

WHAT INVESTIGATORS WANT TO KNOW

Author: Mary Tapper

The Montana Department of Labor and Industry's Human Rights Bureau is a neutral administrative agency charged with enforcing the nondiscrimination laws of Montana. The Bureau accepts and investigates nearly 500 discrimination complaints per year.

The person filing a complaint is referred to as the "charging party". The business or entity against whom the complaint is filed is called the "respondent". In the event you file or respond to a complaint, here are some helpful tips to keep in mind:

1. **Consider Mediation.** Before the investigation, consider mediation. This allows for prompt resolution of the complaint, saving time and money for employees and employers. There is no cost to either party for mediation. No attorney is required for participation in mediation.
2. **Be responsive.** State what happened. Give the investigator enough information to understand the facts in contention. Provide the names of witnesses and witness statements early in the investigation when they are requested. With this information, the investigator can determine which witnesses have relevant information, who should be interviewed and then identify additional persons who may have information pertinent to the investigation.
3. **Be flexible.** By law, the Human Rights Bureau has 180 days to investigate a complaint of discrimination before preparing the final investigative report. Given the caseload each investigator handles, it is often not possible to plan interviews months in advance. Schedules are often difficult to coordinate, and cooperation is appreciated by investigators in both scheduling interviews and receiving responses to document requests in a timely fashion.
4. **Inquire.** Good communication is key to a thorough investigation. If you have concerns about what is requested or how to respond, or need an extension of time to prepare your response, call the investigator and ask.

The Human Rights Bureau attempts resolution of every case and conducts impartial investigations and issues determinations on the merits of the case. For additional information, including a process flow chart, training materials and timeline please visit www.montanadiscrimination.com.



HUMAN RIGHTS: A LAYERED FAIR AND OBJECTIVE PROCESS

Author: Marieke Beck

Navigating through the administrative process for a discrimination complaint can be complicated. The jargon is unfamiliar and there are three possible layers of review: the Human Rights Bureau, the Hearings Bureau and the Human Rights Commission. People often ask, why three levels? The quick answer is that the legislature wanted a fair and objective process. Multiple layers provide "checks and balances." Each level performs a separate and distinct function.

When first filed, a complaint is informally investigated by the **Human Rights Bureau** (HRB). An HRB investigator will talk to witnesses and gather information to determine if there is merit to a complaint. If HRB finds merit, the complaint will be kept inside the Department's administrative process. If HRB determines there is no merit, the complaint will be dismissed and a charging party can take his or her complaint into district court.

In cases where HRB finds merit, the complaint will travel on to the **Hearings Bureau**. At the hearings level, a Hearing Officer will conduct a contested-case proceeding. The parties will have a chance to conduct formal discovery, file motions, and present testimony. After the hearing, the Hearing Officer issues a ruling on whether there has been discrimination and, if appropriate, will order relief.

If a party is dissatisfied with either a decision of the Hearing Officer or with the Human Rights Bureau decision to dismiss the complaint, a party can appeal to the last layer of review, the **Human Rights Commission** (HRC), a five-member citizen panel appointed by the Governor. As the final step in the process, HRC reviews agency action and issues decisions. When HRC issues a Final Agency Decision, it can be appealed to a district court.

For more information please contact the Human Rights Bureau at 1-800-542-0807 or visit our website at <http://www.montanadiscrimination.com>.