because of the complexity of the case, availability of witnesses, or other factors which unavoidably delay the investigation. If the investigation is extended, both parties will be promptly notified of a revised expected resolution timeframe.

The RO will notify and update both parties of the timeframe for the investigation, their right to identify witnesses, provide any supporting evidence at any time during the investigation, and the opportunity for appeal. The RO will provide a written update to the parties if the investigation is not complete within 30 days.

The RO will advise both parties of the right, at their own expense, to have an attorney or other advisor (including a union representative for union employees) with them during their interviews and during any stage of these procedures. Such advisor may be present at interviews, meetings, or hearings only to advise the parties; he/she may not participate directly.

The RO will confer with and interview the Complainant to clarify the allegations, identify desired outcomes and obtain detailed information about the allegations.

The RO will provide the Respondent with a written summary of the allegations and the Respondent shall have the opportunity to respond to the allegations during the investigator interview and, if desired, in writing.

The RO will collect and review written documents, interview the Complainant, the Respondent (unless a party is unwilling or unable to be interviewed), identify and interview relevant witnesses, and collect such other evidence as may be relevant to the investigation.

**Step 3:** The RO determines whether there is a preponderance of the evidence to believe that an individual engaged in a Policy Violation. This “preponderance of the evidence” standard requires that the evidence supporting each finding be more convincing than the evidence in opposition to it; that is, it is more likely than not that the alleged conduct occurred.

The RO’s decision shall be presented in the form of a written Report of Findings which:

1. Presents the contentions of the parties;
2. Describes the evidence considered, including general testimony of witnesses, if any;
3. Sets forth the analysis and findings and summarizes the basis for each; and
4. Makes recommendations for remedial actions, if any.

**Option 1:** If the RO finds a Policy Violation did not occur, the investigation is complete; in this case the Complainant may file an appeal of the finding to the President or CEO in accordance with the Appeal Procedure.

**Option 2:** If the RO finds that a Policy Violation occurred, the RO’s written Report of Findings will include steps to take to prevent recurrence of any such violation, including, as appropriate, remedial actions described in Section 340.00. The Respondent may appeal the finding to the President or CEO. If the Respondent does not appeal the Report of Finding within the time period for appeal, the Report will be forwarded to the Discipline Authority for a determination of appropriate sanctions. In the case of student Respondents, the Discipline Authority is the Dean of Students or other University official with the authority to impose discipline on students in accordance with applicable policies and procedures. In the case of employees, the Discipline Authority is the University administrator with the authority to impose discipline in accordance with applicable employment policies and procedures and collective bargaining agreements. The Discipline Authority must inform the RO of the ultimate sanctions imposed upon a Respondent. The RO will inform the Complainant of the sanctions to the extent permitted by Title IX and applicable privacy laws.

Each party will be provided with a copy of the Report of Findings, subject to the protection of confidentiality as may be appropriate under the circumstances and as may be required by laws or regulations, including the Family Educational Rights and Privacy Act [FERPA], (20 U.S.C. § 1232g; 34 CFR Part 99).

### **330.00 Relation to the Student Code of Conduct**

The student Discipline Authority is charged with imposing sanctions on students who are found to have violated the policy. Sanctions may include a warning, probation, eviction from campus housing, suspension, expulsion, or any other sanction set forth in the University’s Student Conduct Code. Disciplinary records for policy violations are maintained in the same manner as other disciplinary records, as described in the Student Conduct Code.

### **340.00 Remedial Action**

Remedial action means the administrative steps taken to remedy a situation that has led to a complaint. The purpose of remedial action is to:

- Prevent serious and immediate harm to the complainant and others;
- Prevent retaliation against any party;
- End discriminating or harassing behavior and prevent its recurrence; and
- Provide appropriate training in preventing discrimination.

At any time during the complaint process, the RO and/or other responsible administrators may take appropriate remedial action to ensure that these purposes are achieved.

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

- Altering the Complainant's or Respondent's work or academic environment;
- Providing training on preventing discrimination or harassment;
- Meeting with Respondent and his/her supervisor to discuss changes of behavior;
- Reassignment or transfer;
- Changes in residence hall assignments;
- Changing advisors, mentors, supervisors or evaluators;
- Providing academic support services such as tutoring;
- Obtaining counseling or medical services;
- Providing escort service for a party's safety in moving about campus;
- Arranging for re-taking or course withdrawal without penalty; and
- Suspending an employee pending investigation.

### **400.00 Appeals to the President or CEO**

#### **410.00 Filing an Appeal**

An appeal requesting a hearing must be filed within five (5) days of the receipt of the RO's Report of Findings. At MSU Bozeman, the request for a hearing shall be submitted to the President; for all other campuses the request for hearing shall be submitted to the campus CEO. The President or COE may designate in writing another University official to receive appeals, and in such case, the RO shall advise the parties of the Designee to whom appeals must be submitted. A copy of the request for hearing shall be provided to the RO, who shall provide a copy to the non-appealing party.

