

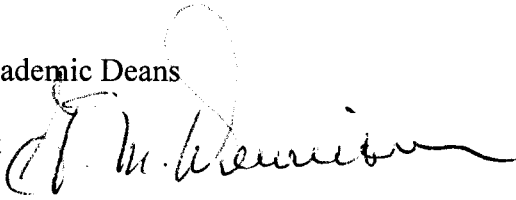


The University of
Montana

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15 March 2007

TO: Executive Officers and Academic Deans
FROM: G. M. Dennison, President 
SUBJECT: The University of Montana Affirmative Action Plan

With this memorandum, I write to request your direct and active assistance in the implementation of The University of Montana Affirmative Action Plan. The Plan seeks to insure that we work collaboratively to support the institutional commitment of equal opportunity in all sectors of the University.

The University of Montana relies upon your active efforts to recruit qualified female and minority applicants, and to give every applicant a fair and equal opportunity to compete for available positions. Nonetheless, affirmative action to recruit a diverse pool of candidates does not amount to a mandate to select other than the best qualified candidate for an open position. The University has an affirmative commitment to promote equal consideration of women, minorities, and other traditionally under-represented individuals in University employment, enrollment, and activities.

The Affirmative Action Plan serves as a reference source for policies and procedures that promote equal opportunity and non-discrimination. In addition, it provides a source of encouragement as we work toward fairness and equity in the University community. Please share this information with individuals in your organizations with particular focus on units and Departments with under utilization of females and minorities.

Thank you very much for sharing and honoring this institutional commitment.

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EXECUTIVE SUMMARY

The Affirmative Action Plan for 2007 is a reference tool for the University's equal opportunity and affirmative action policies. It reflects the University's commitment to ensure equal opportunity, and measures our progress toward achieving affirmative action goals. The Plan gives us a glimpse of what the workforce at The University of Montana looks like with regard to race and gender, and summarizes efforts to diversify our workforce. An annual Affirmative Action Plan is mandated by the United States Department of Labor, Office of Federal Contract Compliance Programs (OFCCP). It is hoped, however, that the Plan will do much more than simply meet compliance requirements. The Plan serves as a useful tool to measure progress in promoting equal opportunity and affirmative action, and helps guide our future efforts.

The Affirmative Action Plan measures progress of equal employment opportunity (EEO) efforts, and specifically looks at females, minorities as defined by OFCCP, persons with disabilities, and covered veterans. It is not intended to take the place of a Diversity Plan, and indeed there are some specific reasons it cannot. The most important reasons stem from legal decisions that have been handed down over the last few years. An affirmative action plan must, by law, set numerical hiring goals for females and minorities. A diversity plan, however, should not single out these two groups of people for quantitative analysis, and may not set numerical goals. That said, certain areas of the Plan describe broader efforts toward making the University a welcoming place for a wide array of individuals. These efforts help to foster the attitude of openness and inclusion that in turn help the University in its affirmative action efforts.

Certain parts of the Plan deserve special focus. Tables 5 and 7 reflect the areas where the numbers of female or minority employees are less than 80% of that which would be predicted based on availability of the workforce. The underutilized areas are listed below:

Women

Tenure-Track Instructional Faculty:

Biological Sciences, Educational Leadership and Counseling, Health & Human Performance, Media Arts, Pharmaceutical Sciences, Physical Therapy, Psychology, and Society & Conservation.

Other Employees

Administrators, Coaches, Craft, Graduate Assistants, and Postdocs

Minorities

Tenure-Track Instructional Faculty:

Accounting & Finance, College of Technology, Curriculum & Instruction, Society & Conservation, Environmental Studies, Mansfield Library, and Pharmacy Practice.

Other Employees:

Adjunct/Lecturers, Administrators, Coaches, Contract Professionals, Contract Professionals Research, Craft, Service, and Technical.

When vacancies occur in underutilized areas, extra efforts will be taken in advertising and recruiting to attract broad applicant pools. Such efforts include advertising in publications that are targeted to women and/or minorities in the field. For faculty vacancies in these areas, position descriptions will avoid unnecessary overspecialization. The EO/AA Office will work with search committees on recruitment strategies to assist with broadening the pool of applicants. For staff vacancies in these areas, qualifications will be selected carefully, and internal searches avoided whenever possible.

In areas where no underutilization exists, it is still necessary to follow the University's EO/AA recruitment and hiring procedures, to ensure equal opportunity/affirmative action compliance.

Dissemination of the Affirmative Action Plan will serve to heighten awareness of The University of Montana's EO/AA policies. It will assist the university community to recognize effort and progress, as well as to identify where extra efforts need to be focused.

Please direct any comments, questions, or suggestions to Eleanor Laws, Director of Equal Opportunity and Affirmative Action.

I. INTRODUCTION

Equal opportunity at The University of Montana applies to all members of the University community, including students, employees, and participants in the vast array of programs and activities the University offers. Principles of equal opportunity relate to a number of the University's stated goals and objectives, among them:

- Promote an open atmosphere on the campuses characterized by the free interchange of ideas and respect for the rights of all, thereby encouraging participation in governance.
- Recruit and retain an administrative team dedicated to responsible and participatory governance respectful of the diverse perspectives and interests of the University community, established governance processes, and administrative responsibilities, and assist and empower the members of the administrative team to fulfill their roles and responsibilities.
- Recruit new Provost during the Academic Year.
- Recruit and retain a diverse group of outstanding faculty and staff members as role models who serve the needs of the students attracted to the campuses, and empower the faculty and staff, through professional development programs and essential infrastructure, facilities, and equipment, to fulfill their roles and responsibilities.
- Implement the University's diversity plan to assure the inclusion of female, minority, and international faculty, staff, and students, with particular attention to the historic role and presence of Native Americans in Montana.
- Monitor the campus environments to identify areas needing further improvement to facilitate the learning, creativity, and development of students, staff, and faculty.
- Review and revise as necessary University and campus policies, procedures, and facilities for the maintenance of safe and supportive environments on the several campuses.
- Enhance the diversity, availability, attractiveness, and responsiveness of two-year education in Western Montana, and establish a branch campus of the Missoula COT in Hamilton.
- Implement collaborative student recruitment for all campuses.
- Participate actively in a public discussion about the critical importance of State-funded student financial assistance, especially but not exclusively for students with demonstrated need.
- Assure annual evaluations of all Executive Officers, Deans, Chairs, Directors, and supervisors.
- Initiate a campus dialogue about the endorsement of a Code of Ethics for the University of Montana.

The creation and maintenance of an educational and employment atmosphere of openness and inclusion is a crucial prerequisite to meeting these goals and creating an environment that welcomes a broad array of students and employees.

