

# **CABINET MOUNTAIN COOPERATIVE**

(Name change effective July 1, 2020)

**R = required**

## **5000 SERIES PERSONNEL**

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# Cabinet Mountain Cooperative

Adopted on: Sept. 11, 2018

Revised on: Dec. 8<sup>th</sup>, 2020

5002

PERSONNEL

Revised on:

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## Accommodating Individuals with Disabilities and Section 504 of the Rehabilitation Act of 1973

It is the intent of the Cooperative to ensure that qualified employees with disabilities under Section 504 of the Rehabilitation Act of 1973 are identified, evaluated, and provided with appropriate accommodations or other positive actions in assistance.

The Cooperative will not discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, or other terms, conditions, and privileges of employment.

The Director is designated the Section 504 and Americans with Disabilities Act Title II Coordinator and, in that capacity, is directed to:

1. Coordinating and monitoring the Cooperative's compliance with Section 504 and Title II of the ADA, as well as state civil rights requirements regarding discrimination and harassment based on disability.
2. Overseeing prevention efforts to avoid Section 504 and ADA violations by necessary actions, including but not limited to, scheduling Section 504 meetings, implementing and monitoring Section 504 plans of accommodation and providing information to employees and supervisors.
3. Implementing the Cooperative's discrimination complaint procedures with respect to allegations of Section 504/ADA violations, discrimination based on disability, and disability harassment; and
4. Investigating complaints alleging violations of Section 504/ADA, discrimination based on disability, and disability harassment.

The Cooperative's procedure for resolution of complaints alleging violation of this policy is set forth in Policy 1700.

Cross Reference: 1700 Uniform Complaint Procedure

Legal Reference: Americans with Disabilities Act, 42 U.S.C. §§ 12111, *et seq.*, and 12131, *et seq.*; 28 C.F.R. Part 35.

# Cabinet Mountain Cooperative

Adopted on: Sept. 11, 2018

Revised on: Dec. 8<sup>th</sup>, 2020

5010

## PERSONNEL

Revised on:

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### Equal Employment Opportunity, Non-Discrimination, and Sex Equity

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The Cooperative will provide equal employment opportunities to all persons, regardless of their race, color, religion, creed, national origin, genetic information, sex, age, ancestry, marital status, military status, citizenship status, use of lawful products while not at work, physical or mental disability. The Cooperative will make reasonable accommodation for an individual with a disability known to the Cooperative, if the individual is otherwise qualified for the position, unless the accommodation would impose undue hardship on the Cooperative.

Inquiries regarding sexual harassment, sex discrimination, or sexual intimidation should be directed to the Cooperative Title IX Coordinator, to the Assistant Secretary for Civil Rights of the Department of Education, or both. The Board designates the following individual to serve as the Cooperative's Title IX Coordinator: Mary Smith

Title: Cooperative Clerk

Office address: P.O. Box 1448, 207 3<sup>rd</sup> Avenue West, Thompson Falls, MT

Email: [clerk@cmcoop.org](mailto:clerk@cmcoop.org)

Phone number: (406) 827-3007

Inquiries regarding discrimination on the basis of disability or requests for accommodation should be directed to the Cooperative Section 504 Coordinator. The Board designates the following individual to serve as the

Cooperative's Section 504 Coordinator: Taylor Salmi

Title: Cooperative Director

Office address: P.O. Box 1448, 207 3<sup>rd</sup> Avenue West, Thompson Falls, MT

Email: [director@cmcoop.org](mailto:director@cmcoop.org)

Phone number: (406) 827-3007

Any individual may file a complaint alleging violation of this policy, Policy 5012/5012P – Sexual Harassment, or Policy 5015-Bullying/Harassment/Intimidation/Hazing by following those policies or Policy 1700-Uniform Complaint Procedure.

The Cooperative, in compliance with federal regulations, will notify annually all students, parents, staff, and community members of this policy and the designated coordinator to receive inquiries. This annual notification will include the name and location of the coordinator and will be included on Cooperative's webpage.

The Cooperative will not tolerate hostile or abusive treatment, derogatory remarks, or acts of violence against students, staff, or volunteers with disabilities. The Cooperative will consider such behavior as constituting discrimination on the basis of disability, in violation of state and federal law.

All complaints about behavior that may violate this policy shall be promptly investigated.

Retaliation against an employee who has filed a discrimination complaint, testified, or participated in any manner in a discrimination investigation or proceeding is prohibited.

Legal Reference: Age Discrimination in Employment Act, 29 U.S.C. §§ 621, et seq.  
Americans with Disabilities Act, Title I, 42 U.S.C. §§ 12111, et seq.  
Equal Pay Act, 29 U.S.C. § 206(d)  
Immigration Reform and Control Act, 8 U.S.C. §§ 1324(a), et seq.  
Rehabilitation Act of 1973, 29 U.S.C. §§ 791, et seq.  
Genetic Information Nondiscrimination Act of 2008 (GINA)  
Title VII of the Civil Rights Act, 42 U.S.C. §§ 2000(e), et seq.; 29 C.F.R., Part 1601  
Title IX of the Education Amendments, 20 U.S.C. §§ 1681, et seq.; 34 C.F.R., Part 106  
Montana Constitution, Art. X, § 1 -Educational goals and duties  
§ 49-2-101, et seq, MCA      Human Rights Act  
§ 49-2-303, MCA              Discrimination in Employment  
§ 49-3-102, MCA              What local governmental units affected  
§ 49-3-201, MCA              Employment of state and local government personnel.

# Cabinet Mountain Cooperative

Adopted on: Sept. 11, 2018

Revised on: April 17, 2019

Revised on: Dec. 8<sup>th</sup>, 2020

5012

## PERSONNEL

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### Sexual Harassment of Employees

The Cooperative does not discriminate on the basis of sex in any education program or activity that it operates. The Cooperative is required by Title IX of the Education Amendments of 1972 and the regulations promulgated through the U.S. Department of Education not to discriminate in such a manner. Inquiries about the application of Title IX to the Cooperative may be referred to the Cooperative's Title IX Coordinator, to the Assistant Secretary for Civil Rights of the Department of Education, or both.