The request for hearing must be in writing and must describe the appellant's desired outcome and a statement of one or more of the following grounds for appeal:

- a. The investigation was not conducted in compliance with the procedures and the non-compliance materially affected the outcome of the investigation;

- b. The RO failed to conduct an adequate investigation;
- c. The RO had a conflict of interest which resulted in unfair bias against the appellant; and
- d. The appellant has discovered new evidence, not previously available, which would have materially affected the outcome of the investigation.

The RO may continue to impose interim remedial measures during the pendency of the appeal, as required by the circumstances.

#### **420.00 Appointment of Hearings Officer**

Within five (5) days of receipt of the request for appeal, the President, CEO, or Designee shall appoint a Hearings Officer to consider the appeal and submit a decision. The President, CEO, or Designee may remove and replace the Hearings Officer in response to a request from a party who timely objects regarding a conflict of interest (as provided in Section 600.00), or if the Hearings Officer cannot perform the duties assigned.

A copy of the Report of Findings shall be provided to the Hearing Officer concurrent with his/her appointment. The RO will forward copies of any additional evidence relevant to the matter to the Hearing Officer and parties within five (5) days of appointment.

#### **430.00 Standard of Review**

The Hearings Officer may determine that the RO's Report of Findings be approved, overturned, or modified if it finds that the appellant has established one or more of the grounds for appeal stated in Section 410.00.

#### **440.00 Hearing**

##### 440.10 Notice of Hearing

Within ten (10) days of receipt of the written request for a hearing, the Hearings Officer will notify, in writing, the Complainant and the Respondent of the time and place of the hearing. The hearing will normally be held within thirty (30) days of receipt of the written appeal, unless it is necessary to extend the time because of the complexity of the case, availability of witnesses, or other factors requiring additional time. The parties will be notified, in writing, of any extension.

##### **440.20 Preparation for and Conduct of the Hearing**

##### 440.21 Written Statements on Appeal

Within ten (10) days of the filing of the appeal, the party appealing the decision must submit to the Hearing Officer the following information: (a) detailed statement of facts relevant to the complaint or report of discrimination, hostile environment harassment, sexual misconduct,

dating violence, domestic violence, stalking, or retaliation; (b) names and contact information and anticipated testimony from witnesses proposed to be called; (c) copies of any documents which will be submitted as evidence; (d) any additional evidence not available at the time of the investigation that the party believes should be considered at the Hearing; (e) reference to the portion of the policy or procedure alleged to be violated; (f) specific remedy(ies) requested; and (g) whether the party will be represented by legal counsel and the identity of the counsel.

Within ten (10) days of his/her receipt of a copy of the appeal, the non-appealing party may also submit the information described in (a) through (f), above. If the non-appealing party chooses to participate in the hearing, that party must notify the Hearings Officer as described above at (g) whether he or she will be represented by legal counsel and the identity of the counsel.

The RO will provide to the Hearing Officer and the parties, in addition to the written investigation report, any additional documents or other materials, and names and contact information of any witnesses the RO proposes for the hearing.

The Hearing Officer shall provide the parties and the RO copies of any materials submitted pursuant to this section.

#### 440.22 Legal Counsel Representation

If either party chooses to be represented by legal counsel, University Legal Counsel will be present to ensure that the rights of all interested persons and the University are respected. A party's attorney may not speak at the hearing but may consult with the attorney's client and client witnesses.

#### 440.23 Pre-hearing Conference

At any time but no later than five (5) days prior to the date of the hearing, the Hearings Officer may call a pre-hearing conference. Topics discussed at a pre-hearing conference may include, but are not limited to: (a) witnesses and other evidence to be presented; (b) issues to be addressed; (c) time limits and order of presentation of evidence at the hearing; and (d) other matters concerning the conduct of the hearing. At the request of any party, the Hearings Officer will conduct separate meetings with the appellant and the non-appealing party for purposes of the pre-hearing conference. The Hearing Officer may decide to extend the hearing date for good cause.

#### 440.24 Conduct of the Hearing

The Hearing Officer will conduct the hearing. The hearing is a non-adversarial proceeding and courtroom rules of evidence, procedure, and discovery do not apply. The Hearing Officer shall determine the evidence and witnesses which will be presented and may limit or refuse to allow evidence or testimony that is not reasonably related to a determination of whether a violation of the policy occurred.

The hearing will be conducted in a manner to assure fairness and accuracy in fact-finding. The parties and witnesses will address only the Hearing Officer rather than each other. The Hearing Officer will be the final arbiter of all matters of evidence and procedure. All hearings are closed to the public.

As he or she deems appropriate (for example, in cases of sexual assault, dating violence, domestic abuse, or stalking), the Hearings Officer may take steps such as allowing remote testimony or protective screening, as necessary, to protect parties or witnesses. Further, in such cases the Hearings Officer may conduct questioning of the witnesses; that is, questioning of the witnesses by the parties would not be allowed.