This Plan provides a framework for critical self-assessment, and where necessary, change. The Plan is in accordance with the requirements of Executive Order 11246, as amended and supplemented in federal law, as well as the requirements of Titles VI and VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963; the Age Discrimination in Employment Act of 1967; Title IX of the Higher Education Act of 1972, as amended; the Rehabilitation Act of 1974 (Sections 503 and 504), as amended; the Vietnam Era Veterans Readjustment Assistant Act of 1974; the Americans with Disabilities Act of 1990; the Civil Rights Act of 1991; the Age Discrimination Act of 1975, the Age Discrimination in Employment Act, Montana state law and University policy.

II. EQUAL OPPORTUNITY LAWS AND POLICIES

A. Non-Discrimination/Equal Opportunity Policy

The University of Montana rigorously pursues affirmative action to provide to all people the equal opportunity for education, employment, and participation in University activities without regard to race, color, religion, national origin, sex (including pregnancy), age, marital or family status, disability, creed, political beliefs, or sexual orientation and seeks to employ and advance in employment qualified disabled veterans. Responsibility for effecting equal opportunity accrues to all University 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. This responsibility also includes the obligation to provide reasonable accommodation for disability and religious preference. The University will protect against retaliation any individual who participates in any way in any proceeding concerning alleged violations of laws, orders, or regulations requiring equal education and/or employment opportunity, or who otherwise opposes discrimination.

B. Discriminatory Harassment Policy

As an institution of higher education, The University of Montana recognizes that freedom of speech cannot be unduly curtailed. Moreover, the University's discriminatory harassment policy is not intended to address every workplace dispute. Only harassing behavior that occurs based on an employee's or student's protected status (age, color, disability, marital/family status, national or ethnic origin, political affiliation, race, religion, sex (including pregnancy), creed, sexual orientation, or veteran status) is prohibited by the University's discriminatory harassment policy. Other unsavory or offensive workplace conduct should be addressed either at the department level or through Human Resource Services.

1. Sexual Harassment

Sexual harassment in education or employment covers a broad spectrum of behavior, ranging from sexual innuendoes and gender-based comments made at inappropriate times, perhaps in the guise of humor, to coerced sexual relations. In its extreme form, sexual harassment occurs when a person in a position of influence over the job, career, or grades of others uses his/her authority to coerce another person into sexual relations or to punish that person for rejecting or reporting such advances.

The University of Montana considers such behavior unacceptable. Sexual harassment is furthermore a violation of state and federal equal opportunity and nondiscrimination laws and regulations.

Disciplinary action will be taken when instances of sexual harassment are identified and confirmed. Retaliation against persons who file complaints is also a violation of laws

prohibiting discrimination and will lead to disciplinary action against offenders. Supervisors who knowingly condone or fail to report incidents of harassment will themselves be subject to discipline.

Employees or students who wish to report incidents of sexual harassment should contact the EO/AA Director.

2. Other Types of Harassment

Discriminatory harassment violates federal and state law, as well as University policy. Harassment based on age, color, disability, marital/family status, national or ethnic origin, political affiliation, race, religion, sex (including pregnancy), creed, sexual orientation, or veteran status is prohibited at The University of Montana.

To be considered unlawful harassment, the conduct at issue must create a hostile work or educational environment, and must be directed at an individual because of his/her membership in a protected class of people. This can take different forms. For example, a hostile work environment based on race may exist if an employee or student is repeatedly referred to using a racially derogatory term. Unlawful harassment may also exist where unfavorable treatment in the workplace or the classroom is directed at a protected group of individuals, such as females, persons over 40-years-old, persons of a particular religious faith, etc.

To violate the law, the conduct comprising the hostile work or educational environment must be sufficiently severe or pervasive. Generally, a few isolated incidents do not rise to the level of a hostile work environment. The more severe the conduct is, the less pervasive it needs to be to rise to the level of a hostile work environment, and *vice versa*.

The University of Montana seeks to prevent harassing situations from occurring. Departments are encouraged to work with the EO/AA Office and Human Resources to promptly address any situations that may develop into an unlawful hostile environment.

C. Other Policies

The University of Montana ensures that any contract it enters into with an outside entity contains an equal opportunity/non-discrimination clause. If there are any reported or otherwise known incidents of discrimination/harassment by a contractor, the University will not enter into further contractual relationships with that entity unless or until it resolves the matter in accordance with the law and to the University's satisfaction.

D. Implementation of Policies

The Director of Equal Opportunity and Affirmative Action reports directly to the President of the University. The Director is responsible for planning, developing, implementing and evaluating equal opportunity and affirmative action programs at The University of Montana. The Director's duties include, but are not limited to the following:

1. Developing policy statements and affirmative action programs.
2. Disseminating information about equal opportunity and affirmative action both internally and externally.
3. Serving as liaison between the University and enforcement agencies.
4. Serving as liaison between the University and minority organizations, women's advocacy organizations, disability and veterans' organizations and community action groups concerned with the employment opportunities of protected groups.
5. Advising the President's staff and University administrators, deans, and department heads of current legislation and decisions in EEO/Affirmative Action areas.
6. Implementing audit and reporting systems to measure the effectiveness of the University's affirmative action and equal opportunity programs.
7. Identifying problem areas through analyses of reports and establishing goals to correct underutilization of minorities and women.
8. Monitoring hiring and promotion activity to assess non-discriminatory and equal treatment of applicants and employees.
9. Holding regular discussions with hiring authorities in each unit to be certain the University's policies are understood and being followed.
10. Reviewing (along with trained staff) qualifications of applicants and selection criteria to be certain minorities, women, and persons who have self-identified as having disabilities or as being disabled and/or qualified veterans are given full opportunities in employment and promotion based solely on their qualifications.
11. Assisting (in coordination with staff in the Human Resources Office) in career counseling and professional development for staff to enable them to seek upward mobility.
12. Developing, in conjunction with the Director of Human Resource Services, promotion procedures to facilitate upward mobility of employees.

13. Periodically reviewing compliance efforts, e.g., display of posters; facilities for accessibility for persons with disabilities; reasonable accommodations for employees with disabilities; review of the efforts of the University's Americans with Disabilities Act Team; the comparability of facilities provided by the University to members of both sexes.
14. Ensuring that minorities, females, persons with disabilities and qualified veterans employed by the University are free from discrimination, afforded full opportunities, and are encouraged to participate in all University sponsored educational, recreational and social activities regardless of their protected status.
15. Ensuring that supervisors understand their work performance is being evaluated on the basis of their equal employment opportunity efforts and results as well as other criteria.
16. Communicating to supervisors that they are responsible for preventing harassment of, or retaliation against employees who have exercised their grievance rights with regard to their protected civil rights.
17. Cooperating and participating in efforts to encourage child care, housing and transportation programs appropriately designed to improve the employment opportunities for women, minorities, persons with disabilities and qualified veterans.
18. Reviewing with the Director of Human Resource Services, seniority practices and seniority clauses in union contracts to ensure such practices are non-discriminatory.
19. Reviewing, along with trained staff in the Human Resource Services office, University selection processes to ensure freedom from bias and to make sure selection criteria are relevant to requirements for good job performance and do not disproportionately exclude women, minorities, persons with disabilities, and protected veterans.
20. Identifying action groups and programs within the community and encouraging management and administrative personnel, as well as female, minority, persons with disabilities, and protected veteran employees, to participate in such activities.
21. Ensuring that employees seeking reasonable accommodations based on disability or religious beliefs receive such accommodations, if so entitled.

