

STATE OF MONTANA

OFFICE OF THE STATE PUBLIC DEFENDER

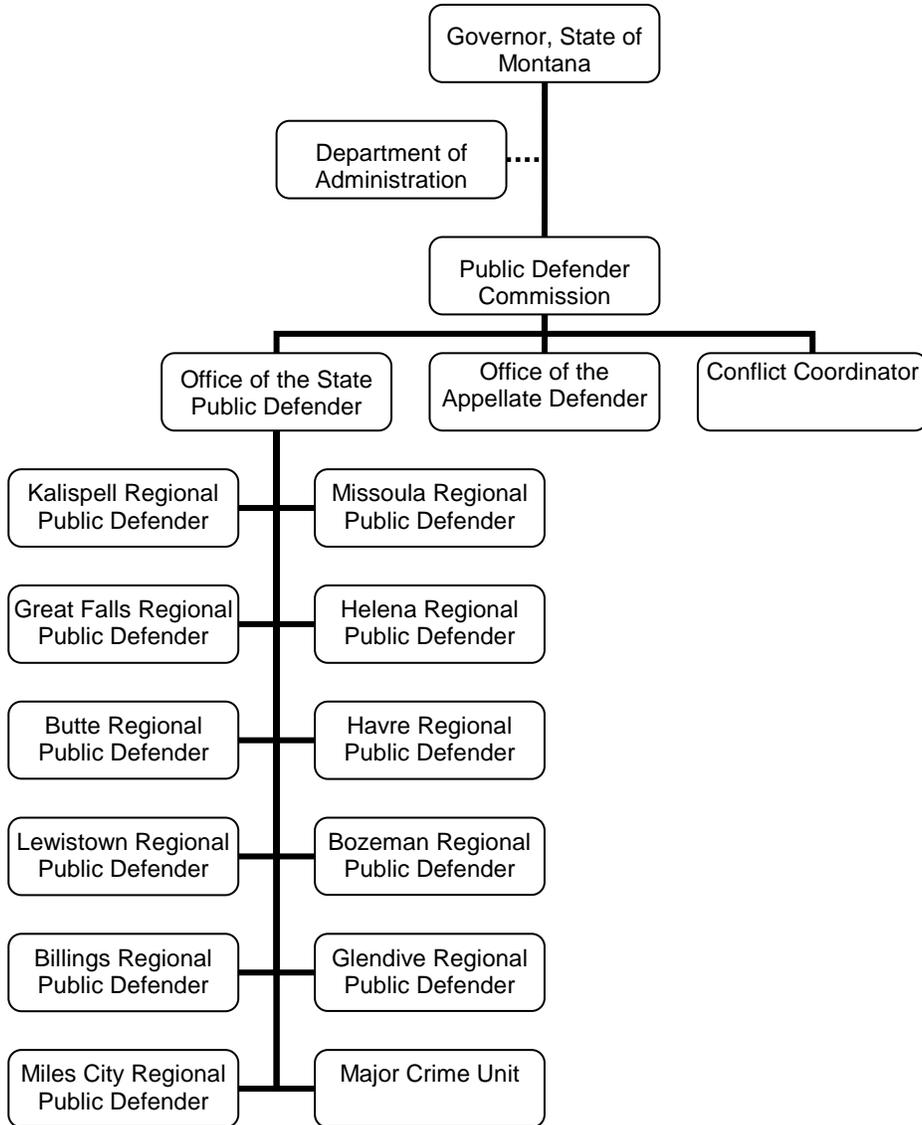
# EQUAL EMPLOYMENT OPPORTUNITY PROGRAM ACTION PLAN