The Board designates the following individual to serve as the Cooperative's

Title IX Coordinator: Mary Smith Title: Cooperative Clerk

Office address: P.O. Box 1448, 207 3<sup>rd</sup> Avenue West, Thompson Falls, MT 59873

Email: clerk@cmcoop.org Phone number: (406) 827-3007

Any person may report sex discrimination, including sexual harassment, at any time, including during non-business hours. Such a report may be made using the attached form, in person, by mail, by telephone or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

For purposes of this policy and the grievance process, "sexual harassment" means conduct on the basis of sex that satisfies one or more of the following:

1. A Cooperative employee conditioning the provision of an aid, benefit, or service of the Cooperative on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the Cooperative's education program or activity; or
3. "Sexual assault" as defined in 20 USC 1092(f)(6)(A)(v), "dating violence" as defined in 34 USC 12291(a)(10), "domestic violence" as defined in 34 USC 12291(a)(8) or "stalking" as defined in 34 USC 12291(a)(30).

When the harassment or discrimination on the basis of sex does not meet the definition of sexual harassment, the Title IX Coordinator shall direct the individual to the applicable sex discrimination process for investigation.

An individual is not required to submit a report of sexual harassment involving the Title IX coordinator. In the event the Title IX Coordinator is responsible for or a witness to the alleged

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harassment, the individual may report the allegations to a member district's building principal or superintendent or other unbiased school official.

### Retaliation Prohibited

The Cooperative prohibits intimidation, threats, coercion or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation proceeding or hearing, if applicable. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this part, constitutes retaliation.

### Confidentiality

The Cooperative must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any individual who has been alleged to be the victim or perpetrator of conduct that could constitute sexual harassment, and any witness, except as may be permitted by Family Educational Rights and Privacy Act (FERPA) or as required by law, or to carry out the purposes of the Title IX regulations, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

### Notice Requirements

The Cooperative provides notice to applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees and the union(s) with the name or title, office address, email address and telephone number of the Title IX Coordinator and notice of the Cooperative grievance procedures and process, including how to report or file a complaint of sex discrimination, how to file a formal complaint of sexual harassment and how the Cooperative will respond. The Cooperative also posts the Title IX Coordinator's contact information and Title IX policies and procedures in a prominent location on the Cooperative's website.

### Training Requirements

The Cooperative ensures that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receives training on the definition of sexual harassment, the scope of the Cooperative's education program or activity, how to conduct an investigation and grievance process including hearings, appeals and informal resolution processes, when applicable, and how to serve impartially including by avoiding prejudgment of



Cabinet Mountain Cooperative

Adopted on: Dec. 8<sup>th</sup>, 2020

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5012F

PERSONNEL

**Sexual Harassment Reporting/Intake Form for Employees**

This form is not required. Complaints may be submitted in any manner noted in Policy 5012. The form may be used by the Title IX Coordinator to document allegations.

School \_\_\_\_\_ Date \_\_\_\_\_

Employee's name \_\_\_\_\_

• Who was responsible for the harassment or incident(s)? \_\_\_\_\_

• Describe the incident(s). \_\_\_\_\_

• Date(s), time(s), and place(s) the incident(s) occurred. \_\_\_\_\_

• Were other individuals involved in the incident(s)?  yes  no  
If so, name the individual(s) and explain their roles. \_\_\_\_\_

• Did anyone witness the incident(s)?  yes  no  
If so, name the witnesses. \_\_\_\_\_

• Did you take any action in response to the incident?  yes  no  
If yes, what action did you take? \_\_\_\_\_

• Were there any prior incidents?  yes  no  
If so, describe any prior incidents. \_\_\_\_\_

Signature of complainant \_\_\_\_\_

*Retaliation is prohibited by federal law and district policy. The identity of the individual signing this form will remain confidential in accordance with law and policy.*



# Cabinet Mountain Cooperative

Adopted on: Dec. 8<sup>th</sup>, 2020

Revised on: April 13, 2021

5012P

PERSONNEL

Revised on:

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## Sexual Harassment Grievance Procedure -Employees

The Board requires the following grievance process to be followed for the prompt and equitable resolution of employee complaints alleging any action that would be prohibited as sexual harassment by Title IX. The Board directs the process to be published in accordance with all statutory and regulatory requirements.

### Definitions

The following definitions apply for Title IX policies and procedures:

“Actual knowledge:” notice of sexual harassment or allegations of sexual harassment to the Cooperative’s Title IX Coordinator or any official of the Cooperative, or official of a cooperative member district, who has authority to institute corrective measures on behalf of the Cooperative; or to any employee of the Cooperative.

“Education program or activity:” includes locations, events or circumstances over which the Cooperative exercised substantial control over both the individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment, and the context in which the sexual harassment occurs.

“Complainant:” an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

“Respondent:” an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

“Formal complaint:” a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the Cooperative investigate the allegation of sexual harassment.

“Supportive measures:” non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available and without fee or charge to the Complainant or Respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

When the Cooperative has actual knowledge of sexual harassment in an education program or activity of the Cooperative, the Cooperative will respond promptly in a manner that is not deliberately indifferent. When the harassment or discrimination on the basis of sex does not meet the definition of sexual harassment, the Title IX Coordinator will direct the individual to the applicable sex discrimination process bullying and harassment policy, or public complaint procedure for investigation.

The Cooperative treats individuals who are alleged to be the victim (Complainant) and perpetrator (Respondent) of conduct that could constitute sexual harassment equitably by offering supportive measures. Supportive measures are designed to restore or preserve equal access to the Cooperative's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the Cooperative's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, mutual restrictions on contact between the parties, leaves of absence, increased security and monitoring of certain areas of the Cooperative's property, campus escort services, changes in work locations and other similar measures.

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Upon the receipt of a complaint, the Title IX Coordinator must promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint. If the Cooperative does not provide the Complainant with supportive measures, then the Cooperative must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

#### Timelines

The Cooperative has established reasonably prompt time frames for the conclusion of the grievance process, including time frames for filing and resolving appeals and informal resolution processes. The grievance process may be temporarily delayed or extended for good cause. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. In the event the grievance process is temporarily delayed for good cause, the District will provide written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action.

#### Response to a Formal Complaint

At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the Cooperative with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, by electronic mail, or other means designated by the Cooperative.