E. Communication and Dissemination of Policies

"EEO is the Law" posters are displayed on the most prominent campus bulletin boards. Posters comport with the most recent legal guidelines.

All position vacancy announcements and advertisements must include the statement: "The University of Montana is an Affirmative Action/Equal Opportunity Employer." Every applicant for any position at The University of Montana is sent a copy of the President's statement on non-discrimination. Upon initiation of a search, the Director of EO/AA discusses affirmative action and equal opportunity policies, female and minority availability figures and established good faith hiring goals with search and selection committees and with hiring authorities.

All position announcements listed with the local and state job service include the University's EO/AA statement. The statement is also included in all contracts and grants covered by the Executive Order. All posted employment notices include the EO/AA statement.

Personnel responsible for hiring, firing, evaluating and promoting employees are advised of equal employment and affirmative action policies and regulations at the initiation of recruitment and through personnel policies established for campus-wide reorganizations and promotions.

The University's commitment to affirmative action and equal opportunity is emphasized each month during new employee orientation sessions. The University's EO/AA Director provides a presentation to all new employees on the anti-discrimination laws, and informs them of the University's discrimination grievance procedure. Each new employee receives the President's policy statement regarding non-discrimination during these sessions.

The Director of Human Resource Services discusses the University's Affirmative Action Plan and commitment to diversity on an ongoing basis with union representatives. A statement regarding equal opportunity is incorporated into union bargaining agreements reached with the University.

The President of The University of Montana annually states and distributes his commitment to non-discrimination in all University programs and activities and to creating and maintaining a diverse University community characterized by tolerance, harmony, and mutual support. The President also distributes annually a memorandum regarding access to programs for disabled individuals.

The EO/AA Director and the Human Resources Director partnered to offer comprehensive discrimination/harassment prevention training mandatory for all supervisors during 2005. This effort continued in 2006, and an on-line refresher training will be offered on an annual basis, with a live training every five years.

The EO/AA Director and the Director of Disability Services for Students collaborated with all academic departments' faculty to discuss obligations to refrain from discrimination in the classroom, to maintain non-hostile learning environments, and to provide reasonable accommodations to students who need them based on disability or religious preference. Visits to academic departments began fall semester 2006, and will continue into the 2007-2008 academic year. In addition to the discussion, each faculty member receives a pamphlet setting forth anti-harassment laws and guidelines, which was updated by the EO/AA Director in 2006. DSS distributes a pamphlet on accommodating students with disabilities, as well a sheet entitled, "May I Flunk a Student with a Disability?"

The EO/AA Office maintains a website (www.umt.edu/president/eo) which contains all of the equal opportunity and affirmative action policies and procedures. The EO/AA Office provides brochures and posters with information about discrimination and harassment. All of these documents provide the name and contact information for the EO/AA Director.

A copy of the Affirmative Action Plan is sent to all schools, departments and unit heads to be made available for employee, student and public review. A copy of the Plan is also available on the EO/AA website.

III. COMPLAINT PREVENTION AND RESOLUTION

A. Supervisor Responsibilities

Administrators, managers, supervisors, deans, directors, and department heads are responsible for informing employees under their supervision of The University of Montana's policies to prevent and correct discrimination and harassment. This includes ensuring that employees understand they can bypass reporting an incident up the standard chain of command when a supervisor in that chain is involved in the alleged discriminatory conduct.

Supervisors must take prompt and effective remedial action when they hear of incidents that may violate the policy. They must monitor any situation that has been addressed and follow up, if necessary. Supervisors must take steps to ensure that those who have raised concerns of discrimination and/or harassment are not subjected to retaliation. Student Affairs administrators are responsible for providing information on The University of Montana's policies and procedures regarding discrimination and harassment to the student body.

Supervisors should contact the EO/AA Office and/or Human Resource Services for assistance with handling situations that are not easily resolved at the departmental level. Supervisors who do not appropriately handle reports or incidents of discrimination and harassment, or do not properly refer them to EO/AA or HRS, may be subject to disciplinary action.

B. UM's Formal Complaint Procedure

The University of Montana has a discrimination grievance procedure for any faculty member, student, non-academic employee, or applicant for employment or admission who alleges unlawful discrimination and/or harassment. Persons alleging unlawful discrimination or harassment at The University of Montana should contact the Equal Opportunity/Affirmative Action Officer, Room 020, University Hall, 243-5710 (Voice/Text: 243-2311) within 60 calendar days of the alleged harassment. A complaint is timely if the most recent act of alleged harassment occurred within the 60-day time frame. The grievance procedure can be found on-line at www.umt.edu/president/eo.

Pursuant to the discrimination grievance procedure, complaints must be in writing. Reasonable accommodation to file a complaint is provided if necessary. The complaint must include the complainant's name and signature, describe the act or acts of discrimination or harassment and the approximate dates on which they occurred, and identify the person or persons allegedly responsible. The EO/AA Director will respond to every complaint of discrimination/harassment, and will try to resolve each complaint amicably and informally at the earliest possible stage.

If the EO/AA Director determines that the allegations in the complaint, even if true, do not amount to a violation of federal or state law or University policy, the complaining party will be notified of this in writing, and the EO/AA Director will not conduct an investigation. If the EO/AA Director determines that the allegations, if true, may amount to a violation, then an impartial and unbiased investigation will ensue. An investigative report with findings, conclusions, and recommended actions will be issued to the parties. To the extent practicable, the EO/AA Director and staff will keep the process confidential.

A complaining party may also file a formal charge of discrimination or harassment with a state or federal agency authorized by law to receive such claims. The EO/AA Office will provide information about these processes upon request.

1. Negotiated Resolution

Negotiated resolution is a process by which the EO/AA Director attempts to resolve complaints to the satisfaction of all involved parties in a prompt manner. If the parties agree to attempt a negotiated resolution, the goal is settlement of the complaint with no formal findings regarding whether or not discrimination/harassment occurred. At any point during the negotiated grievance process, either party has the right to terminate the process and elect an investigation. The EO/AA Director reserves the right not to investigate if she determines that the complainant, during the negotiated resolution process, rejected an offer that included all of the relief that would follow if he/she prevailed on the complaint.

Confidentiality is maintained during the negotiated resolution process to the extent practicable. Generally, only the complainant and respondent are involved in the process, except as necessary to consult on University policy and/or obtain approval for disbursement of any remedies.

If the complaint is resolved successfully, each party will sign a Negotiated Resolution Form prepared by the EO/AA Office, which sets forth in full the agreed-upon terms.

2. Investigation

If the EO/AA Director determines that a negotiation resolution is not appropriate, or if the negotiated resolution procedure is not agreed upon by both parties, or it fails, the EO/AA Director, will conduct a neutral investigation. Law students from The University of Montana may assist in conducting the investigation.