# Table of Contents

	Page No.
Organizational Chart	2
I. EEO Action Plan Purpose	3
II. Goals and Objectives	3
III. Overview of Underutilization	3
IV. Action Plan	4
A. Hiring Procedures	4
B. Recruitment Procedures	5
C. Compensation	6
D. Personnel Procedures	5
E. Training Programs	5
F. Harassment and Discrimination Prevention	6
G. Promotion Procedures	6
H. Termination Procedures	7
V. Duties and Responsibilities for Implementation	7
A. Chief Public Defender, Chief Appellate Defender, Conflict Coordinator Duties	7
B. EEO Officer Duties	7
C. Management and Supervisory Duties	8
D. Employees Duties	8
VI. EEO Action Plan and EEO Policies Distribution	8
A. Internal Distribution	8
B. External Distribution	8
Appendix A: Underutilization Report	9
Appendix B: Equal Employment Opportunity Policy	10

# AGENCY ORGANIZATIONAL CHART



## **I. EEO ACTION PLAN PURPOSE**

The purpose of this plan is to implement and maintain an equal opportunity employment program that will insure that the Office of the State Public Defender (OPD) will not discriminate in employment based upon race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation or political beliefs. OPD adopts the State of Montana's Equal Opportunity Policy as the basis of its program plan. That document can be found in Appendix B.

## **II. GOALS AND OBJECTIVES**

The OPD is committed to making its workforce more closely reflect the labor force in Montana. It is the agency's goal to meet or exceed the availability percentage for women or minorities in all job groups as identified in our utilization analysis. We will make specific good faith efforts to achieve the availability percentages for minorities or women in any job group where underutilization is identified by our analysis.

The agency will identify the underutilization of females and minorities in OPD, and make the necessary changes to remove any existing barriers to their employment. The agency will use the annual Employee Profile Report prepared by the State Human Resource Division of the Department of Administration to compare the agency's workforce with Montana's labor force by EEO category and each job group within the category. Any differences between the agency's workforce and the Montana labor force will be defined as underutilization.

Underutilization may be caused by barriers to employment. Therefore, OPD's hiring officials will review its recruitment, selection, and promotion process as well as its on-the-job treatment of employees to insure that females and minorities receive equal opportunity to secure employment. The agency will also work to recruit and retain qualified individuals with disabilities at all levels of employment.

## **III. OVERVIEW OF UNDERUTILIZATION**

Appendix A contains a table that summarizes the underutilization of females and minorities in OPD by EEO category and job groups within the category. This information comes from the Utilization Analysis report that compares the agency's workforce to the Montana labor force in each job group. Any difference between OPD's workforce and Montana's labor force is defined as **underutilization**, and will be addressed in this EEO Action Plan.

OPD will strive to identify what may be causing this underutilization (barriers to employment) and implement actions to remove those barriers. Employment barriers may be caused by:

- **Recruitment Problems:** The agency is not attracting qualified females and/or minority applicants in numbers proportionate to their external availability.
- **On-the-Job Treatment Problem:** The job conditions or the agency's performance evaluation of its employees should not have an adverse impact on women and minorities

#### **IV. ACTION PLAN**

OPD is committed to making its workforce more closely reflect the labor force in Montana. OPD has established the following action plan, based on the results of the utilization analysis.

During this plan year, the goal is to meet or exceed the availability percentage for women or minorities in all job groups, as identified in the utilization analysis in Appendix A. OPD will make specific good faith efforts to achieve the availability percentages for minorities or women in any job group where underutilization is identified.

In areas where minorities and females are underutilized, OPD's hiring officials will strive to increase representation by evaluating recruitment and selection practices to ensure that females and minorities receive equal opportunity to secure employment. OPD will continue its efforts to recruit and retain qualified individuals with disabilities in all levels of the workforce.

##### **A. Hiring Procedures**

OPD will review hiring procedures to be sure that no barriers exist that would deny females and minorities equal employment opportunities. OPD will use an adverse impact analysis to determine if hiring requirements screen out a disproportionate number of minorities or women.