The Cooperative must follow the formal complaint process before the imposition of any disciplinary sanctions or other actions that are not supportive measures. However, nothing in this policy precludes the Cooperative from placing a non-student employee Respondent on administrative leave during the pendency of the grievance process. The Cooperative may also remove a student Respondent alleged to have harassed an employee Complainant from the education setting. The student may receive instruction in an offsite capacity during the period of removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

Upon receipt of a formal complaint, the Cooperative must provide written notice to the known parties including:

1. Notice of the allegations of sexual harassment, including information about the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, the date and location of the alleged incident, and any sufficient details known at the time. Such notice must be provided with sufficient time to prepare a response before any initial interview;
2. An explanation of the Cooperative's investigation procedures, including any informal resolution process;
3. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made by the decision-maker at the conclusion of the investigation;
4. Notice to the parties that they may have an advisor of their choice who may be, but is not required to be, an attorney, and may inspect and review any evidence; and
5. Notice to the parties of any provision in the Cooperative's code of conduct or policy that prohibits knowingly making false statements or knowingly submitting false information.

If, in the course of an investigation, the Cooperative decides to investigate allegations about the Complainant or Respondent that are not included in the notice initially provided, notice of the additional allegations must be provided to known parties.

The Cooperative may consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

When investigating a formal complaint and throughout the grievance process, the Cooperative must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the Cooperative and not the parties’;
2. Provide an equal opportunity for the parties to present witnesses and evidence;
3. Not restrict either party’s ability to discuss the allegations under investigation or to gather and present relevant evidence;
4. Allow the parties to be accompanied with an advisor of the party’s choice who may be, but is not required to be, an attorney. The Cooperative may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;
5. Provide written notice of the date, time, location, participants, and purpose of any interview or meeting at which a party is expected to participate, with sufficient time for the party to prepare to participate;
6. Provide the parties equal access to review all the evidence collected which is directly related to the allegations raised in a formal complaint and comply with the review periods outlined in this process;
7. Objectively evaluate all relevant evidence without relying on sex stereotypes;
8. Ensure that Title IX Coordinators, investigators, decision-makers and individuals who facilitate an informal resolution process, do not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent;
9. Not make creditability determinations based on the individual’s status as Complainant, Respondent or witness;
10. Not use questions or evidence that constitute or seek disclosure of privileged information unless waived.

Dismissal of Formal Complaints

If the conduct alleged in the formal complaint would not constitute sexual harassment even if proved, did not occur in the Cooperative’s education program or activity, or did not occur against a person in the United States, then the Cooperative must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under this policy.

The Title IX Coordinator also may dismiss the formal complaint or any allegations therein at any time during the investigation or hearing, if applicable, when any of the following apply:

1. a Complainant provides written notification to the Title IX Coordinator that the Complainant would like to withdraw the formal complaint or any allegations therein;

2. the Respondent is no longer enrolled or employed by the Cooperative; or
3. specific circumstances prevent the Cooperative from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon dismissal, the Title IX Coordinator promptly sends written notice of the dismissal and the reasons for dismissal simultaneously to both parties. The grievance process will close in the event a notice of dismissal is provided to the parties. Support measures may continue following dismissal.

### Evidence Review

The Cooperative provides both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. The evidence provided by the Cooperative must include evidence that is directly related to the allegations in the formal complaint, evidence upon which the Cooperative does not intend to rely in reaching a determination regarding responsibility, and any inculpatory or exculpatory evidence whether obtained from a party or other source. Prior to completion of the investigative report, the Title IX Coordinator must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The parties have 10 calendar days to submit a written response to the Title IX Coordinator, which the investigator will consider prior to completion of the investigative report.

### Investigative Report

The investigator must prepare an investigative report that fairly summarizes relevant evidence and send the report to the Title IX Coordinator. The Title IX Coordinator must send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response. The parties have 10 calendar days to submit a written response to the Title IX Coordinator.

### Decision-Maker's Determination

The investigative report is submitted to the decision-maker. The decision-maker cannot be the same person(s) as the Title IX Coordinator or the investigator. The decision-maker cannot hold a hearing or make a determination regarding responsibility until 10 calendar days from the date the Complainant and Respondent receive the investigator's report.

Prior to reaching a determination regarding responsibility, the decision-maker must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the

Respondent specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. Questions must be submitted to the Title IX Coordinator within three calendar days from the date the Complainant and Respondent receive the investigator's report.

The decision-maker must issue a written determination regarding responsibility based on a preponderance of the evidence standard. The decision-maker's written determination must:

1. Identify the allegations potentially constituting sexual harassment;
2. Describe the procedural steps taken, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
3. Include the findings of fact supporting the determination;
4. Draw conclusions regarding the application of any Cooperative policies and/or code of conduct rules to the facts;
5. Address each allegation and a resolution of the complaint including a determination regarding responsibility, the rationale therefor, any recommended disciplinary sanction(s) imposed on the Respondent, and whether remedies designed to restore or preserve access to the educational program or activity will be provided by the Cooperative to the Complainant; and
6. The procedures and permissible bases for the Complainant and/or Respondent to appeal the determination.

A copy of the written determination must be provided to both parties simultaneously, and generally will be provided within 60 calendar days from the Cooperative's receipt of a formal complaint.

The determination regarding responsibility becomes final either on the date that the Cooperative provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Where a determination of responsibility for sexual harassment has been made against the Respondent, the Cooperative will provide remedies to the Complainant that are designed to restore or preserve equal access to the Cooperative's education program or activity. Such remedies may include supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent. The Title IX Coordinator is responsible for effective implementation of any remedies.

Following any determination of responsibility, the Cooperative may implement disciplinary sanctions in accordance with State or Federal law and or/the negotiated agreement. For employees, the sanctions may include any form of responsive discipline, up to and including termination.

### Appeals

Either the Complainant or Respondent may appeal the decision-maker's determination regarding responsibility or a dismissal of a formal complaint, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time that could affect the outcome, and
3. The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent that affected the outcome.

The Cooperative also may offer an appeal equally to both parties on additional bases.