The investigation will include meetings with the parties and other persons who may have relevant information, review of relevant files, records and other documents, a comparative analysis of individuals similarly situated to the complainant, a review of applicable policies and practices, and any other information relevant to the complaint.

The investigation is normally completed within 10 working days of the date the complaint was filed, although extenuating circumstances may extend this time period. The investigative report will contain findings of fact and supporting evidence, conclusions of law, and any appropriate recommendations. It will be disseminated to the parties.

The determination of whether or not discrimination/harassment occurred is made in accordance with applicable law, based on a preponderance of substantial, credible evidence, and will be stated in writing. If the EO/AA Director finds that prohibited discrimination has not occurred, the complainant may appeal this determination through the formal procedure, discussed below. If the EO/AA Director finds prohibited discrimination has occurred, the respondent may appeal any recommended discipline through the appropriate disciplinary procedure under applicable collective bargaining agreement, or University Personnel Policy at the time he or she is notified disciplinary action will be taken.

If the EO/AA Director determines that the complainant's allegations are substantiated, the report will recommend that a directive be issued to stop the unlawful practice, if it is ongoing, and will recommend disciplinary and other corrective action, as set forth below in the "Remedies" section.

If the EO/AA Director determines that the complainant's allegations are not substantiated, the report may identify other avenues, both internal and external, for the complainant to pursue the matter.

3. Remedies

Upon a determination of unlawful discrimination or harassment, The University of Montana may take any or all of the following steps to ensure the discriminatory and/or harassing conduct stops and is properly remedied:

1. Counseling and training
2. Reassignment
3. Disciplinary action, up to and including termination
4. Redress for the victim employee/applicant, including but not limited to hiring or reinstatement with any documented back pay and attendant benefits, promotional opportunities, or other equitable remedies.
5. Redress for the victim student/applicant, including but not limited to admission to The University of Montana, removal of a wrongly-received negative grade, or other equitable remedies.

4. Appeal Procedure

If the Complainant chooses to appeal the decision of the EO/AA Director, a written request for a hearing before the University Discrimination Grievance Committee must be filed within ten (10) days of receipt of the decision. The request for a hearing must be filed with the EO/AA Director.

Within ten (10) days of receipt of the written request for a hearing, the EO/AA Director will notify the Complainant and the Respondent of the time and place of the formal hearing before the Discrimination Grievance Committee. The hearing will be scheduled within thirty (30) days of receipt of the written appeal.

The full discrimination grievance procedure can be found on-line at www.umt.edu/president/eo.

C. Training and Education

Training and education are fundamental to the creation and maintenance of a working and educational environment free from discrimination and harassment. The EO/AA Director is responsible for providing periodic training to assist members of the University in understanding discrimination and harassment, and for providing relevant legal updates. The EO/AA Director, in conjunction with the Director of HRS, initiated a broad-based discrimination and harassment training program for supervisors in 2005-2006. The EO/AA Director and the Director of Disability Services for Students (DSS), are in the process of providing education and training to all faculty on their obligations to maintain non-discriminatory classroom environments. EO/AA, HRS, and DSS staff are also available to conduct individualized training upon request. After any finding of discrimination or harassment, training on how to prevent future incidents will be conducted with the department(s) involved.

IV. AFFIRMATIVE ACTION PLAN REGULATORY REQUIREMENTS

A. Description of Plan for Women and Minorities

Pursuant to Executive Order 11246, as amended, any federal contractor with 50 or more employees and contracts of \$50,000 or more must develop a written affirmative action program for women and minorities, persons with disabilities, and certain protected veterans. The Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) oversees compliance with the affirmative action regulations.

OFCCP's implementing regulations, at 41 C.F.R. Chapter 60, define an affirmative action program as follows:

An affirmative action program is a management tool designed to ensure equal employment opportunity. A central premise underlying affirmative action is that, absent discrimination, over time a contractor's workforce, generally, will reflect the gender, racial and ethnic profile of the labor pools from which the contractor recruits and selects. Affirmative action programs contain a diagnostic component which includes a number of quantitative analyses designed to evaluate the composition of the workforce of the contractor and compare it to the composition of the relevant labor pools. Affirmative action programs also include action-oriented programs. If women and minorities are not being employed at a rate to be expected given their availability in the relevant labor pool, the contractor's affirmative action program includes specific practical steps designed to address this underutilization.

41 C.F.R. § 60-2.10.

The Department of Labor, OFCCP, requires contractors to track females and minorities in the workforce and to take steps to correct underutilization of these groups. For purposes of affirmative action compliance, minorities fall into four categories: (1) Black; (2) Hispanic; (3) Asian; and (4) American Indian. Females and minorities, as defined by OFCCP, by no means represent the full array of diversity The University of Montana strives for and cultivates. Analyses according to these categories are simply the affirmative action component of a broader concept of diversity.

Affirmative action at The University of Montana does not include establishing quotas or mandates to hire based on race, gender, or any other factor. It does not include separate hiring tracks for females and minorities. Instead, affirmative action means that The University of Montana takes steps to attract qualified individuals from a diverse array of backgrounds, and allows all individuals to compete on an equal basis that is free from favoritism, cronyism, and discrimination. Affirmative action seeks to eliminate blind self-perpetuation, and instead promotes a mindset of openness and inclusion.

The data analyses required by OFCCP are set forth in Tables 1 through 8, and described below. All of the data and narrative analyses reflect the hiring year ending August 31, 2006.

B. Workforce Analysis

The workforce analysis is set forth in Table 1. It represents a snapshot of the workforce by race and gender according to department as of November 2006. The workforce analysis is produced annually from payroll data each fall. After each September payroll (between mid-October and November) computer reports from the University's management information reporting system are analyzed according to requirements of federal compliance agencies (IPEDS) and used for annual AAP updates.

Academic departments are grouped according to department regardless of the size of the department. With limited exception, non-academic departments and units with fewer than 20 employees are subsumed by their respective umbrella organizational components. For example, the Alumni Association and the Office of Equal Opportunity and Affirmative Action, each of which has fewer than 20 employees, appear under the President's Office.

The workforce analysis sets forth the total number of employees in each department or unit. It then sets forth the number of female employees and the number of minority employees in each unit.

C. Job Group Analysis

The job group analysis is set forth in Table 2. The job group analysis draws from the same database as the workforce analysis, but looks at gender and race data from a different viewpoint. Job groups are sorted according to EEO census codes or by specific discipline where there is no readily applicable EEO code. There are 13 job groups represented in the Plan: 100-Administrators (academic and non-academic); 200-Faculty (tenure-track); 220-Adjunct/lecturer; 300-Professional Staff; 320-Coaches; 400-Technical; 500-Administrative/Clerical; 600-Craft; 700-Service/Other; 800-Graduate Assistants; 900-Postdocs; E02-Contract Professionals; F02-Contract Professionals-Research. The specific job titles that fall under each job group are set forth fully in Table 2.

