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# LIBRARY PERSONNEL POLICIES AND LAWS

MONTANA STATE LIBRARY  
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*These materials are designed to provide information regarding areas of the law and best practices concerning the identified topics. These materials are not intended to be a rendering of legal advice. The reader of these materials should request legal advice from an attorney on specific legal inquiries.*

# INTENDED OUTCOMES

This session provides library leaders foundational guidance about the drafting, adoption, and enforcement of employment and personnel policies and related documents. Emerging and ongoing issues are presented so participants complete the session with renewed confidence in handling human resources matters.

# LIBRARY BOARD AUTHORITY

## Free Libraries

- **22-1-310. Chief librarian -- personnel -- compensation.** The board of trustees of each library shall appoint and set the compensation of the chief librarian who shall serve as the secretary of the board and shall serve at the pleasure of the board. With the recommendation of the chief librarian, the board shall employ and discharge such other persons as may be necessary in the administration of the affairs of the library, fix and pay their salaries and compensation, and prescribe their duties.

## Library Districts

- **22-1-707. Duties and powers of board of trustees.** (2) The board has all powers necessary for the betterment, operation, and maintenance of library property within the territory of the public library district, including establishing library locations. In the exercise of this general grant of powers, the board may:
  - (a) (i) employ or contract with administrative, professional, or other personnel necessary for the operation of the district; or
  - (ii) contract with other entities to provide or receive library services and to pay out or receive funds for those library services

# EMPLOYMENT STATUTES

## Wrongful Discharge from Employment Act

- **39-2-902. Purpose.** This part sets forth certain rights and remedies with respect to wrongful discharge. Except as provided in 39-2-912, this part provides the exclusive remedy for a wrongful discharge from employment.
- **39-2-904. Elements of wrongful discharge.** (1) A discharge is wrongful only if:
  - (a) it was in retaliation for the employee's refusal to violate public policy or for reporting a violation of public policy;
  - (b) the discharge was not for good cause and the employee had completed the employer's probationary period of employment;
  - (c) the employer materially violated an express provision of its own written personnel policy prior to the discharge, and the violation deprived the employee of a fair and reasonable opportunity to remain in a position of employment with the employer; or
  - (d) the employer terminated the employee solely based on the employee's legal expression of free speech, including but not limited to statements made on social media.
- (2) During a probationary period of employment, the employment may be terminated at the will of either the employer or the employee on notice to the other for any reason or for no reason.
- (3) The employer has the broadest discretion when making a decision to discharge any managerial or supervisory employee.

# EMPLOYMENT STATUTES

## Wrongful Discharge from Employment Act

- **39-2-903. Definitions.** In this part, the following definitions apply:
  - (5) "Good cause" means any reasonable job-related grounds for an employee's dismissal based on:
    - (a) the employee's failure to satisfactorily perform job duties;
    - (b) the employee's disruption of the employer's operation;
    - (c) the employee's material or repeated violation of an express provision of the employer's written policies; or
    - (d) other legitimate business reasons determined by the employer while exercising the employer's reasonable business judgment. The legal use of a lawful product by an individual off the employer's premises during nonworking hours is not a legitimate business reason, unless the employer acts within the provisions of 39-2-313(3) or (4).
- **39-2-912. Exemptions.** (1) This part does not apply to a discharge:
  - (a) that is subject to any other state or federal statute that provides a procedure or remedy for contesting the dispute. The statutes include those that prohibit discharge for filing complaints, charges, or claims with administrative bodies or that prohibit unlawful discrimination based on race, national origin, sex, as defined in 1-1-201, age, disability, creed, religion, political belief, color, marital status, and other similar grounds.
  - (b) of an employee covered by a written collective bargaining agreement or a written contract of employment for a specific term.

# COLLECTIVE BARGAINING AGREEMENTS

- **39-31-305. Duty to bargain collectively -- good faith.** (1) The public employer and the exclusive representative, through appropriate officials or their representatives, have the authority and the duty to bargain collectively. This duty extends to the obligation to bargain collectively in good faith as set forth in subsection (2).