The request to appeal must be made in writing to the Title IX Coordinator within seven calendar days after the date of the written determination. The appeal decision-maker must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent and cannot be the Title IX Coordinator, the investigator, or the decision-maker from the original determination.

The appeal decision-maker must notify the other party in writing when an appeal is filed and give both parties a reasonable equal opportunity to submit a written statement in support of, or challenging, the outcome. After reviewing the evidence, the appeal decision-maker must issue a written decision describing the result of the appeal and the rationale for the result. The decision must be provided to both parties simultaneously, and generally will be provided within 10 calendar days from the date the appeal is filed.

### Informal Resolution Process

Except when concerning allegations that an employee sexually harassed a student, at any time during the formal complaint process and prior to reaching a determination regarding responsibility, the Cooperative may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and determination of responsibility, provided that the Cooperative:

1. Provides to the parties a written notice disclosing:

- A. The allegations;
- B. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the Title IX formal complaint process with respect to the formal complaint; and
- C. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

2. Obtains the parties' voluntary, written consent to the informal resolution process. The informal resolution process generally will be completed within 30 calendar days, unless the parties and the Title IX Coordinator mutually agree to temporarily delay or extend the process. The formal grievance process timelines are stayed during the parties' participation in the informal resolution process. If the parties do not reach resolution through the informal resolution process, the parties will resume the formal complaint grievance process, including timelines for resolution, at the point they left off.

#### Recordkeeping

The Cooperative must maintain for a period of seven years records of:

1. Each sexual harassment investigation, including any determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the Cooperative's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The Cooperative must make these training materials publicly available on its website.

The Cooperative must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the Cooperative must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the Cooperative's education program or activity.



**Cross Reference:** Policy 5010 Equal Employment and Non-Discrimination  
Policy 5012 Sexual Harassment  
Policy 5255 Employee Discipline

**Legal References:** Art. X, Sec. 1, Montana Constitution – Educational goals and duties  
Section 49-3-101, et seq., MCA, Montana Human Rights Act  
Civil Rights Act, Title VI; 42 USC 2000d et seq.  
Civil Rights Act, Title VII; 42 USC 2000e et seq.  
Education Amendments of 1972, Title IX; 20 USC 1681 et seq.  
34 CFR Part 106 Nondiscrimination on the basis of sex in  
education programs or activities receiving  
Federal financial assistance  
10.55.701(1)(f), ARM Board of Trustees  
10.55.719, ARM Student Protection Procedures  
10.55.801(1)(a), ARM School Climate

# Cabinet Mountain Cooperative

Adopted on: Sept. 11, 2018

Reviewed on:

Revised on:

5013

## PERSONNEL

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### Sexual Misconduct

The Cooperative prohibits any Cooperative employee, contractor, agent, or volunteer from engaging in sexual misconduct with a minor or student. "Sexual misconduct" includes:

- any actual or attempted sexual contact with a minor or student;
- any actual or attempted violation of criminal laws contained in Montana Code Annotated, Title 45, Chapter 5, including but not limited to laws addressing sexual intercourse without consent, sexual assault, sexual abuse, sexual exploitation, and indecent exposure; and/or
- sexual harassment, as defined and addressed in Policy 5012.

### Reporting

Students who feel they have been subjected to sexual misconduct, or other students, parents, or others who believe they have witnessed such treatment of a student, may report the incident either in writing or verbally. Reports may be made to any administrator, the Director or a Title IX Coordinator. A written report must provide sufficient detail for investigation and action by the District administration. Administration may require the reporter to fill out a written report, including all known details.

Any employee or volunteer who becomes aware of possible sexual misconduct shall immediately report the misconduct to an administrator in writing or verbally. [If there is only one administrator, and that person is the alleged perpetrator, the report shall be made to the board chair.] If the report is made verbally, administration may require that the report be put into writing, with all details known to the reporter included.

Anonymous reports containing adequate detail to investigate will be investigated.

If the alleged misconduct may constitute a possible criminal offense or child abuse, a District administrator or Cooperative Director shall notify law enforcement or child protective services, but the District has the right and obligation to conduct its own investigation.

### Administrative Leave

Upon receiving a report, administration may place the alleged perpetrator on administrative leave with pay and take other steps as may be necessary to protect and assist the victim.

### Investigation

All investigations should be initiated promptly, but no later than two school days after the report has been completed and filed with the District or Cooperative administration.

The investigation may be conducted by an administrator, a designee of administration, or an independent investigator.

The investigation shall be completed within seven school days of receipt of a report, unless a specific finding is made by administration that there are extenuating circumstances requiring an extension of time (such as absence of a critical witness or a large number of individuals with knowledge who must be interviewed, for example).

The administrator and investigator shall take precautions to maintain the confidentiality of the report, the identity of the perpetrator, victim, and witnesses, and the fruits of the investigation during the investigation. Subject to public record laws and the Constitution, all interviewees may be informed that information given will be kept as confidential as possible, but that disclosure may be necessary after the investigation is completed. Administration shall take all possible steps to redact privacy-protected information if disclosure is required. Confidentiality cannot be guaranteed.

Upon completion of the investigation, administration shall make the determination of next steps, such as clearing the alleged perpetrator of all allegations, initiating termination proceedings or other discipline, further protection of the victim, or other actions warranted by the findings. Administration shall make the determination of who shall be notified of the outcome based on the circumstances and the best interests of all involved, subject to Montana public record laws and the Montana Constitution.

### No Retaliation

Retaliation against any target/victim, any person who reports or participates in an investigation or any subsequent proceeding, or any person who is closely connected to one of those individuals is strictly prohibited. An employee, volunteer, or student who retaliates is subject to discipline, up to and including termination or expulsion. Retaliation includes, but is not limited to, any form of intimidation, reprisal, harassment, punishment, or other adverse action.

### Discipline

An employee or volunteer who has been found to have engaged in sexual misconduct shall be subject to discipline, up to and including termination.

An employee or volunteer who knowingly condoned sexual misconduct, failed to assist a target or victim, was found to have known of sexual misconduct but failed to report, or interfered with an investigation is also subject to discipline, up to and including termination.

Individuals who intentionally fabricate allegations of sexual misconduct shall be subject to disciplinary action, up to and including expulsion or termination.

The Cooperative has the right and/or obligation to report sexual misconduct to the Montana Board of Public Education which may result in loss of licensure.