Job group 200 is tenure-track faculty and job group 220 is adjunct/lecturer. Academic departments, however, are also analyzed at the department level, as set forth in Table 5. OFCCP deems this to be a more accurate benchmark, particularly for the availability and utilization analyses, discussed below.

D. Availability Analysis

The availability analysis shows the available pool of qualified applicants by job group according to the 2000 EEO census data. It is set forth in Table 3. The EEO census data reflects the percentage of women and minorities with the requisite skills and abilities for each job group within a reasonable recruitment area. The reasonable recruitment area is the United States for administrators, faculty, professional staff, coaches, postdocs, and contract professionals. The reasonable recruitment area is greater Missoula for adjuncts, technical, administrative/clerical, craft, service/other, and graduate assistants job groups.

The availability analysis must weigh two factors: (1) The percentage of females and minorities with the requisite skills in the reasonable recruitment area; and (2) The percentage of females and minorities among those promotable, transferable, and trainable within the contractor's organization. Because The University of Montana's recruitment procedures require open recruitment except under rare circumstances, the reasonable recruitment area is weighted 100 percent, in accordance with OFCCP regulations.

As noted above, tenure-track faculty data is broken down by discipline in Table 5. Availability is determined by data compiled by a consortium of federal agencies on earned doctorates from United States universities. Data for the current plan is derived from the 2005 summary of earned doctorates, which was distributed in 2006. The data is available on-line at www.norc.uchicago.edu/issues/sed-2005.pdf.

E. Utilization Analysis

The purpose of the utilization analysis is to compare the representation of women and minorities at The University of Montana with the availability of such persons in the appropriate labor market for the job group or goal unit. The utilization analysis by job group is set forth in Table 4.

For tenure-track faculty, department utilization totals are combined into goal units. Goal units are comprised of logically grouped disciplines according to the most recent National Research Council reports for doctorate recipients from United States universities. Goal units in Table 5 reflect tenure-track positions only, based on projected hiring opportunities and availability data compared to utilization figures.

College of Arts & Sciences Goal Units:

Humanities (Goal Unit)

- Asian Studies
- English
- History
- Liberal Studies
- Modern and Classical Languages and Literature
- Native American Studies
- Philosophy

Sciences (Goal Unit)

Biological Sciences, Division of
Chemistry
Computer Science
Environmental Studies
Geology
Mathematical Sciences
Physics & Astronomy

Social & Behavioral Sciences (Goal Unit)

Anthropology
Communication Studies
Economics
Geography
Political Science
Psychology
Sociology

Schools, Colleges, and Other (Each is a separate goal unit):

Business Administration (Accounting & Finance, Information Systems & Technology, Management)

Education (Curriculum & Instruction, Educational Leadership & Counseling, Health & Human Performance)

Fine Arts (Art: Drama/Dance, Media Arts, Music)

Forestry (Ecosystems and Conservation Sciences, Forestry Management, Society & Conservation)

Journalism (Journalism, Radio/Television)

Law

Mansfield Library

College of Health Professions and Biomedical Sciences (Pharmaceutical Sciences, Pharmacy Practice, Physical Therapy, Social Work)

College of Technology

Underutilization occurs when there are fewer women and minorities in a particular job group than would reasonably be expected by their availability in the relevant labor market. For purposes of the Affirmative Action Plan, a goal unit or job group is underutilized if there is an incumbency of less than 80% of females or minorities,

respectively, compared against the labor market. This is commonly referred to as the “80% rule.”

Separate utilization analyses are done for women and minorities in every job group. Because of the small number of minorities other than American Indians in Montana, racial minorities identified according to EEO categories are grouped together. The Office of Federal Contract Compliance Programs approved this grouping during their contract compliance audit conducted at The University of Montana in 1979-1980. The data is further broken down into each of the four racial categories to provide a more detailed snapshot.

The job groups that currently show an underutilization for females are Administrators, Coaches, Craft, Graduate Assistants, and Postdocs. For instructional faculty, none of the goal units show an underutilization of females under the 80% rule, although some individual departments show an underutilization.

Underutilization of minorities is a broader problem. The job groups where minorities are underutilized are: Administrators, Adjunct/Lecturer, Coaches, Contract Professionals, Contract Professionals-Research, Craft, Professional Staff, Service, and Technical. The academic goal units where minorities are underutilized are: College of Forestry and Conservation, Mansfield Library, and College of Technology.

A utilization comparison for academic goal units for academic years 2005 and 2006 is set forth in Table 6. Losses in female utilization occurred in Humanities, Science, Social and Behavioral Sciences, School of Business Administration, School of Education, and the Mansfield Library. Gains were realized in the School of Fine Arts, College of Forestry and Conservation, School of Journalism, School of Law, College of Health Professions and Biomedical Sciences, and College of Technology.

For minorities, utilization losses occurred in Humanities, Social and Behavioral Sciences, School of Business Administration, and the School of Fine Arts. Gains occurred in Science, School of Education, College of Forestry and Conservation, School of Journalism, College of Health Professions and Biomedical Sciences, and the College of Technology. The Mansfield Library saw no change.

A similar comparative analysis for other job groups will appear in future plans, and will, over time, track annual progress as well as progress over a 5-year period and 10-year period.

F. Hiring Goals

When a utilization analysis reveals underutilization of women or minorities in a particular job group or academic goal unit, goals are established to correct the deficiencies. The EO/AA Director sets goals annually and monitors progress toward attainment. Separate goals are established to correct identifiable deficiencies for women and minorities. Annual goals are set by job group and are calculated and percentage-wise. Annual

percentage goals must be equal to and cannot exceed availability regardless of the extent to which the job group is underutilized. At the beginning of recruitment, Human Resources or the EO/AA Director provides the hiring authority with applicable hiring goals if the vacancy occurs in a job group determined to be underutilizing women and/or minorities during the current hiring year.

The hiring goals for each underutilized academic goal unit and job group are set forth in Tables 5 and 7, respectively.

The EO/AA Director monitors progress toward attaining the goals on an ongoing basis, and discusses progress reports with deans, department chairs, administrators, and with members of the University's Diversity Advisory Council to determine program effectiveness and provide recommendations to improve unsatisfactory performance.

G. Timetables

Timetables for attaining goals are established first by projecting expected employment opportunities in each affected job group. Projected staff hiring opportunities are determined by averaging the number of vacancies filled in the particular job group during the two years prior to the analysis being prepared. Faculty and administrative hiring opportunities are simply the actual vacancies which will be filled during the applicable recruitment year.

To ensure that the timetables are realistic, all factors which may have a direct bearing on the availability of employment opportunities in each affected area are considered. Those factors include, but are not limited to, enrollment projections, anticipated program expansion or additions, budgetary projections, prospective new positions, anticipated budget cuts and subsequent lay-offs or terminations, retirements, anticipated curriculum changes, and the potential availability of grant monies. The process of determining appropriate timetables is also based upon the following premises and assumptions:

1. That the rate of progress in eliminating underutilization should be adequate to have completed any recommended remedial action within a reasonable time.
2. That successful location and hiring of a qualified female or minority applicant for every available employment opportunity cannot reasonably be anticipated.
3. That the provisions of the equal employment opportunity program shall be uniformly and consistently applied in a good faith effort to afford equal employment opportunity for women and minorities regardless of the relative progress toward, or attainment of, any affirmative action goals indicated.

