



**STATE OF MONTANA
DEPARTMENT OF CORRECTIONS
POLICY DIRECTIVE**

Policy No. DOC 1.3.4	Subject: EMPLOYEE SELECTION GUIDELINES
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 6 and Attachments
Section 3: Human Resource Bureau	Effective Date: Feb. 29, 1996
Signature: /s/ Mike Batista, Director	Revised: 08/20/2014

I. POLICY

The Department of Corrections will establish and maintain nondiscriminatory policies and procedures for employee selection to ensure the employment of the best available applicants in accordance with applicable state and federal statutes and Administrative Rules of Montana.

II. APPLICABILITY

All divisions, facilities, and programs Department-owned and contracted, as specified in contract.

III. DEFINITIONS

Essential Function – The fundamental job duties of the employment position without which the job would be of a substantially different nature.

Hiring Authority – A staff member designated by a superintendent, warden, or division administrator to assume responsibility for overseeing the hiring, promoting, and/or transfer of Department employees.

Internal Posting – An advertisement of a job opening to all employees of the Department of Corrections.

Job-Related – Criteria shown by a job analysis to be directly related to a specific activity/task or activities/tasks in a job or to be directly related to a qualification necessary to perform a specific activity/task or activities/tasks in a job.

Reasonable Accommodation – In accordance with [Section 504, Rehabilitation Act of 1973](#) and [Title I of the Americans with Disabilities Act of 1990](#), any modification or adjustment to a job application process, a job, an employment practice, or the work environment that makes it possible for an individual with a disability to enjoy equal benefits and privileges of employment.

IV. DEPARTMENT DIRECTIVES

A. General Requirements

1. The Department will comply with [2.21.4005, ARM](#) including, but not limited to, provision of equal employment opportunity to all persons regardless of race, color, age, gender, physical or mental disability, marital status, creed, sex, political beliefs, genetic information, veteran's status, culture, social origin or condition or ancestry, national origin, religious preference, or sexual orientation. Department recruitment and selection procedures will be consistent with standards reflected in [ARM Subchapter 2.21.37](#) and the State Human Resource Division [Recruitment and Selection Manual](#), as applicable.

Subject: EMPLOYEE SELECTION GUIDELINES

2. The Department will ensure it is in conformance with statute [44-4-404, MCA](#) and Peace Officer Standards and Training requirements in the employment and separation from employment of public safety officers as defined in [44-4-401, MCA](#).
3. The Department will take affirmative action to equalize employment opportunities at all levels of agency operations where there is evidence that there have been barriers to employment for those classes of people who have traditionally been denied equal employment opportunity.
4. The Department will designate a Human Resource (HR) Bureau staff member to function as an equal employment opportunity (EEO) officer for each division, facility, or program. The EEO officer is responsible for assisting administrators in the implementation of the Department's affirmative action program and for combining each facility and program plan into a single Department affirmative action plan.

B. Labor Contract Covered Positions

1. If a vacant position is covered by a labor contract containing a posting or bidding clause, the posting and selection process will comply with the applicable contract and Department policy.

C. Job Description

1. A vacant position will not be posted until the position has a current job description written in compliance with guidelines established by the Montana Operations Manual (MOM) and is included in the current inventory of classified positions for the Department with an assigned band; the Department director, or designee, must approve all variations from this requirement.
2. The hiring authority, in conjunction with the HR Bureau staff, will review the job description and most recent vacancy announcement for accuracy prior to posting.

D. Vacancy Posting

1. Prior to posting new or vacant positions, the hiring authority should ensure that there are no existing qualified applicants in the agency internal Reduction in Force (RIF) pool in accordance with [3-0155, MOM](#) and [DOC Policy 1.3.10, Reduction in Force](#).
2. The Department of Administration (DOA) State Personnel Division maintains a job registry in accordance with [2-18-1203, MCA](#) that the hiring authority may consult prior to posting temporary or permanent positions to the public.
3. Supervisors must notify the HR Bureau to post a position; HR Bureau staff members will submit the request to the Budget and Program Planning Bureau for approval by the Director and, if authorized, post the position as provided by operational procedure.
4. In order to provide career advancement opportunities for Department employees, each new or vacated permanent position will be considered for internal posting before posting externally to the public.