#### **450.00 The Decision**

Within twenty (20) days of the conclusion of the Hearing, the Hearings Officer will submit a decision in writing to the President, CEO, or Designee approving, overturning, or modifying the Report of Findings. The written decision will include the following:

- a. A summary of the allegations;
- b. A summary of the response to the allegations;
- c. A statement of the relief sought by the Complainant if known, or of the recommendation of the RO, if applicable;
- d. Specific reference to the portion(s) of the policy or procedures alleged to have been violated;
- e. Analysis of whether the alleged grounds for appeal have or have not been substantiated; and
- f. Remedial action, if any, regarding redress of the complaint as well as any other recommendations, as applicable, for precluding further policy violations.

The Hearing Officer is not responsible for determining sanctions or discipline to be taken against a person determined to have violated the policy.

#### **450.10 President or CEO Action on Hearing Officer Decision**

The President, CEO, or Designee will review the Hearing Officer's decision. The review is limited to determining: (1) Whether the evidence provides a reasonable basis for the resulting decision; and (2) Whether specified procedural errors were so substantial as to deny a fair hearing to either party. Within ten (10) days of receipt of the Hearing Officer's decision, the President, CEO, or Designee will notify the Hearing Officer, the RO, and the parties, in writing, of his/her decision upon review, including providing a copy of the Hearing Officer decision to the RO and the parties.

If the President, CEO, or Designee upholds a finding of Policy Violation, a copy of the decision and Hearing Officer decision shall be forwarded to the appropriate Discipline Authority for disciplinary action in accordance with applicable University policies, procedures, and collective bargaining agreements.

### **500.00 Training**

All University officials who are involved in the discrimination grievance process, including the RO, designated investigators, Hearings Officer, and Discipline Authorities, will have adequate training. Training will address, but is not limited to, recognizing and appropriately responding to allegations of discrimination, harassment, including hostile environment harassment, sexual misconduct, domestic violence, stalking, and retaliation, conducting investigations, protecting confidentiality, and recognizing the link between alcohol and drug use and Policy Violations.

The RO, Discrimination Grievance Procedure investigators, and Hearings Officers shall receive annual training on sexual misconduct, domestic violence, and stalking and on how to conduct investigations and appeal processes that protect the safety of victims and promote accountability.

### **600.00 Conflict of Interest**

Upon their assignment to an investigation or appeal, the names of the investigator and the Hearings Officer will be provided to the parties. These officials must promptly disclose any potential conflict of interest they believe they might have in a particular case. In the rare situation in which an actual or perceived conflict of interest arises between an Investigator, or the Hearings Officer, that conflict must be disclosed to both parties. If a party objects to the investigator or Hearing Officer on the basis that there is a conflict of interest which would bias the official's judgment, the party must submit the written objection to the RO, in writing, within five (5) days of learning of the conflict of interest. Determination of such objections will be made by an impartial University official appointed by the President, CEO, or Designee. Objections not timely made are waived.

### **700.00 Employee Participation**

Employees shall participate in this Grievance Procedure as required and failure to participate as requested may be grounds for discipline.

### **800.00 Complaints to Federal and State Agencies**

A party who is dissatisfied with the University's response to a complaint, or otherwise believes he/she has been discriminated against by the University on the basis of race, color, national origin, sex, including sexual harassment, disability age, or retaliation, may file a complaint with the [Office for Civil Rights](#) (OCR) of the U.S. Department of Education based in Seattle or the [Educational Opportunities Section](#) (EOS) of the Civil Rights Division of the U.S. Justice

Department of Justice, and a complaint based on religion with EOS of the U.S. Justice Department.

Students or employees who are dissatisfied with the University's response to a complaint, or otherwise believe they have been discriminated against by the University on the basis of race, color, national origin, sex, including sexual harassment, disability, age, religion, creed, pregnancy, marital status, familial status (housing only), or political beliefs, or retaliation, may file a complaint with the Montana Human Rights Bureau: <http://erd.dli.mt.gov/human-rights-bureau.html>, 406-444-4356.

**References:** Titles [IV](#), [VI](#), and [VII](#) of the Civil Rights Act of 1964; [34 C.F.R. pt. 100](#); [Title IX of the Education Amendments of 1972](#); [28 C.F.R. pt. 54](#) and [34 C.F.R. pt. 106](#); [Section 504 of the Rehabilitation Act](#); [34 C.F.R. pt. 104](#); [Age Discrimination Act of 1975](#); [34 C.F.R. pt. 110](#); and [Titles I and II of the Americans with Disabilities Act](#); [28 C.F.R. pt. 35](#); [Montana Human Rights Act and Governmental Code of Fair Practices, Title 49, Montana Code Annotated](#); [Board of Regents Policy 507](#).