Once the goals and timetables are established, the EO/AA Director is responsible for updating them annually, after completion of the workforce analyses.

The EO/AA Director discusses the goals and timetables to all schools or departments with deficiencies and with vacancies to fill. The EO/AA Director and Human Resources staff personally discuss with the persons responsible for hiring in each affected area the goals for job groups in that area and are available for counsel as to the most effective means of reaching the goals. Deficiencies are reviewed with managers responsible for employment in the unit to insure all relevant factors have been considered in determining the goals and timetables.

H. Recruitment and Selection Analyses:

To determine whether progress is being made toward the attainment of goals, the EO/AA Director analyzes the University's academic applicant flow and selections for tenure-track faculty, administrator, contract professional, and coach positions. (Table 8) Analyses are compiled separately for women, Native Americans, and other minorities in each academic goal unit. Whenever the female/minority applicant pool for a particular goal unit is less than what might reasonably be expected according to availability data, these findings are reported to individual units.

Goal units where applicant pools fell a percentage point or more short of what would be expected based on female availability figures for the hiring year ending August 31, 2006 were: Humanities, Sciences, Social and Behavioral Sciences, School of Business Administration, School of Education, School of Law, College of Forestry, Mansfield Library, and the College of Health Professions and Biomedical Sciences.

The School of Fine Arts had female applicant pools that exceeded availability figures.

No goal unit fell a percentage point or more below availability for Native American applicants.

Every goal unit that recruited during the 2005-2006 academic year fell a percentage point or more below availability figures for other minority applicants.

A selection analysis compiled for each goal unit compares sex and race of the successful applicant with the sex and race of other applicants to determine if the selection had an adverse impact on female and minority applicants. The EO/AA Director reviews these analyses with departments, and discusses selection criteria, the screening process and interviewing to aid in identification of problem areas that hinder progress toward attainment of goals.

For executive and administrative positions, applicant pools fell short of female availability figures for both academic and non-academic positions. The shortfalls were 24 and 6 percent, respectively. Native American applicants for both exceeded availability figures for academic positions, and fell .4 percent short for non-academic positions exceeded national availability figures. Other minority applicant pools fell short of national availability by 8 percent for academic administrators, and by 9 percent for non-academic positions.

Coaches fell 21 percent short of national availability figures for female applicants and two percent short for Native American applicants. For other minorities, the applicant pool exceeded national availability figures by five percent.

Applicant pools for contract professionals fell short of female availability figures by 20 percent, Native American figures by one percent, and other minorities by one percent.

V. IDENTIFICATION OF PROBLEM AREAS AND CORRECTIVE ACTION

A. Problem Areas

1. Salaries

Salaries at The University of Montana are generally below those of peer institutions, particularly for faculty, administrative and professional positions. Starting salaries are moving closer to the relevant labor market from which the University recruits applicants, but nonetheless hinder the effectiveness of wide-scale recruiting efforts designed to gain applicant pools containing well-qualified applicants, including those from protected groups. To address this problem, market adjustments are sometimes incorporated in salaries offered to make faculty and administrative salaries more competitive.

Staff wage rates are governed by the Montana University System Staff Compensation System and/or applicable collective bargaining agreements. University searches sometimes lose qualified finalists when the applicants learn the University's starting salaries are not as negotiable as elsewhere in their profession. The major reason given by resigning employees for leaving University employment is a higher salary offer or better job opportunity.

2. Dual Career Couples

Attracting professionals for hiring often necessitates attracting their professional spouses or partners. Professional opportunities for two-career families in Missoula are few. Unlike metropolitan areas with commuter options and diversified business and industry, Missoula's professional opportunities are concentrated primarily in two areas: education and government services. It is difficult for the University to compete for applicants whose spouses or partners have limited prospects for employment in Missoula.

3. Goal Setting

Faculty utilization of females and minorities by discipline and employment job group is analyzed each fall after the workforce analysis is completed. Annual hiring goals are then established based on projected hiring opportunities for those disciplines and job groups considered to be underutilized in females or minorities and which have vacancies to fill. Faculty retirements cannot always be predicted for each discipline, and vacancies created by retirement are not always filled with a like-position. In those job groups or academic goal units where underutilization exists, low projected hiring opportunities sometimes make it difficult to attain the established goal within a given time period.

4. Attracting Minority Applicants

Although some national searches have been successful in identifying qualified minority candidates, a number of these applicants have indicated to search committees that they would not want to move to Missoula because of its predominantly white population. Search committees report that some of these candidates say they do not want to live and raise their children in an area lacking more diversity in its population.

B. Actions to Eliminate Problem Areas

1. Salaries

The EO/AA Director consults with the University administration on an ongoing basis to discuss salary issues and possible salary inequities. Each year efforts are made to raise the University's administrative salaries to compare more favorably with those of peer institutions in order to reduce intra-state competition and inequities.

Salaries for faculty are set according to terms of a collective bargaining agreement, thus reducing the likelihood of arbitrary salary assignments and inconsistencies. Salaries for temporary and part-time faculty are set using the floors established in the CBA and prorating the hours in service. Academic deans and department administrators carry responsibility for ensuring equitable pay rates for part-time employees.

2. Dual Career Couples

Counseling for job-seeking spouses and partners of newly hired employees is available at the University on an informal basis. Academic deans give strong consideration to the employment of partners or spouses of tenure-track faculty, when qualified, as an inducement for a selected candidate's acceptance of an employment offer.

Appointment of staff must be accomplished in accordance with the terms of applicable collective bargaining agreements, which govern terms and conditions of staff employment. The University offers programs and workplace options to enhance recruitment and retention of qualified employees. For example, Human Resource Services offers free parenting consultations as part of the University's Faculty/Staff Assistance Program. The Faculty/Staff Assistance Program therapists are experienced professionals, offering consultations on topics such as school problems, family conflict, divorce, single parenting and child development.

3. Goal Setting and Attracting Minority Applicants

The University continues to take affirmative action steps on a case-by-case basis for each recruiting department, through acknowledgment of underutilization; appointing diverse and representative search and screening committees; casting as wide a recruiting net as resources allow; carefully reviewing job qualifications and recruitment plans for each search; sending vacancy announcements to Historically Black Colleges and Universities

and the American Indian Higher Education Consortium; and closely monitoring screening and selection procedures for every hiring transaction with the goal of eliminating any barriers to the hiring of qualified applicants belonging to an underutilized job group.

