



ADMINISTRATIVE RULES OF MONTANA

24.9.104 LIBERAL CONSTRUCTION -- EFFECT OF PARTIAL INVALIDITY

- (1) The following rules describe the procedure followed by the Human Rights Commission in resolving complaints of discrimination.
- (2) The commission will construe the provisions of the act, the code, and these rules liberally in all proceedings under them, with a view to effect their objects and to promote justice. A principle objective of the act and code is to assure that there will be no discrimination in certain areas of the lives of Montana citizens, except under the most limited of circumstances. Liberal construction of the act and code includes, without limitation, giving broad coverage and inclusive interpretation of the human rights statutes and rules to assure enforcement and protection of the state laws prohibiting discrimination.
- (3) In construing the provisions of the act, the code, and the rules, the commission will refer to federal civil rights law and guidance where it is both useful and appropriate and does not conflict with the purposes and intentions of state law.
- (4) If a part of these rules is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of these rules is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid application or applications.
- (5) Where errors of law or procedure do not cause prejudice to a party or deny a party a fair hearing or fundamental justice, they may be disregarded. Parties who assign error for the violation of any rule must demonstrate that a failure to comply with these rules is in fact prejudicial or constitutes prejudice as a matter of law.
- (6) Where strict adherence to these rules would cause undue hardship or create a substantial injustice to a party, the commission may modify, waive, or excuse their application. The commission may not modify, waive, or excuse mandatory acts which are required by statute or due process of law.
- (7) Parties who choose not to be represented by counsel and who represent themselves must substantially comply with the provisions of these rules, subject to the provisions of (6). The commission may modify the strict application of these rules to an unrepresented party to the extent they are not mandatory in order to assure fundamental fairness.

Authorizing statute(s): 49-2-204, 49-3-106, MCA

Implementing statute(s): 49-2-205, 49-2-501, 49-2-504, 49-2-505, 49-3-304, 49-3-305, 49-3-307, 49-3-308, 49-3-315, MCA

History: NEW, 1995 MAR p. 2264, Eff. 10/27/95; AMD, 1998 MAR p. 3201, Eff. 12/4/98; AMD, 2008 MAR p. 2636, Eff. 12/25/08.