OPD will annually review all physical and mental job requirements to ensure that these requirements do not tend to screen out qualified individuals with disabilities. OPD will determine if the requirements are job-related, and consistent with business necessity and the safe performance of the job. Any physical or mental requirements that do not meet these criteria will be removed. Any changes in job descriptions or requirements after review will be distributed to all relevant employees, particularly those involved in the hiring and selection process and supervision of employees.

OPD will make reasonable accommodations to the physical and mental limitations of an employee or applicant unless such an accommodation would create an undue hardship on the agency's ability to conduct business.

All personnel involved in the recruitment, screening, selection, promotion, disciplinary, and related processes will be selected and trained to be sure there is a commitment to the EEO program and its implementation.

## **B. Recruitment Procedures**

It is OPD's goal to increase women and minority representation by targeting recruitment efforts to attract qualified candidates to apply for the underutilized positions.

OPD will continue to post all external vacancy announcements on the State of Montana Employment website (<https://svc.mt.gov/statejobsearch/>).

Vacancy announcements will include the statement that the position is underutilized, and encourage women and/or minorities to apply.

Managers will review the job description to make sure it accurately reflects the job functions. Managers will review all job requirements, including the minimum qualifications, to make sure there are no barriers that would deny females, minorities and individuals with disabilities equal employment opportunities with OPD prior to posting a position. OPD will use EEO reports to determine if it is attracting qualified females and/or minority applicants in numbers proportionate to their external availability.

Applicants' and employees' qualifications will be reviewed to be sure qualified individuals are treated in a nondiscriminatory manner when hiring, promotion, transfer, and termination actions occur.

OPD will continue to partner with the Montana Job Service Workforce Centers in its recruitment efforts. The Job Service Workforce Centers provide the following services for applicants:

1. Post job openings from the State's Employment website to their website;
2. Conduct training on how to apply for a state job;
3. Provide application materials to the public;
4. Answer general questions about vacancies and application procedures;
5. Provide proficiency testing;
6. Forward completed applications to the hiring agency; and
7. Provide a computer-learning center for classes on how to use the computer, basic Internet job searching, and completing resumes on-line.

OPD will continue to work with recruitment sources (organizations having effective contact with minority groups, females and persons with disabilities) to improve recruitment efforts.

OPD will encourage the employment of women, minorities, and people with disabilities who are not currently in the workforce, by offering part-time employment, internships, or summer employment when possible.

**C. Compensation**

OPD will review its compensation plan, including pay increases, rates of pay and bonuses, to determine whether there is gender, race, ethnicity, or disability-based disparities. If any disparities are identified, OPD will take prompt action to resolve the disparity.

**D. Personnel Procedures**

OPD will review its personnel procedures, including recruitment, selection, transfers and promotions, and training programs, or other agency activities to determine if all employees or applicants are fairly considered.

**E. Training Programs**

EEO, discrimination and harassment prevention training will be provided for managers and employees.

All personnel involved in the recruitment, screening, selection, promotion, disciplinary, and related processes will be trained to be sure there is a commitment to the EEO program and its implementation.

**F. Harassment and Discrimination Prevention**

OPD has adopted the State of Montana's EEO policy statement and Complaint Resolution procedure prohibiting the harassment of or discrimination against any employee because of any characteristic protected under civil rights laws. These policies will be distributed to current employees and given to new employees during employee orientation. Employees will be made aware of contact persons to report any policy violations.

**G. Promotion Procedures**

OPD will ensure all employees are given equal opportunity for promotion by:

1. Posting promotional opportunities;
2. Offering counseling to assist employees in identifying promotional opportunities, training and educational programs to enhance promotions and opportunities for job mentoring; and,
3. Reviewing job requirements to be sure no barriers exist that would deny females and minorities equal employment opportunities for promotion.

OPD will review the adverse impact analyses to ensure that women and

minorities are promoted at rates substantially similar to those of men and non-minority employees.

OPD will continue its efforts to promote and retain qualified individuals with disabilities in all levels of the workforce.