The EO/AA Director meets with each hiring authority or search committee chair at the initiation of recruitment to discuss the availability of underutilized women and/or minorities in a given discipline and how targeted recruitment efforts might attract individuals to apply for vacancies. The EO/AA Director then monitors the search process and encourages the department to give good faith consideration to protected applicants during each step of the screening process.

Affirmative action efforts include requiring departments to conduct open searches for virtually all permanent position vacancies, including national searches for tenure-track faculty, contract professionals, and administrators. The EO/AA Director maintains a recruitment checklist for academic, administrative, and professional positions and gives it to each search committee at the initiation of a search. Appointments designated acting or temporary can be filled without recruitment for up to one year with approval by the EO/AA Director. The EO/AA Director must approve any exception to recruitment. Staff position vacancies to be filled for more than 90 days must be advertised.

Human Resource Services staff counsel individual applicants and assist them in completing applications. The application form lists the requisite skills needed to qualify for each advertised position vacancy.

Over the years, the personnel office has become more accessible to persons with disabilities. There is currently elevator service, and notices of vacancies and directions for requesting assistance are posted on the ground floor of the Human Resource Services office. Staff from HRS consult with vocational agencies for the employment of the disabled to aid applicants who may need special assistance in determining whether they are qualified for a position or what accommodations can be made to facilitate the applicant's opportunity for employment. Employees who become disabled during the term of employment receive accommodation to provide them with every reasonable opportunity to continue their employment as long as they are able to perform the essential functions of the position held or desired. All staff position vacancy announcements give notice that announcements can be made available in alternative formats upon request. The University telephone services has located Voice TDD phones in key locations across campus, including the main telephone service and the personnel office.

Recognizing the limited number of available women and minorities in Montana in the crafts and in some technical fields, the hiring authorities for underutilized job-groups have expanded recruitment efforts to maximize outreach to these groups either statewide or regionally. Despite often-limited response from areas outside of Montana and adjacent states, including the declining of job offers extended, the University continues to recruit widely for groups where women and minorities are underutilized. When the

qualifications of candidates are otherwise equal, preference for interview selection is extended to members of protected groups when a particular job group indicates underutilization.

VI. MONITORING AND REPORTING SYSTEMS

A. Responsibility for Compliance

Staff members in the EO/AA Office and in Human Resource Services are trained in the basics of EO/AA recruitment. These two offices coordinate all hiring in the non-academic and academic/administrative areas. This centralization creates better visibility, uniformity and equity. Communication and cooperation with hiring authorities is excellent due to the simplification and centralization of the recruitment/selection processes. Human Resource Services staff and the EO/AA Director provide interview guidelines to campus employees, supervisors and community groups to eliminate potential problems created by inappropriate questioning of applicants and to create awareness of difficulties experienced by female and minority applicants. Staff members from Human Resource Services serve on campus-wide committees in order to provide employees with the most recent interpretation of University and state personnel policies. Personnel from Human Resource Services, Legal Counsel Office, and EO/AA Office provide training on hiring, employment and educational practices.

Responsibility for the good faith efforts required to demonstrate affirmative action on the part of the University and to prevent discriminatory practices and eliminate underutilization of women and minorities rests with each person who recruits and selects employees. The central administration, the academic deans, non-academic directors and other supervisors cannot effectively accomplish the goals of the equal employment opportunity program without the total involvement and cooperation of those actually responsible for recruitment and selection of employees. Those persons who recruit and hire, whether an individual or committee, share responsibility to take affirmative action to realize the goals of the program and to assure that all aspects of the employment transaction adequately document clear evidence of their good faith efforts. The EO/AA Director monitors these efforts and reports them to appropriate government compliance agencies.

B. Employment Transaction Files

To enhance the effectiveness of the equal employment opportunity program at The University of Montana and to comply with federal and state requirements for the maintenance of records sufficient to facilitate compliance reviews by appropriate federal agencies, each department that recruits a non-student employee must maintain an employment transaction file. The employment transaction file must contain documentation of all aspects of the recruitment and selection of the employee. The file is set up before recruitment can be initiated and is kept current throughout the selection process. Before any appointment is made, Human Resource/Affirmative Action personnel review every file to determine whether there have been good faith efforts to recruit qualified female, minority, veteran, and disabled applicants and whether or not there has been discrimination at any step of the recruitment process. Recruitment and selection actions that indicate possible discrimination or violation of EEO principles will

result in termination of the particular employment process, and a recommendation to initiate a new recruitment transaction according to pre-established EEO procedures.

The employment transaction file must contain documentation of good faith efforts to recruit qualified women and minority applicants if a job group is underutilized. This requires a sincere effort to identify and communicate with qualified females, minorities, veterans and applicants who may have disabilities. It is the responsibility of those recruiting, with assistance from Human Resources/Affirmative Action, to locate sources where qualified female or minority applicants may be contacted or referred (e.g., women or minority organizations, employment agencies, civil rights groups, federal and state agencies, personnel offices, personal contacts, traditional minority educators, etc.).

At the completion of the search for qualified candidates, the Human Resource/Affirmative Action Office must be contacted and afforded an opportunity to review the employment transaction file to determine whether authorization should be given to proceed with selection. No offer of employment, academic or non-academic, permanent or temporary, may be extended without EEO approval. The employment transaction file must contain sufficient evidence that a good faith effort was made and affirmative action steps taken to afford equal opportunity for employment to qualified female, minority, disabled and qualified veteran applicants.

The employment transaction file must include:

1. A written statement of selection criteria and assurance that these criteria were applied uniformly and equitably to all applicants. The criteria must be directly related to qualifications required to perform the duties of the position for which recruitment was effected.
2. The names of person(s) responsible for application of the selection criteria. When possible, search committees should have female and minority representatives involved in all stages of recruitment/selection.
3. Justification for exclusion of female, minority, self-identified disabled and qualified veteran candidates. If a non-protected applicant is selected over affirmative action applicants, the specific reason for exclusion must be included in writing for each affirmative action applicant not selected.
4. Justification for non-selection of all candidates interviewed. This assists the EO/AA Director or HRS staff to determine whether selection was free from bias which may affect hiring decisions and which could be construed as illegal discrimination.
5. Justification for the selection. This must be job-related and correspond with pre-established selection criteria approved by Human Resources or EO/AA at the onset of recruitment.

C. Adverse Impact Monitor

The EO/AA Office recently purchased a software package called Adverse Impact Monitor. Angela Stillwagon from the EO/AA Office and Will Innes from the Office of Planning, Budgeting and Analysis have compiled the data to run this software, and the results will be distributed during the Spring semester 2007.

VII. PERSONS WITH DISABILITIES

The University's nondiscrimination policy, contained in Chapter II, prohibits discrimination based on disability in employment and education, and is disseminated as previously described. The President distributes an annual statement on the duty to provide reasonable accommodation to individuals with disabilities, with an emphasis on the duty to provide accommodation and access at University-sponsored social and cultural events.

