



Policy Number: 313 – Discrimination and Discriminatory Harassment

Effective Date: June 1, 2020

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Approved By: Denis Otterness, Chief of Police

313.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent members of the Montana State University Billings Police Department (Department) from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

Employees of this Department, as part of Montana State University Billings, are also bound by Discrimination, Harassment, Sexual Misconduct, Dating Violence, Domestic Violence, Stalking, and Retaliation policies adopted by Montana State University Billings, and the nondiscrimination and Title IX policies of the Montana Board of Regents.

313.2 POLICY

This Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation. The Department will not tolerate discrimination against any member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights and privileges it is designed to protect.

The nondiscrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a Department member to discipline.

313.3 DEFINITIONS

313.3.1 DEFINITIONS

Definitions related to this policy include:

Discrimination - This Department prohibits all forms of discrimination, including any employment-related action by a Department member that adversely affects an applicant or Department member and is based on race, color, religion, sex, age, national origin or ancestry, genetic information, disability, military service, sexual orientation and other classifications protected by law, including creed, marital status, and political beliefs (§ 49-2-303, MCA; § 49-3-201, MCA) or by University policy, including gender identity, gender expression, political ideas, family status, and pregnancy.

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment can include making derogatory comments, crude and offensive statements or remarks; making slurs or off-color jokes; stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters or material; making inappropriate physical contact; or using written material or Department equipment and/or systems to transmit or receive offensive material, statements or pictures. Such conduct is contrary to Department policy and to a work environment that is free of discrimination.

Retaliation - Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because s/he has engaged in protected activity, filed a charge of discrimination, participated in an investigation or opposed a discriminatory practice. Retaliation will not be tolerated.

Sexual Harassment - This Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or a Department member because of that person's sex.

Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors or other verbal, visual or physical conduct of a sexual nature when:

- a. Submission to such conduct is made either explicitly or implicitly as a term or condition of employment, position or compensation.
- b. Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the Department member.
- c. Such conduct has the purpose or effect of substantially interfering with a Department member's work performance or creating an intimidating, hostile, or offensive work environment.

313.3.2 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, standards, principles or policies, including:

- a. Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission and the Montana Human Rights Commission guidelines.
- b. Bona fide requests or demands by a supervisor that a Department member improve his/her work quality or output, that the Department member report to the job site on time, that the Department member comply with State or Department rules, policies or regulations, or any other appropriate work-related communication between supervisor and Department member.

313.4 RESPONSIBILITIES

This policy applies to all Department members. All Department members shall follow the intent of these guidelines in a manner that reflects Department policy, professional law enforcement standards and the best interest of the Department and its mission.

Department members are encouraged to promptly report any discriminatory, retaliatory or harassing conduct or known violations of this policy to a supervisor. Any Department member who is not comfortable with reporting violations of this policy to his/her immediate supervisor may bypass the chain of command and make the report to a higher ranking supervisor or manager. Complaints may also be filed directly with the Chief of Police.

Any Department member who believes, in good faith, that s/he has been discriminated against, harassed, or subjected to retaliation, or who has observed harassment, discrimination or retaliation, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall report the alleged violation.

313.4.1 QUESTIONS OR CLARIFICATION

Department members with questions regarding what constitutes discrimination, sexual harassment or retaliation are encouraged to contact a supervisor, or the Chief of Police for further information, direction or clarification.

313.4.2 SUPERVISOR RESPONSIBILITIES

The responsibilities of each supervisor and manager shall include, but are not limited to:

- a. Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- b. Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment or retaliation.
- c. Ensuring that their subordinates understand their responsibilities under this policy.
- d. Ensuring that Department members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- e. Making a timely determination regarding the substance of any allegation based upon all available facts.
- f. Notifying the Chief of Police of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment or retaliation no later than the next business day

313.5 INVESTIGATION OF COMPLAINTS

The Human Resources Director will be responsible to receive and resolve complaints of discrimination and discriminatory harassment. Various methods of resolution exist. During the pendency of any investigation, the supervisor of the involved Department member should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of this Department that all complaints of discrimination, retaliation or harassment shall be fully documented and referred to the Human Resources Director.

313.5.1 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy shall be construed to prevent any Department member from seeking legal redress outside the Department. Department members who believe that they have been harassed, discriminated or retaliated against are entitled to bring complaints of employment discrimination to federal, state and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Department members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements

313.6 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented in a manner designated by the Chief of Police.

313.7 TRAINING

All new Department members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new Department member. The Department member shall certify by signing the prescribed form that s/he has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during his/her term with the Department.

All Department members shall receive training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents and agree that they will continue to abide by its provisions. All Department members will also take the mandatory Title IX training required by the University which can be accessed through My Info on the University website.