### Record Retention

A written record will be kept of each reported incident, including the written report, investigation, findings, referrals to other entities, and disciplinary and/or remedial action taken. Reference to this retained file may be placed in the personnel file of the perpetrator and/or the permanent file of the student, at the discretion of administration.

### Notification and Training

- A. This policy and any related procedure will be posted on the Cooperative's website.
- B. All employees and volunteers shall be educated on the policy and procedures from time to time, including recognizing inappropriate behaviors, the obligation to report, and possible consequences and discipline.

### Prohibition on Assisting (Future Employment of Perpetrator)

An employee who knows or has probable cause to believe that a Cooperative employee, contractor, agent, or volunteer engaged in sexual misconduct is prohibited from assisting the employee who engaged in sexual misconduct in obtaining a new job in a school or other entity that serves children. The routine transmission of administrative or personnel files is not prohibited. This prohibition does not apply if the information giving rise to probable cause:

- 1. Has been reported to a law enforcement agency with jurisdiction over the alleged misconduct and any other authorities required by federal, state, or local law, including but not limited to Title IX; and
- 2. One of the following three circumstances has occurred:
  - a. the matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified Cooperative officials there is insufficient information to establish probable cause that the Cooperative employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of law;
  - b. the Cooperative employee, contractor, agent, or volunteer has been charged with and acquitted or otherwise exonerated of the alleged misconduct; or
  - c. the case or investigation remains open and there have been no charges filed against or indictment of the Cooperative employee, contractor, or agent more than four years from the date the information was reported to law enforcement.

Legal References: Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq.  
Montana Human Rights Act, Mont. Code Ann. §§ 49-2-301 et seq.  
Montana Governmental Code of Fair Practices, Mont. Code Ann. §§ 49-3-101 et seq.  
Montana Criminal Laws: Mont. Code Ann. §§45-501, et seq.  
Montana Youth in Need of Care Act, Mont. Code Ann. §§41-3-101 et seq.  
Every Student Succeeds Act, §§8038, 8556

# Cabinet Mountain Cooperative

Adopted on: Sept. 11, 2018

Revised on: Dec. 8<sup>th</sup>, 2020

Revised on:

5015

PERSONNEL

Page 1 of 2

## Bullying/Harassment/Intimidation

The Board will strive to provide a positive and productive working environment. Bullying, harassment, or intimidation between employees or by third parties, are strictly prohibited and shall not be tolerated. This includes bullying, harassment, or intimidation via electronic communication devices.

### Definitions

- “Third parties” include but are not limited to coaches, school volunteers, parents, school visitors, service contractors, or others engaged in Cooperative business, such as employees of businesses or organizations participating in cooperative work programs with the Cooperative.
- “Cooperative” includes Cooperative facilities, Cooperative premises, and non-Cooperative property if the employee is at any Cooperative-sponsored, Cooperative-approved, or Cooperative-related activity or function where the employee is engaged in Cooperative business.
- “Harassment, intimidation, or bullying” means any act that substantially interferes with an employee’s opportunities or work performance, that takes place on or immediately adjacent to school grounds, at any school-sponsored activity, on school-provided transportation, or anywhere such conduct may reasonably be considered to be a threat or an attempted intimidation of a staff member or an interference with school purposes or an educational function, and that has the effect of:
  - a. Physically harming an employee or damaging an employee’s property;
  - b. Knowingly placing an employee in reasonable fear of physical harm to the employee or damage to the employee’s property; or
  - c. Creating a hostile working environment.

### Reporting

All complaints about behavior that may violate this policy shall be promptly investigated. Any employee or third party who has knowledge of conduct in violation of this policy or feels he/she has been a victim of harassment, intimidation, or bullying in violation of this policy is encouraged to immediately report his/her concerns to the Director, who has overall responsibility for such investigations. Complaints against the Director shall be filed with the Board, via written communication to the Board Chair.

The complainant may be provided a summary of the findings of the investigation and, as appropriate, that remedial action has been taken.

### Responsibilities

The Director shall be responsible for ensuring that notice of this policy is provided to staff and third parties.

When an employee has actual knowledge that behavior is in violation of this policy is sexual harassment, the employee must contact the Title IX Coordinator. The Title IX sexual harassment grievance process will be followed, if applicable, prior to imposing any discipline that cannot be imposed without resolution of the Title IX process.

### Consequences

Staff whose behavior is found to be in violation of this policy will be subject to discipline up to and including termination of employment. Third parties whose behavior is found to be in violation of this policy shall be subject to appropriate sanctions as determined and imposed by the Director or the Board. Individuals may also be referred to law enforcement officials.

### Retaliation and Reprisal

Retaliation is prohibited against any person who reports or is thought to have reported a violation, files a complaint, or otherwise participates in an investigation or inquiry. Such retaliation shall be considered a serious violation of Board policy, whether or not a complaint is substantiated. False charges shall also be regarded as a serious offense and will result in disciplinary action or other appropriate sanctions.

Legal Reference:	10.55.701(3)(g), ARM	Board of Trustees
	10.55.801(1)(d), ARM	School Climate

# Cabinet Mountain Cooperative

Adopted on: Sept. 11, 2018

Reviewed on:

Revised on:

5222

## PERSONNEL

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### Evaluation of Non-Administrative Staff

Each non-administrative staff member's job performance will be evaluated by the staff member's direct supervisor. Non-tenured certified staff shall be evaluated, at a minimum, on at least an annual basis. Tenured certified staff members may be evaluated according to the terms stated in the current collective bargaining agreement if applicable. The evaluation model shall be aligned with applicable district goals, standards of the Board of Public Education, and the district's mentorship and induction program. It shall identify what skill sets are to be evaluated, include both summative and formative elements, and include an assessment of the educator's effectiveness in supporting every student in meeting rigorous learning goals through the performance of the educator's duties.

The supervisor will provide a copy of the completed evaluation to the staff member and will provide opportunity to discuss the evaluation. The original should be signed by the staff member and filed with the Director. If the staff member refuses to sign the evaluation, the supervisor should note the refusal and submit the evaluation to the Director.