#### **H. Termination Procedures**

OPD encourages exit interviews be conducted to provide the opportunity for the terminating employee to:

1. Discuss the precise reason(s) for the termination;
2. Voice any concerns the employee may have been reticent to express before; and
3. Elicit positive and negative comments and suggestions related to the employment experience.

OPD will use progressive discipline before terminating employees, where appropriate. All employees are made aware of the discipline process. OPD will conduct adverse impact analyses to ensure that women, minorities, and employees with disabilities do not leave the agency at rates substantially dissimilar to those of men, non-minority employees, and employees without disabilities.

### **V. DUTIES AND RESPONSIBILITIES FOR PROGRAM IMPLEMENTATION**

#### **A. Chief Public Defender, Chief Appellate Defender, and Conflict Coordinator Duties:**

1. Promote the agency's EEO Program and hold managers accountable for adhering to the EEO Action Plan.
2. Ensure OPD's management team supports the agency's EEO Officer.
3. Evaluate Regional Deputy Public Defenders, managers and supervisors for program participation through the annual performance evaluation.

#### **B. EEO Officer Duties:**

1. Review and update the EEO program Action Plan as necessary.
2. Implement and maintain EEO reporting and recordkeeping systems to measure the effectiveness of OPD's EEO Action Plan/Program, and to determine whether goals and objectives have been attained.
3. Annually update the agency's Underutilization Report.
4. Assist managers in identifying what may be causing underutilization (barriers to employment) and recommend appropriate action.
5. Keep management informed of the latest developments in the area of EEO.

6. Provide training opportunities for managers and employees in the area of EEO and recruitment and selection.
7. Receive, investigate, and attempt to resolve all EEO complaints.
8. Provide training to ensure that managers and supervisors understand their responsibilities to take action to prevent the harassment of employees and applicants for employment.

**C. Management and Supervisory Duties:**

1. Lead by example.
2. Treat all persons in the workplace fairly and with courtesy, dignity and respect.
3. Assist EEO officer in problem identification and establishment of agency goals and objectives.
4. Implement action-oriented program.
5. Make sure OPD's EEO policy statement and complaint resolution procedure are posted.
6. Provide training for all employees on harassment prevention.
7. Make the EEO program known to all employees.

**D. Employee Duties:**

1. Treat all persons in the workplace fairly and with courtesy, dignity and respect.
2. Inform management or the EEO officer of any EEO concerns.
3. Read the agency EEO policies and EEO Action Plan and ask questions for clarification or to express concerns.

## **VI. EEO ACTION PLAN AND EEO POLICIES DISTRIBUTION**

**A. Internal Distribution**

1. Each employee will receive a copy of this plan during new employee orientation.
2. The EEO Policy and Complaint Resolution Procedure will be permanently posted and conspicuously displayed in areas available to employees.
3. OPD's EEO Policy Statement and Complaint Resolution Procedure will be included in the policy manual and in any collective bargaining agreements.
4. OPD's EEO Action Plan will be posted on its intranet site.

**B. External Distribution**

1. Post OPD's EEO Plan on its internet site.

**APPENDIX A**

**UNDERUTILIZATION REPORT**

EEO Categories and Job Groups	Underutilization	
	Female	Minority
<b>Category 2: Professionals</b>		
Occupational Group 000 Professional Staff	**OK	OK
<b>Occupational Group 151</b> Computer Supervisor, Computer Support Specialist, Computer Systems Analyst, Network Administrator	-1	OK
Occupational Group 333 Crime Investigator	OK	-2
<b>Category 3: Technician</b>		
Occupational Group 436 Administrative Assistant	OK	-2
<b>Category 6: Office/Clerical</b>		
Occupational Group 436 Legal Secretary, Secretary	OK	OK

\*\* The utilization analysis dated 03/17/2014 provided by the State EEO Program identified an underutilization of females in Category 2: Professionals—Occupational Group 000 Personal Staff/EO/Professional. These positions require that the incumbents be licensed to practice law in Montana. The percentage of female lawyers in the labor force indicates that only 34.96% are female. As a result OPD combined the Occupational Group of Personal Staff with the Lawyers which increased the number of positions to 137 with 59 female for a total of 43.07% of lawyers being female.