Subject: EMPLOYEE SELECTION GUIDELINES

5. The hiring authority has the option of posting internally to the Department employees, internal RIF pool, and the DOA's job registry simultaneously, in which case applicants will be treated as one applicant pool.
6. The internal posting process will adhere to the following:
 - a. positions may be internally posted prior to external posting for a minimum of five working days;
 - b. hiring authorities will consider providing internal applicants a training assignment to give opportunity for career growth;
 - c. minimum qualifications and qualifications relating to a training assignment, when applicable, must be stated on the position vacancy announcement;
 - d. the hiring authority must approve vacancy announcements prior to posting and distribution by the appropriate HR Bureau staff member to all Department facilities and previously laid-off employees.
7. The Department will post external vacancy announcements for a minimum of five working days and will not extend closing dates without reposting the position.

E. Developing Minimum Standards

1. When developing requirements for new and promotional positions, in accordance with the job description and [2.21.3719, ARM](#), HR staff, in consultation with the hiring authority, will adhere to the following to prevent unnecessary barriers to employment for potentially competent candidates:
 - a. when the Department can document that discriminatory standards are reasonable, job-related, consistent with business necessity, and essential to the safe and efficient operation of a facility or program, the HR Bureau staff, in consultation with Department Legal Services Bureau staff, will prepare a document that describes the rationale for a bona fide occupational qualification; and
 - b. age discrimination is prohibited except as outlined in the Child Labor Provisions of the Fair Labor Standards Act. Facilities and programs will specify age requirements only when there is a related bona fide occupational qualification approved by a HR Bureau staff member.

F. Selection Systems

1. To guard against discriminatory selection practices, HR Bureau staff, in collaboration with the hiring authority, will design job related selection processes in advance of releasing the applications to the hiring authority.
2. The HR Bureau chief, in consultation with the division or facility administrator, will resolve conflicts regarding the use of questionable practices or materials.
3. The hiring authority should review the performance evaluation documentation of internal applicants for supplemental information in the selection process. If a performance evaluation contains information which demonstrates that an applicant does not possess the competencies or qualifications for the applied for position, the applicant may be screened from further consideration.

Subject: EMPLOYEE SELECTION GUIDELINES

4. Selection committees and oral interview panels, in order to meet the objectives of the department EEO plan, should reflect diversity in both gender and minority make-up.
5. HR Bureau staff members will periodically review selection files to ensure selection processes are not disproportionately screening minority or female applicants.

G. Selection

1. For the purposes of this policy, when a relative of a hiring authority or HR Bureau staff member is an applicant for employment, the affected hiring authority or HR Bureau staff member will withdraw from all portions of the selection and screening process. Appropriate supervisors will assure the affected staff member has no access to position selection materials.
2. The Department will utilize a competitive process for all permanent assignments.
3. The Department may assign a current employee to a temporary assignment that does not exceed two years without a competitive process.

H. Applicant Background Checks

1. The Department conditions job offers upon completion of an acceptable criminal history background check.
2. Applicants are required to complete the [Reference and Criminal Background Check Authorization](#) form and must be advised on the vacancy posting or during the interview process that a background, criminal records, patient/offender abuse, and domestic violence conviction check will be completed. Background checks may also include:
 - a. hiring authority or HR Bureau staff validation of educational credentials, professional licensures, or certifications;
 - b. the abuse register at the Department of Public Health and Human Services; and
 - c. job experience reference checks which must adhere to the following requirements:
 - 1) checks must be completed in a uniform manner, in accordance with the DOA's Recruitment and Selection Manual;
 - 2) a hiring authority may add questions or alter the established format when approved by a HR Bureau staff member;
 - 3) applicants may be disqualified on the basis of job-related adverse recommendations; and
 - 4) reference checks may be completed in person, by telephone, or by mail.

I. Americans with Disabilities Act (ADA)

1. The ADA prohibits employers from discriminating against qualified applicants with disabilities by using job-screening techniques that would eliminate such individuals from consideration. The department cannot request information regarding an applicant's health or require medical examination or other testing that might reveal disabilities prior to presenting a firm offer of employment to the applicant. If a hiring authority has concerns or questions regarding an applicant's abilities that may be considered related to ADA protected status, the ADA coordinator or HR specialist should be contacted before taking any action that may affect the applicant's status in the selection process.