(2) For the purpose of this chapter, to bargain collectively is the performance of the mutual obligation of the public employer or the public employer's designated representatives and the representatives of the exclusive representative to meet at reasonable times and negotiate in good faith with respect to wages, hours, fringe benefits, and other conditions of employment or the negotiation of an agreement or any question arising under an agreement and the execution of a written contract incorporating any agreement reached. The obligation does not compel either party to agree to a proposal or require the making of a concession.

# GOVERNMENTAL CODE OF FAIR PRACTICES

- **49-3-201. Employment of state and local government personnel.** (1)  
State and local government officials and supervisory personnel shall recruit, appoint, assign, train, evaluate, and promote personnel on the basis of merit and qualifications without regard to race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.  
(2) All state and local governmental agencies shall:
  - (a) promulgate written directives to carry out this policy and to guarantee equal employment opportunities at all levels of state and local government;
  - (b) regularly review their personnel practices to ensure compliance; and
  - (c) conduct continuing orientation and training programs with emphasis on human relations and fair employment practices.

# PUBLIC EMPLOYEE ETHICS

- **2-2-104. Rules of conduct for public officers, legislators, and public employees.** (1) Proof of commission of any act enumerated in this section is proof that the actor has breached the actor's public duty. A public officer, legislator, or public employee may not:
  - (a) disclose or use confidential information acquired in the course of official duties in order to further substantially the individual's personal economic interests; or
  - (b) accept a gift of substantial value or a substantial economic benefit tantamount to a gift:
    - (i) that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties; or
    - (ii) that the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken.



# PUBLIC EMPLOYEE ETHICS

- **2-2-121. Rules of conduct for public officers and public employees.** (1) Proof of commission of any act enumerated in subsection (2) is proof that the actor has breached a public duty.
  - (2) A public officer or a public employee may not:
    - (a) subject to subsection (6), use public time, facilities, equipment, state letterhead, supplies, personnel, or funds for the officer's or employee's private business purposes;
    - (b) engage in a substantial financial transaction for the officer's or employee's private business purposes with a person whom the officer or employee inspects or supervises in the course of official duties;
    - (c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from the officer's or employee's agency;
    - (d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic benefit from any agency;
    - (e) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or
    - (f) solicit or accept employment, or engage in negotiations or meetings to consider employment, with a person whom the officer or employee regulates in the course of official duties without first giving written notification to the officer's or employee's supervisor and department director.

# PERSONNEL GOVERNANCE FUNDAMENTALS

- Effective and sound personnel contracts, policies, procedures, and handbooks can help ensure the library remains a viable place for patrons of all ages, backgrounds, and usage types.
- A sound set of personnel documents adopted in a manner consistent with law will supports the decisions of the library administration when managing the day-to-day operations of the library.
- Documents will seek to both balance and protect the rights of each employee to complete assign tasks in a manner consistent with the mission of the library.
- A comprehensive set of documents which work in concert with one another will authorize staff to act in an efficient and reasonable manner to intervene when employee conduct is interfering with library operations.
- When consistently adopted, updated, and enforced, the documents will legitimize the actions of the library administration consistent with board intent and employee rights.

# DOCUMENT COMPONENTS

- The bylaws and interlocal agreement will restate the applicable laws governing library personnel.
- The personnel policy will state the mission of the library and justify enforcement of general personnel conduct expectations consistent with that mission.
- This mission will typically promote three guiding principles: patron right to access information, staff obligation to operate the library, and board obligation to establish a safe library setting.
  - Example: *The Mosaic Public Library serves each member of the community in a welcoming and secure setting as they pursue personal lifelong learning goals.*
- The employee handbook will provide details regarding personnel matter based on the law, policy, and – if applicable – the collective bargaining agreement.
- The employment contract will include, by reference, the job description and expectations to adhere to provisions law, policy, and employee handbook. Contracts will comply with collective bargaining agreement where applicable as well as Wrongful Discharge Act requirements.
- All personnel documents will be developed in consultation with partner local government, where applicable.