Other categories showing underrepresentation of females were in Category 3: Technicians—Occupational Group 436 Administrative Assistant and Category 6: Office/Clerical—Occupational Group 436 Legal Secretary, Secretary. These positions are currently represented predominately by females or 91.30% and 91.43% respectively. Since the department has 5 male employees who perform these duties and responsibilities the percentage of females falls below the labor force percentage.

## APPENDIX B

# STATE OF MONTANA EQUAL EMPLOYMENT OPPORTUNITY POLICY

It is the policy of the State of Montana that state government:

- Is an equal employment opportunity employer;
- Does not discriminate in employment based upon **race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation or political beliefs**; and
- Implements and maintains an effective equal employment opportunity program that may include a written affirmative action plan.

Employees of the State of Montana have a right to work in an environment free from all forms of discrimination. The State of Montana's prohibition of discrimination includes discrimination in hiring, firing, promotions, compensation, job assignments, and other terms, conditions or privileges of employment. The State of Montana may not retaliate or allow, condone, or encourage others to retaliate against any applicant, employee, or past employee for opposing unlawful discriminatory practices, filing a discrimination complaint and/or testifying or participating in any other manner in a discrimination proceeding.

All employees with access to such information shall maintain the confidentiality of the information to the extent reasonably possible and may not release the information to anyone who does not have the right or need to know.

# STATE OF MONTANA EQUAL OPPORTUNITY

Montana state government is committed in providing equal opportunity in all aspects of employment and equal access to its programs, services, and activities. Agency managers will not tolerate discrimination because of race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation, political beliefs, genetic information, veteran status, culture, social origin or condition, or ancestry.

## SEXUAL HARASSMENT

Agency managers will not tolerate sexual harassment of employees, clients, customers, or other persons doing business with state government. There are two categories of sexual harassment: Quid Pro Quo and Hostile Working Environment.

**Quid Pro Quo:** Requesting sexual favors in return for job benefits or opportunities. **Examples** may include, but are not limited to, sexual demands as a condition of employment; loss or threatened loss of a job for failing to comply with a supervisor's sexual demands; altering employment benefits in exchange for sexual favors; or forcing an employee to resign because he or she did not submit to a sexual request.

**Hostile Working Environment:** Unwelcome sexual conduct that unreasonably interferes with an employee's job performance or creates an intimidating, hostile or offensive working environment. Although a single occurrence or a pattern of sexually oriented behavior might not constitute illegal harassment, it is still unacceptable. **Examples** may include, but are not limited to, displaying sexually suggestive objects, pictures, screen savers, cartoons, or posters; verbal abuse of a sexual nature; sexually oriented discussions, jokes, innuendoes, comments, or obscenities; and sexually suggestive letters, notes, emails, or text messages.

## OTHER HARASSMENT

Agency managers will not tolerate harassment of employees, clients, customers, or any other persons doing business with state government because of **race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation, political beliefs, genetic information, veteran status, culture, social origin or condition, or ancestry**. Even mutually agreeable behavior, or behavior accepted between two or more people, can be offensive to others; for this reason, it is

## DISABILITIES

Agency managers will not tolerate discrimination against qualified applicants or employees with disabilities in hiring, firing, promotions, compensation, job assignments, or other terms, privileges, or conditions of employment.

Agency managers will provide reasonable accommodations, upon request, to otherwise qualified applicants or employees with disabilities in all aspects of employment, including the application and selection process, performing the essential functions of the job, or enjoying equal benefits and privileges of employment. If an accommodation is not effective, creates an undue hardship on a department, or endangers health or safety, it is not a reasonable accommodation.