Legal Reference: ARM 10.55.701(4)(a)(b)

Board of Trustees

## Cabinet Mountain Cooperative

Adopted on: Sept. 11, 2018

Reviewed on:

5251

PERSONNEL

Revised on:

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### Resignations

The Board authorizes the Director to accept on its behalf resignations from any Cooperative employee. The Director shall provide written acceptance of the resignation, including the date of acceptance, to the employee, setting forth the effective date of the resignation.

Once the Director has accepted the resignation, it may not be withdrawn by the employee. The resignation and its acceptance should be reported as information to the Board at the next regular or special meeting.

Legal Reference:     *Booth v. Argenbright*, 225 Mont. 272, 731 P.2d 1318 (1987)



# Cabinet Mountain Cooperative

Adopted on: April 19, 2023

Reviewed on:

Revised on:

5321

PERSONNEL

5321

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## Leaves of Absence

### Sick and Bereavement Leave

Certified employees will be granted sick leave according to terms of their negotiated contracts.

Classified employees will be granted sick leave benefits in accordance with § 2-18-618, MCA. For classified staff, "sick leave" is defined as a leave of absence, with pay, for a sickness suffered by an employee or an employee's immediate family.

Sick leave may be used by an employee when they are unable to perform job duties because of:

- A physical or mental illness, injury, or disability;
- Maternity or pregnancy-related disability or treatment, including prenatal care, birth, or medical care for the employee or the employee's child;
- Parental leave for a permanent employee as provided in § 2-18-606, MCA;
- Quarantine resulting from exposure to a contagious disease;
- Examination or treatment by a licensed health care provider;
- Short-term attendance, in an agency's discretion, to care for a person (who is not the employee or a member of the employee's immediate family) until other care can reasonably be obtained;
- Necessary care for a spouse, child or parent with a serious health condition, as defined in the Family and Medical Leave Act of 1993; or
- Death or funeral attendance of an immediate family member or, at an agency's discretion, another person.

Nothing in this policy guarantees approval of the granting of such leave in any instance. The Cooperative will judge each request in accordance with this policy and governing collective bargaining agreements.

It is understood that seniority will accumulate while an employee is utilizing sick leave credits. Seniority will not accumulate, unless an employee is in a paid status. Abuse of sick leave is cause for disciplinary action up to and including termination of employment. The administration is authorized to request documentation or evidence supporting a leave request.

Immediate family is defined as an employee's spouse and any member of the employee's household, or any parent, child, grandparent, grandchild, or corresponding in-law.

#### Personal and Emergency Leave

Upon recommendation of the Director, and in accordance with law and Cooperative policy, employees may be granted personal leave pursuant to the following conditions:

1. Leave will be without pay unless otherwise stated. If leave is to include expenses payable by the Cooperative, leave approval will so state.
2. Leave will be granted only in units of half or full days.
3. Notice of at least one (1) week is required for any personal leave of less than one (1) week; notice of one (1) month is required for any personal leave exceeding one (1) week.
4. With approval of the Board, the Director has the flexibility, in unusual or exceptional circumstances, to grant personal leave to employees not covered by sick or annual leave. The employee will not receive fringe benefits during any personal leave of greater than fifteen (15) days. During the leave, the employee may pay the Cooperative's share of any insurance benefit program in order to maintain those benefits, provided that is acceptable to the insurance carrier. Staff using personal leave will not earn any sick leave or annual leave credits or any other benefits during the approved leave of absence.

#### Civic Duty Leave

Leaves for service on either a jury or in the Legislature will be granted in accordance with state and federal law.

An employee who is summoned to jury duty or subpoenaed to serve as a witness may elect to receive regular salary or to take annual leave during jury time. An employee who elects not to take annual leave, however, must remit to the Cooperative all juror and witness fees and allowances (except for expenses and mileage). The Cooperative may request the court to excuse an employee from jury duty when an employee is needed for proper operation of the school.

**Sick Leave Bank**

The Cooperative adopts a sick leave bank for Cooperative staff. Each full time employee may participate in the sick leave bank by contributing one to three (1-3) days of sick leave per year to a sick leave bank. Employees will have the opportunity to contribute anytime during the year, as long as they will have ten (10) remaining days in their sick leave bank. The bank will be monitored and operated by the Cooperative. Participating employees who have exhausted their sick leave and personal days in the year of participation may make withdrawals for extended

illness or injury as determined and approved by Director from the sick leave bank provided that there are sufficient days available in the bank. Employees working less than full time will make deposits to and withdrawals from the bank prorated according to time worked. The bank will be capped at thirty (30) days.

Legal Reference:	42 U.S.C §2000e § 2-18-601(15), MCA	Equal Employment Opportunities Definitions
	§ 2-18-618, MCA	Sick leave
	§ 2-18-619, MCA	Jury Duty – Service as Witness
	§ 39-2-104, MCA	Mandatory Leave of Absence for employees Holding public office
	§ 49-2-310, MCA	Maternity leave – unlawful acts of employers
	§ 49-2-311, MCA	Reinstatement to job following pregnancy- related leave of absence

# Cabinet Mountain Cooperative

Adopted on: Sept. 11, 2018

Reviewed on:

Revised on:

5325

## PERSONNEL

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### Breastfeeding Workplace

Recognizing that breastfeeding is a normal part of daily life for mothers and infants and that Montana law authorizes mothers to breastfeed their infants where mothers and children are authorized to be, the Cooperative will support women who want to continue breastfeeding after returning from maternity leave.

The Cooperative shall provide reasonable unpaid break time each day to an employee who needs to express milk for the employee's child, if breaks are currently allowed. If breaks are not currently allowed, the Cooperative shall consider each case and make accommodations as possible. The Cooperative is not required to provide break time if to do so would unduly disrupt the Cooperative's operations. Supervisors are encouraged to consider flexible schedules when accommodating employees' needs.

The Cooperative will make reasonable efforts to provide a room or other location, in close proximity to the work area, other than a toilet stall, where an employee can express the employee's breast milk. The available space will include the provision for lighting and electricity for the pump apparatus. If possible, supervisors will ensure that employees are aware of these workplace accommodations prior to maternity leave.

