



Policy Number: 400.5
Policy Title: Non-Discrimination Policy
Subject: Section 400 – Personnel
Date Adopted: August 24, 2009
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Approved by: 

Daniel J. Bingham
Dean/CEO
Helena College University of Montana

POLICY STATEMENT:

Helena College University of Montana is an equal employment opportunity employer and prohibits discrimination based on race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation, political beliefs unless based on a bona fide occupational qualifications (BFOQ), or for retaliation. Helena College also prohibits discrimination in providing services, activities and programs unless providing reasonable accommodation or reasonable modification would cause an undue hardship.

All Helena College policies shall adhere to and be consistent with relevant federal and state laws, rules, and regulations; with Board of Regents' policies and procedures; and with The University of Montana's policies and procedures.

I. PURPOSE.

Helena College rigorously pursues affirmative action to provide to all people the equal opportunity for education, employment, and participation in college activities without regard to race, color, religion, national origin, sex, age, marital or family status, disability, sexual orientation, or political belief and seeks to employ and advance in employment qualified women, minorities, and veterans.

Responsibility for ensuring equal opportunity resides with all college administrators, faculty, and staff. This responsibility includes assurance that employment and admission decisions, personnel actions, and administration of benefits to students and employees rests exclusively upon criteria that adhere to the principle of Equal Opportunity. The College will protect against retaliation any individual who participates in any way proceeding concerning alleged violations of laws, orders, or regulations requiring equal education and/or employment opportunity.

Helena College is committed to resolving complaints of discrimination in a fair and timely manner. When circumstances allow, Helena College encourages individuals to resolve the problem through discussions with the individual accused of the discriminatory behavior, although this is not a requirement. Formal complaints concerning disability discrimination, class protection, or retaliation must be submitted or forwarded to the Director of Human Resources (ADA/EEO Officer).

II. FORMAL COMPLAINT PROCEDURES.

Any faculty member, student, staff member, or applicant for employment to Helena College who claims to have been unlawfully discriminated against due to any Helena College regulation or policy or the official action of any Helena College employee may, as soon as possible, but within one hundred eighty (180) calendar days of the alleged discriminatory occurrence, initiate complaint proceedings by notifying the college ADA/EEO Officer. An employee, student, or applicant may notify the ADA/EEO Officer, their immediate supervisor, or any Helena College supervisor, even if s/he is not the employee's direct supervisor. If the complaint is not filed within one hundred eighty (180) calendar days of the alleged discriminatory occurrence, the individual will lose the right to file an internal complaint.

Employees/applicants also have the right to file discrimination complaints with the following agencies:

Montana Human Rights Bureau (HRB)

PO Box 1728

Helena MT 59624

(406) 444-2884

(406) 444-0532 (TTY)

<http://www.erd.dli.mt.gov/humanright/hrhome.asp>

– or –

United States Equal Employment Opportunity Commission (EEOC)

Denver District Office

303 E. 17th Avenue, Ste. 510

Denver CO 80203

(303) 866-1300

(303) 866-1950 (TTY)

www.eeoc.gov

Employees/applicants must file the HRB complaint within one hundred eighty (180) calendar days of the alleged discriminatory occurrence.

Employees/applicants must file your complaint with EEOC within three hundred (300) calendar days of the alleged discriminatory occurrence.

It is necessary to file a charge with the HRB or EEOC in order to preserve the right to file a private lawsuit at a later date.

Complaints of Sexual Harassment are filed by notifying the Director of Human Resources (ADA/EEO Officer), the immediate supervisor, or any Helena College supervisor, even if s/he is not the employee's direct supervisor, but must be within sixty (60) calendar days of the alleged harassment.

III. INVESTIGATION PROCEDURES.

Step One: Upon receipt of a report alleging discrimination, including sexual harassment, the ADA/EEO Officer shall take all appropriate steps to prevent the alleged conduct from continuing, pending completion of the investigation. This will be done by balancing the rights of the alleged victim, including the severity of the alleged conduct, and the rights of the alleged harasser

Step Two: The ADA/EEO Officer shall initiate an investigation within five (5) working days. In addition, the ADA/EEO Officer will notify the Dean/CEO of the college and the appropriate Assistant/Associate Dean(s). The investigation may include, but is not limited to, interviewing witnesses and reviewing materials (i.e.: personnel files, training, records, safety records, disciplinary notes or files, tapes or recordings, etc.). Interference with an investigation or failure to cooperate with an investigation, including providing false information, may result in disciplinary action pursuant to the colleges' discipline policies and procedures and collective bargaining agreements, which may include termination.

Step Three: The investigation process will be completed within sixty (60) days of receipt of the complaint by the ADA/EEO Officer. A detailed written report, including documentation of the investigation, a finding of "Cause" or "No Cause", and a recommended course of action, will be produced and distributed to the complainant, defendant, college Dean/CEO and the appropriate Assistant/Associate Dean(s). In the event of a "Cause" finding, a copy of the report will be given to the defendant's supervisor, who is responsible for implementing any recommendations, including, but not limited to disciplinary measures pursuant to the colleges' discipline policies and procedures and collective bargaining agreements, which may include termination.

Step Four: Immediately following the distribution of the report the ADA/EEO Officer will confirm that the discriminatory behavior has ceased and retaliation is not occurring. Based on the report's recommendations, within a reasonable period of time the ADA/EEO Officer will also confirm that recommendations have been implemented and action taken to prevent further occurrences.

IV. RETALIATION PROHIBITED.

Employees and students shall be protected against retaliation for lawfully opposing any unlawful discrimination practice, including the filing of a complaint, grievance, or the initiation of an external administrative or legal proceeding, as well as testifying, assisting or participating in an investigation proceeding, or hearing. Retaliation is defined as taking any adverse action against an employee who has engaged in a protected activity and includes, but is not limited to refusal to hire, refusal to promote or

denial of a promotion, threats or reprimands, unsubstantiated negative job performance evaluations, harassment, adverse treatment, limiting or suspending access to an internal complaint or grievance process, and giving unsubstantiated negative job references.

V. CONFIDENTIALITY

The investigation materials and factual report shall remain confidential and may not be disseminated except to persons having the “right to know”, which outweighs the privacy rights of the persons involved. However, the privacy of persons involved in the complaint and investigation proceedings cannot be guaranteed. Information might become public knowledge in any of the following ways:

- The complainant, the accused, or witnesses discuss or disseminate confidential information with someone not involved in the investigation.
- If a case proceeds to the HRB, Helena College may be required to submit evidence containing confidential information about persons other than the complainant.
- Once the HRB completes its findings, the HRB complaint file will become public record unless a person follows the procedure outlined in Montana Administrative Rules 24.8.210.
- If a court determines that the employee’s right to privacy is outweighed by the public’s right to know (Montana Constitution article II § 9).