Subject: EMPLOYEE SELECTION GUIDELINES

2. The Department will provide a reasonable accommodation to any known physical or mental limitations of an applicant with a disability unless to do so would result in an undue financial or administrative burden, constitute a direct threat, endanger the health or safety of any person, or fundamentally alter the inherent nature of the Department's business.

J. Intentional Misrepresentation

1. Applicants who make a material misrepresentation(s) or omission(s) during the application process may be excluded from further employment consideration for the position, or employment may be terminated at any time after appointment when such misrepresentation or omission comes to the employer's attention.

K. Preferences for Employment

1. The Department will ensure that all applicable statutory job preference requirements are observed. Prior to any job offer, the HR Bureau staff will review the process for proper application of such preferences.

L. Notification

1. The Department will provide successful applicants with a standardized written confirmation letter signed by the hiring authority, administrator, or HR Bureau staff member.
2. Internal and external applicants will be notified via phone and/or in writing if they were not selected for a posted position; applicants claiming employment preference under the Montana Veteran's Employment Act and the Persons' with a Disability Employment Preference Act will be notified of the hiring decision in writing in accordance with [39-29-103, MCA](#), and [39-30-206, MCA](#).

M. Access to Selection Material

1. Selection materials include:
 - a. job information, e.g., job descriptions, vacancy announcements or advertisements, a list of recruitment sources and a copy of the Internet posting;
 - b. screening information, e.g., selection procedures and criteria, names and titles of individuals involved with the selection process, and a statement of why and how the hiring decision was made; and
 - c. applicant information, e.g., correspondence with applicants, applicant's demographic information, and all application materials received.
2. The HR Bureau staff will retain all selection materials in accordance with the [General Records Retention Schedule](#).
3. In accordance with [2.1.3726, ARM](#), job and screening information are public information; applicant information is confidential and will not be voluntarily released to any person not involved in administering the hiring process. Except as provided below, applicant information may only be released upon the receipt of a court order or upon written release of information by the applicant.

Subject: EMPLOYEE SELECTION GUIDELINES

4. The hiring authority or a HR Bureau staff member should be prepared to discuss the selection procedures and criteria utilized with unsuccessful applicants upon request. Unsuccessful applicants may have access to their own scores and selection criteria specifics; however, selection questions, and screening criteria may not be provided if the hiring authority anticipates reusing the materials for on-going position vacancies.

V. CLOSING

Provisions of this policy not required by statute will be followed unless they conflict with negotiated labor contracts which will take precedence to the extent applicable.

Questions concerning this policy should be directed to the Human Resource Bureau Chief.

VI. REFERENCES

- A. [2-15-112, MCA](#); [2-18-1201, MCA](#); [2-18-1203, MCA](#); [19-3-1015, MCA](#); [39-29-103, MCA](#); [39-30-206, MCA](#); [44-4-401, MCA](#); [44-4-404, MCA](#)
- B. [ARM Subchapter: 2.21.37](#)
- C. State Human Resource Division [Recruitment and Selection Manual](#)
- D. Montana Secretary of State [General Records Retention Schedule](#)
- E. [3-0155, MOM](#); [3-0165, MOM](#); [3-0171, MOM](#); [3-0172, MOM](#); [3-0505, MOM](#); [3-0605, MOM](#); [3-0610, MOM](#)
- F. [Section 504, Rehabilitation Act of 1973](#)
- G. [Title I of the Americans with Disabilities Act of 1990](#)
- H. [4-4053, -4054, -4057, -4058, -4064](#); *ACA Standards for Adult Correctional Institutions, 4th Edition*
- I. [4-4061](#); *ACA Standards Supplement, 2008*
- J. [3-JTS-1C-07 through 3-JTS-1C-11](#); [3-JTS-1C-15](#); [3-JTS-1C-18](#); *ACA Standards for Juvenile Correctional Facilities, 2003*
- K. *DOC Policies* [1.3.10, Reduction in Force](#); [1.3.38, Employees Charged with Criminal Acts](#)

VII. ATTACHMENTS

[Applicant Reference Check](#)

[PDF](#)

[Reference and Criminal Background Check Authorization](#)

[PDF](#)