Legal Reference:	§ 39-2-215, MCA	Public employer policy on support of women and breastfeeding – unlawful discrimination
	§ 39-2-216, MCA	Private Place for nursing mothers
	§ 39-2-217, MCA	Break time for nursing mothers

# Cabinet Mountain Cooperative

Adopted on: Sept. 11, 2018

Reviewed on:

Revised on: July 1, 2020

5328

## PERSONNEL

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### Family Medical Leave

Employees are eligible for benefits under the Family Medical Leave Act when the Cooperative has fifty (50) or more employees. The Cabinet Mountain Cooperative has less than fifty (50) employees, and therefore employees are not eligible for FMLA benefits.

Legal Reference: 29 CFR 825, 29 USC 2601, et seq. – The Family and Medical Leave Act of 1993  
§§2-18-601, et seq., MCA Leave Time  
§§49-2-301, et seq., MCA Prohibited Discriminatory Practices

# Cabinet Mountain Cooperative

Adopted on: Sept. 11, 2018

Reviewed on:

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5336

## PERSONNEL

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### Fair Labor Standards Act

#### Compensatory Time and Overtime for Classified Employees

Non-exempt classified employees who work more than forty (40) hours in a given workweek may receive overtime pay of one and one-half (1½) times the normal hourly rate. The Director must approve any overtime work of a classified employee.

Under Montana law and the Federal Fair Labor Standards Act, a classified employee may not volunteer to work without pay in an assignment similar to the employee's regular work.

A non-exempt employee who works overtime without authorization may be subject to disciplinary action.

#### Record-Keeping Requirements Under the Fair Labor Standards Act

1. Records required for ALL employees:
  - A. Name in full (same name as used for Social Security);
  - B. Employee's home address, including zip code;
  - C. Date of birth if under the age of nineteen (19);
  - D. Sex (may be indicated with Male/Female, M/F, Mr./Mrs./Miss/Ms.);
  - E. Time of day and day of week on which the employee's workweek begins;
  - F. Basis on which wages are paid (such as \$5/hour, \$200/week, etc.);
  - G. Any payment made which is not counted as part of the "regular rate";
  - H. Total wages paid each pay period.
  - I. Occupation
  
2. Additional records required for non-exempt employees:
  - A. Regular hourly rate of pay during any week when overtime is worked;
  - B. Hours worked in any workday (consecutive twenty-four-(24)-hour period);
  - C. Hours worked in any workweek (or work period in case of 207[k]);
  - D. Total daily or weekly straight-time earnings (including payment for hours in excess of forty (40) per week but excluding premium pay for overtime);
  - E. Total overtime premium pay for a workweek;
  - F. Date of payment and the pay period covered;
  - G. Total deductions from or additions to wages each pay period;
  - H. Itemization of dates, amounts, and reason for the deduction or addition, maintained on an individual basis for each employee;



# Cabinet Mountain Cooperative

Adopted on: Sept. 11, 2018

Reviewed on:

Revised on: July 1, 2020

5510

PERSONNEL

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## HIPAA

*Note:*

- (1) Any Cooperative offering a group "health care plan" for its employees is affected by HIPAA.*
- (2) Any personally identifiable health information contained in an "education record" under FERPA is subject to FERPA, not HIPAA.*

## Background

### **Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

The Cooperative's group health plan is a Covered Entity under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its implementing regulations, the Standards for the Privacy of Individually Identifiable Information. In order to comply with HIPAA and its related regulations, the Cooperative has implemented the following HIPAA Privacy Policy:

### **The HIPAA Privacy Rule**

HIPAA required the federal government to adopt national standards for *electronic health care transactions*. At the same time, Congress recognized that advances in electronic technology could erode the privacy of health information and determined there was a need for national privacy standards. As a result HIPAA included provisions which mandated the adoption of federal privacy standards for individually identifiable health information.

The standards found in the Privacy Rule are designed to protect and guard against the misuse of individually identifiable health information, with particular concern regarding employers using an employee's (or dependent's) health information from the group health plan to make adverse employment-related decisions. The Privacy Rule states that verbal, written, or electronic information that can be used to connect a person's name or identity with medical, treatment, or health history information is Protected Health Information (PHI) under the HIPAA Privacy Rule.

Under the HIPAA Privacy Rule:

1. Individuals have a right to access and copy their health record to the extent allowed by HIPAA.
2. Individuals have the right to request an amendment to their health record. The plan may deny an individual's request under certain circumstances specified in the HIPAA Privacy Rule.
3. Individuals have the right to an accounting of disclosures of their health record for reasons other than treatment, payment, or healthcare operations.



4. PHI, including health, medical, and claims records, can be used and disclosed without authorization for specific, limited purposes (treatment, payment, or operations of the group health plan). A valid authorization from the individual must be provided for use or disclosure for other than those purposes.
5. Safeguards are required to protect the privacy of health information.
6. Covered entities are required to issue a notice of privacy practices to their enrollees.
7. Violators are held accountable with civil and criminal penalties for improper use or disclosure of PHI.

### Compliance

The Cooperative Clerk has been designated Privacy Officer. The Privacy Officer will oversee all ongoing activities related to the development, implementation, maintenance of, and adherence to the Cooperative's policies and procedures covering the privacy of and access to patient health information in compliance with HIPAA, other applicable federal and state laws, and the Cooperative's privacy practices.

As required for a Covered Entity under HIPAA, the plan has developed these internal privacy policies and procedures to assure that PHI is protected and that access to and use and disclosure of PHI are restricted in a manner consistent with HIPAA's privacy protections. The policies and procedures recognize routine and recurring disclosures for treatment, payment, and healthcare operations and include physical, electronic, and procedural safeguards to protect PHI. The procedures include safeguards for sending PHI via mail or fax, receiving PHI for plan purposes, and workstation safeguards and procedures for securing and retaining PHI received by the plan. Plan participants are entitled to receive a copy of the plan's policies and procedures upon request.

Designating a limited number of privacy contacts allows the Cooperative to control who is receiving PHI from the contract claims payor for plan operations purposes. The contract claims payor will provide only the minimum PHI necessary for the stated purpose and, as required under the Privacy Rule, will provide PHI only to individuals with a legitimate need to know for plan operations purposes.