# PERSONNEL POLICY PROVISIONS - EXAMPLES

- Library employees and volunteers will abide by all Library policies, state and federal laws and personnel handbooks in the course of their employment.
- Library employees and volunteers shall complete duties specified in position description, employment contract, or volunteer agreement.
- Library employees and volunteers are expected to maintain high standards of honesty, integrity, professionalism, decorum, and impartiality in the conduct of Library business.
- Library employees and volunteers shall not dispense or utilize any information gained from employment with the Library, accept gifts or benefits, or participate in business enterprises or employment that creates a conflict of interest with the faithful and impartial discharge of the employee's Library duties.
- Library employees and volunteers shall not use public time, facilities, equipment, supplies, personnel, funds; engage in official acts to benefit or be for the officer's or employee's private business, political, or commercial purposes.

# PERSONNEL POLICY PROVISIONS - EXAMPLES

- Library employees and volunteers shall not assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from the Library. An employee shall not solicit or accept employment or engage in negotiations or meetings to consider employment, with a person whom the officer or employee regulates in the course of official duties without first giving written notification to the Library.
- Library employees and volunteers shall not disclose confidential information so established and defined by state law and Library policy.
- Library employees and volunteers shall not engage in discriminatory or retaliatory conduct as specified in state or federal law or Library policy.
- The Director or designee may set forth specific rules and regulations governing staff conduct while completed employment or volunteer tasks or duties.
- Any discipline or redirection of an employee or volunteer occurring because of a violation of this policy or applicable handbook provisions shall be in accordance with applicable policies, procedures, laws, and agreements.

# CONTRACT PROVISIONS - TOPICS

## **General Areas of Individual Employment Agreement**

- Employee's name and position
- Term of contract and possible expectation of renewal
- Probationary period
- Incorporate job description by reference and requirement to complete role
- Whether governed by collective bargaining agreement
- Governed by library laws
- Adherence to policies and handbooks
- Rate and schedule of compensation
- Nature of benefits
- Leave
- Termination of contract

# HANDBOOK PROVISIONS - TOPICS

- Mission of Library
- Role of Library staff
- Ethical Obligations
- Hiring and Onboarding
  - Background Checks
  - Drug Testing
  - Training
- Collaborative Leadership
- Organization Chart
- Volunteers
- Areas of Operations within Library
  - Circulation
  - Programming
  - Collections
  - Mobile Services
  - Branches
  - Facilities
- Electronic Resources
- Confidentiality
- Discrimination, Harassment, Intimidation
- Rights of Patrons
- Progressive Discipline
- Grievances and Concerns
- Labor Organizations
- Health, Safety, and Security
- Compensation
- Holidays
- Workers Compensation
- Benefits: Insurance and Retirement
- Leave: Sick, Annual, Military, Family, Civic
- Notifications
- Evaluation
- Severance, Termination, and Resignation
- Personnel Files

# VOLUNTEER POLICY PROVISIONS - EXAMPLES

- The Volunteer understands any volunteer services will not be compensated now or in the future.
- The Volunteer understands that the Library does not carry medical insurance for a person serving as a volunteer.
- The Volunteer understands that the mutually established schedule of services for the position stated above carries no obligation for either party and maybe adjusted at any time.
- The Volunteer understands that services as a volunteer may be terminated at any time.
- The Volunteer understands that they are under the direction of the Library at all times during their service as a volunteer and must follow directives given by designated Library employees.
- The Volunteer understands that they are to follow all laws, policies, and rules regarding Library confidentiality and operations during their service as a volunteer.
- The Volunteer understands that they are to follow Library policy as well as local, state, federal and other applicable law during their service as a volunteer.
- The Volunteer understands that if they observe a patron violating Library rules, they are required to report such violation.
- The Volunteer is 18 years of age or older.
- The Volunteer shall submit to a name-based and fingerprint criminal background investigation conducted by the appropriate law enforcement agency prior to consideration of this agreement.



# MONTANA LIBRARY ASSISTANCE HELPLINE





THANK YOU

Contact Information:

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