State government encourages qualified applicants and employees with disabilities who need a reasonable accommodation to notify their immediate supervisor, department ADA coordinator, or human resource staff of their need for a reasonable accommodation.

Agency managers will make reasonable modifications to policies and procedures and provide equally effective communications to people with disabilities to promote equal access to programs, services, and activities.

## MATERNITY

Agency managers will not discriminate against applicants or employees in hiring, firing, promotions, compensation, job assignments, or other terms, conditions, or privileges of employment when an employee becomes temporarily disabled because of pregnancy, childbirth, or related medical conditions.

Agency managers will not terminate employees due to pregnancy or childbirth and will grant reasonable amounts of leave of absence, upon request, for pregnancy, childbirth or related medical conditions.

unacceptable. **Examples** may include, but are not limited to, oral, written, or electronic communication in the form of slurs, repeated jokes, comments, visual images, innuendoes, or other verbal or physical conduct that focuses on any protected class.

#### **EQUAL PAY**

Agency managers may not pay men and women differently who perform “substantially equal” work in jobs in the same workplace, except where the difference in pay is made according to a seniority system or a differential based on any factor other than sex, such as merit, longevity, or employee qualifications. Substantially equal work in jobs requires equal skills, effort and responsibility and is performed under similar working conditions.

#### **GENETIC INFORMATION**

Agency managers will not discriminate against applicants or employees because of genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.

The State of Montana recognizes six (6) calendar weeks as a reasonable period of recovery following childbirth.

#### **RELIGION**

Agency managers encourage qualified applicants and employees who need reasonable accommodations because of their religious beliefs or practices to notify their immediate supervisor, department EEO officer, or human resource staff of their need for an accommodation. An accommodation is not reasonable if it would create an undue hardship on a department.

#### **MILITARY OR VETERAN STATUS**

Agency managers will ensure employees who serve or have served in the Armed Forces, Reserves, National Guard or other uniformed services are not disadvantaged in their civilian careers because of their military service; promptly reemployed in their civilian jobs upon return from duty; and not discriminated against in employment because of their past, present, or future military service.

#### **Retaliation is Illegal**

It is an unlawful discriminatory practice for a state or local governmental agency to discharge, expel, blacklist, or otherwise discriminate against an individual because the individual has opposed discriminatory practices or because the individual has filed a complaint, testified, assisted, or participated in any manner in an investigation or legal proceedings involving unlawful discrimination. ***Agency managers will not retaliate or allow others to retaliate!***

The State Human Resources Division has outlined the state's complaint resolution procedures in the Equal Employment Opportunity (EEO) - Nondiscrimination - Harassment Prevention Policy, Administrative Rules of Montana (ARM) 2.21.4001 et seq., located at <https://montana.policymtech.com/dotNet/documents/?docid=321&mode=view>

If you wish to report a complaint, you can:

- Contact an agency manager or Barb Kain, the agency's EEO Officer and Americans with Disabilities Act (ADA) Coordinator, at 406-444-9545 or [bkain@mt.gov](mailto:bkain@mt.gov). Use the complaint form located at <http://hr.mt.gov/content/newdocs/policyforms/complaintform> when filing a complaint within OPD.
- File a complaint with the Human Rights Bureau, Department of Labor and Industry (P.O. Box 1728, Helena, MT 59624, 1-800-542-0807) within 180 days of the act or within 300 days if you used an internal complaint procedure.

If you are not a victim of discrimination, but you observed actions against other employees, clients, or customers you believe to be discrimination, please contact an agency manager or the agency's EEO Officer, ADA Coordinator, or human resource staff.

**Alternate Accessible Formats:** You can request alternate accessible formats of this poster by contacting the State Diversity Program Coordinator at 406-444-3984 or TDD 406-444-1421.

**Barbara Kain - ADA/EEO Coordinator  
Office of the State Public Defender  
44 W Park  
Butte, MT 59701**