The Cooperative has distributed a notice of privacy practices to plan participants. The notice informs plan participants of their rights and the Cooperative's privacy practices related to the use and disclosure of PHI. A copy of this notice may be obtained by contacting the Privacy Officer.

The Cooperative has reviewed how PHI is used and disclosed by the plan and has limited disclosure of that information to employees who have a legitimate need to know or possess the PHI for healthcare operations and functions. The Cooperative will make reasonable efforts to use de-identified information whenever possible in the operations of the plan and will only use the minimum PHI necessary for the stated purpose.

Some of the Cooperative's employees need access to PHI in order to properly perform the functions of their jobs. The Cooperative has identified these employees and has given them training in the important aspects of the HIPAA Privacy Rule, the privacy policy, and procedures. New employees who will have access to PHI will receive training on the HIPAA Privacy Rule and related policies and procedures as

soon as reasonably possible after they are employed. Employees who improperly use or disclose PHI or misuse their access to that information may be subject to discipline, as deemed appropriate.

In the event the group health plan must disclose PHI in the course of performing necessary plan operations functions or as required by law or a governmental agency, the Cooperative has developed a system to record those disclosures and requests for disclosures. An individual may request a list of disclosures of his or her PHI made by the plan for other than treatment or claims payment purposes. All requests for an accounting of PHI disclosures must be made in writing, and the plan may impose fees for the cost of production of this information. Requests will be responded to within sixty (60) days. If the plan is not able to provide the requested information within sixty (60) days, a written notice of delay will be sent to the requesting individual, with the reasons for the delay and an estimated time for response.

In order to comply with the new privacy regulations, the plan has implemented compliant communication procedures. Except for its use in legitimate healthcare operations, written permission will be required in order for the Cooperative to disclose PHI to or discuss it with a third party.

The HIPAA Privacy Rule prohibits the Cooperative from disclosing medical information without the patient's written permission other than for treatment, payment, or healthcare operations purposes. An authorization signed by the patient and designating specified individuals to whom the Cooperative may disclose specified medical information must be on file, before the plan can discuss a patient's medical information with a third party (such as a spouse, parent, group health plan representative, or other individual).

The Cooperative has taken the following steps to ensure PHI is safeguarded:

- The Cooperative has implemented policies and procedures to designate who has and who does not have authorized access to PHI.
- Documents containing PHI are kept in a restricted/locked area.
- Computer files with PHI are password protected and have firewalls making unauthorized access difficult.
- Copies of PHI will be destroyed when information is no longer needed, unless it is required by law to be retained for a specified period of time.
- The Cooperative will act promptly to take reasonable measures to mitigate any harmful effects known to the group health plan, due to a use or disclosure of PHI in violation of the plan's policies, procedures, or requirements of the HIPAA Privacy Rule.
- The Cooperative will appropriately discipline employees who violate the Cooperative's group health plan's policies, procedures, or the HIPAA Privacy Rule, up to and including termination of employment if warranted by the circumstances.

The Cooperative has received signed assurances from the plan's business associates that they understand the HIPAA Privacy Rule, applicable regulations, and the Privacy Policy and will safeguard PHI just as the plan would.

The contract claims payor and certain other entities outside the group health plan require access on occasion to PHI, if they are business associates of the group health plan and in that role need to use, exchange, or disclose PHI from the group health plan. The plan requires these entities to sign an agreement stating they understand HIPAA's privacy requirements and will abide by those rules just as the group health plan does, to protect the PHI to which they have access. For example the plan engages a certified public accountant to audit the plan annually and to make sure payments are made in compliance with the Plan Document. In order for the CPA to complete an audit, the auditor reviews a sample of the claims for accuracy.

The Cooperative will ensure health information will not be used in making employment and compensation decisions. The HIPAA Privacy Rule and other applicable laws expressly prohibit an employer from making adverse employment decisions (demotions, terminations, etc.) based on health information received from the group health plan. To the extent possible, the Cooperative has separated the plan operations functions from the employment functions and has safeguards in place to prevent PHI from the plan from going to or being used by an employee's supervisor, manager, or superior to make employment-related decisions.

#### Complaints

If an employee believes their privacy rights have been violated, they may file a written complaint with the Privacy Officer. No retaliation will occur against the employee for filing a complaint. The contact information for the Privacy Officer is:

Mary Smith, Cooperative Clerk  
Cabinet Mountain Cooperative  
P.O. Box 1448  
Thompson Falls, MT 59873

Legal Reference: 45 C.F.R. Parts 160, 162, 164

## Request for Protected Health Information

This form should be used when release of a patient's protected health information is being made to the health care provider for an employee or student for a purpose other than treatment, payment or health care operations.

I, \_\_\_\_\_, hereby authorize \_\_\_\_\_  
*Name of Employee, Student 18 or older, or Parent/Guardian*      *Name of Physician/Practice*  
to use and/or disclose my protected health information described below to  
**Cabinet Mountain Cooperative.**

My protected health information will be used or disclosed upon request for the following purposes (name and explain each purpose): \_\_\_\_\_

This authorization for use and/or disclosure applies to the following information (please mark those that apply):

- Any and all records in the possession of the above-named physician or physician's practice, including mental health, HIV, and/or substance abuse records. (Please cross out any item you do not authorize to be released.)
- Records regarding treatment for the following condition or injury \_\_\_\_\_ on or about \_\_\_\_\_.
- Records covering the period of time \_\_\_\_\_ to \_\_\_\_\_.
- Other (Specify and include dates.) \_\_\_\_\_.

I understand that I have the right to revoke this authorization, in writing, at any time by sending such written notification to above-named physician/practice. I also understand that my revocation is not effective to the extent that the persons I have authorized to use and/or disclose my protected health information have acted in reliance upon this authorization.

I understand that I do not have to sign this authorization and that the above-named physician/practice may not condition treatment or payment on whether I sign this authorization.

I understand that information used or disclosed pursuant to this authorization may be subject to re-disclosure by the recipient and no longer protected by federal laws and regulations regarding the privacy of my protected health information.

This authorization expires on the following date or event: \_\_\_\_\_.

I certify that I have received a copy of this authorization.

\_\_\_\_\_  
*Signature of Patient or Personal Representative*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Name of Patient or Personal Representative*

\_\_\_\_\_  
*Personal Representative's Authority*