



ADMINISTRATIVE RULES OF MONTANA



24.26.1208 HEARING OFFICER REVIEW OF ULP COMPLAINT

- (1) If the board agent or the board determines that the ULP complaint is supported by probable merit, the board shall refer the matter to a hearing officer to review the ULP complaint.
- (2) The hearing officer shall issue a notice of time and place for the hearing. A minimum of five working days must pass between the date of service of the board's finding on all parties and the date of the hearing.
- (3) In addition to any rights under 2-4-611, MCA, each party may move to disqualify the hearing officer appointed by the board, without cause. Each party may exercise this right one time, and the motion must be made within five days of service of the hearing officer's notice of time and place of the hearing.
- (4) The respondent shall file a written answer with the hearing officer within a deadline set by the hearing officer. The respondent's answer shall address each allegation in the ULP complaint, including allegations raised by the board or the board agent during subsequent proceedings on the ULP complaint.
- (5) The hearing officer shall review the ULP to determine if the ULP complaint is supported by a preponderance of the evidence.
 - (a) The hearing officer is not bound by the rules of evidence in this review.
 - (b) The hearing officer may allow persons to intervene and testify at the hearing.
- (6) The hearing officer must issue a written recommended order including a written summary of testimony taken, recommended findings of fact, conclusions of law, and order.
- (7) If a preponderance of the evidence does not support the ULP complaint, the hearing officer shall file a recommended order with the board dismissing the ULP complaint.
- (8) If a preponderance of the evidence supports the ULP complaint, the hearing officer shall file an order with the board that orders respondent(s) to cease and desist from the unfair labor practice. The hearing officer shall order appropriate affirmative relief.
 - (a) The hearing officer may order reinstatement of an employee(s) or backpay.
 - (b) The hearing officer may order the respondent(s) to report to the board to ensure compliance with the order.
 - (c) The hearing officer and the board may not order reinstatement or backpay for an employee that was terminated for cause.

- (9) A party that disputes the hearing officer's recommended order may file exceptions pursuant to ARM 24.26.254 within 20 days after service of the hearing officer's recommended order.

Authorizing statute(s): 39-31-104, 39-32-103, MCA

Implementing statute(s): 39-31-405, 39-31-406, 39-32-112, MCA

History: NEW, 2020 MAR p. 2422, Eff. 12/25/20.