At the outset of each recruitment, EO/AA or HRS staff set forth the requirement to provide reasonable accommodation to applicants if they request it or if the need for accommodation is readily apparent. Hiring committees are instructed to consult EO/AA or HRS regarding any accommodation issues at the application stage that are not easily resolved at the department level. Applicants are notified in every vacancy announcement posted on the HRS website that application materials can be made available in alternative formats upon request and that reasonable accommodation for the application process is provided upon request. Qualification criteria, tests or exams that unnecessarily exclude applicants with disabilities are prohibited.

New employees are invited to self-identify as disabled, and to request accommodations they may need in order to perform the essential functions of the position in question and/or to enjoy equal benefits and privileges of employment. Information concerning an employee's disability is kept confidential, and generally may only be disclosed to inform a supervisor or manager of the need to provide a reasonable accommodation.

The University has an active ADA-§504 Team that carefully looks at any new building projects or modifications to existing building to ensure ADA-§504 compliance, and to provide guidance and recommendations on complaints of disability-based discrimination. The ADA-§504 Team is comprised of faculty, staff and students. The University of Montana, with the support of the ADA-§504 Team, has adopted the ADA Accessibility Guidelines for Buildings and Facilities (ADAAG), which are the guidelines that best promote accessibility. The ADA-§504 Team participates in the University's Long Range Building Plan (LRBP) by identifying areas where access improvements are most needed. The ADA-§504 Team also helps resolve complaints of failure to provide reasonable accommodation/access and other types of disability discrimination. Barb Seekins is the Chair of the ADA-§504 Team. Her enormous efforts toward access and fair treatment are to be commended. The EO/AA Director is a member of the ADA-§504 Team, and is monitoring specific efforts and accomplishments during the 2006-2007 academic year for inclusion in next year's Plan.

The staff at Disability Services for Students (DSS) provide a wealth of information pertaining to disabled students and employees. Although DSS is focused on the student population, and is a student affairs office, its staff generously provides guidance and consultation in the employment arena as well. DSS maintains a website that includes a campus access map and a vehicle for reporting access barriers. (www.umt.edu/dss.)

In 2005, the EO/AA Director and HR Director initiated discrimination/harassment prevention training for supervisors. The training discussed the definition of disability under the ADA to include individuals with a perceived disability, a history of disability, or an association with a disabled individual. It also covered all types of disability discrimination, including intentional discrimination, harassment, failure to provide reasonable accommodation, and disparate impact. In addition, the training explained the confidentiality provisions and disability-related exams and inquiries provisions of the ADA.

In 2006, the EO/AA Director and the Director of Disability Services for Students collaborated with all academic departments' faculty to discuss obligations to refrain from discrimination in the classroom, to maintain non-hostile learning environments, and to provide reasonable accommodations to students who need them based on disability or religious preference.

The U.S. Department of Education, Office for Civil Rights (OCR) conducted an ADA compliance review in August 2005. The compliance review was limited to physical access issues. We are still awaiting the report from this review.

IX. EMPLOYMENT OF VETERANS

The University of Montana complies with the Vietnam Era Veterans' Readjustment Act of 1974, as amended (VEVRAA).

The University's nondiscrimination policy, set forth in Chapter II, prohibits discrimination on the basis of veteran status. The dissemination of this policy is discussed in Chapter II.

The Department of Labor has issued the following guidance for compliance with VEVRAA:

Basic Provisions/Requirements

For contracts entered into before December 1, 2003:

Section 4212 requires covered contractors and subcontractors to take affirmative steps to employ qualified **Vietnam era veterans, special disabled veterans, recently separated veterans (1 year), and other protected veterans**. This obligation covers the full range of employment and personnel practices, such as recruitment, hiring, rates of pay, upgrading, and selection for training. As part of this obligation, contractors with a federal contract or subcontract of \$25,000 or more that was entered into before December 1, 2003, must list most job openings with the local office of the State Employment Service or with DOL's [America's Job Bank](#). The State Employment Service must give veterans' priority when making referrals for job openings.

In addition to raising the contract coverage threshold, the JVA [amendments to VEVRAA] amended Section 4212 by changing the categories of veterans covered under the law, and the manner in which the mandatory job-listing requirement is to be implemented.

For contracts entered into on or after December 1, 2003:

Section 4212 requires covered contractors and subcontractors to take affirmative steps to employ qualified **disabled veterans, recently separated veterans (3 years), Armed Forces Service Medal veterans, and other protected veterans**. Under the JVA, contractors with a federal contract or subcontract of \$100,000 or more that was entered into on or after December 1, 2003, are required to list their job openings with an appropriate employment service delivery system. In addition to listing their employment openings with an appropriate employment service delivery system, the JVA provides that contractors may list their employment openings with a one-stop career center, other appropriate service delivery points, or [America's Job Bank](#). New regulations are needed to implement the changes in the mandatory job-listing requirement, and are currently under development. Until

the final regulations implementing the JVA amendments go into effect, contractors may continue to fulfill their job listing requirements by using either their local employment service office or [America's Job Bank](#).

Contractors who have contracts that were entered into both before, and on or after December 1, 2003, are covered by both sets of requirements.

For all covered contractors:

The regulations implementing Section 4212 include the obligation to refrain from discrimination in employment against protected veterans. The regulations also require all covered contractors and subcontractors to include a specific equal opportunity clause in each of their nonexempt contracts and subcontracts. The regulations provide the required language for this clause at 41 CFR 60-250.5; to view the regulations visit [41 CFR 60-250.5](#).

Covered contractors and subcontractors are also required to make reasonable accommodations for the known physical or mental limitations of qualified individuals with disabilities, unless providing an accommodation would create an undue hardship. In addition, covered contractors and subcontractors are required to take all necessary actions to ensure that no one attempts to intimidate or discriminate against any individual for filing a complaint or participating in a proceeding under Section 4212.

For contracts entered into before December 1, 2003, under Section 4212, each employer that has both (1) a federal contract or subcontract of \$50,000 or more and (2) 50 or more employees must prepare, implement, and maintain a written affirmative action program (AAP) covering each of its establishments. The employer must review and update the program annually, and it must be available for inspection by any employee or applicant for employment, as well as by the Office of Federal Contract Compliance Programs (OFCCP) within the Department of Labor's Employment Standards Administration. The program may be integrated with, or kept separate from, any other affirmative action program the employer is required to prepare.

As a result of the JVA amendments, for contracts entered on or after December 1, 2003, the threshold for AAP coverage is a contract of \$100,000 or more.

Therefore, under Section 4212, each employer that has both (1) a federal contract or subcontract of \$100,000 or more and (2) 50 or more employees must prepare, implement, and maintain a written AAP covering each of its establishments.

In accordance with VEVRAA, all vacancy announcements are sent to the local office of the state employment service.

The University, through HRS, files a VETS-100 report on an annual basis. This report tracks current employment and new hiring of special disabled veterans, Vietnam-era veterans and other protected veterans by job group.

The Rural Institute maintains a website with a comprehensive array of information for veterans at aidtac.ruralinstitute.umt.edu/ResourceBook05/veteran.htm.