

STATE OF MONTANA  
DEPARTMENT OF LABOR AND INDUSTRY  
HEARINGS BUREAU

Case No. 887-2012

IN RE INFORMATION REQUEST BY  
BREANNE CUTLER

DECISION AND ORDER ON MOTION FOR FURTHER REDACTION

On March 9, 2012, Montana State University filed a motion requesting further redactions to the documents reviewed by the hearing officer. MSU requested the further redactions to be consistent with the hearing officer's February 28, 2012 decision and to redact pages 1-30 consistent with Judge Brown's order in Cause Number DV-11-581A. As of the date of this order Cutler has not responded to MSU's motion objecting to any further reduction of MSU's documents submitted to HRB. While the hearing officer has been informed that Angel and his wife had a child during this period, Angel did not ask for a continuance to respond to the motion.

The hearing officer reviewed the proposed redactions and Judge Brown's order together with her redacted documents. After that review, the hearing officer determined that the redactions that MSU requests with respect to documents 31-455 are consistent with this hearing officer's original decision and should be further performed. Those redactions are largely comprised of words and names that the hearing officer had redacted from other pages of the documents, but missed when reviewing them. Judge Brown redacted a significant amount of additional information from MSU's investigative report (pages 1-30) as compared with the hearing officer's original redactions. However, it appears that they were largely done to protect the privacy interests of Cutler which was not done by the hearing officer during his administrative review. Therefore, in the interest of judicial economy the hearing officer will follow Judge Brown's analysis and decision with regards to the investigative report and will modify the documents to coincide with her ruling.

Is important to note that the Breanne Cutler versus Montana State University discrimination case has reached the hearing level and all the requested documents may be subject to discovery and spending further time and judicial resources reviewing documents that are more than likely to be the subject of discovery disputes in that case would be unwise. It is also worth noting that Cutler asked for and received an order addressing her privacy interests in documents 1-455 that will be

stored in the HRB files. That order allows for Cutler to assert any privacy interests she has in the documents that were filed by MSU with the Human Rights Bureau.

The hearing officer has replaced pages 18-30, 35, 47, 48, 109, 133, 134, 139, 140, 141,142, 143,189, 201, 235, 256, 257, 265, 285, 291, 292, 294, 299, 292, 294, 299, 309, 317, 320, 321, 327, 332, 334, 337 and 442 consistent with this decision. The replaced pages have been destroyed, but a copy of MSU's Proposed Redactions with Redactions Highlighted has been retained in the Hearings Bureau's case file.

IT IS THEREFORE ORDERED THAT

1. Cutler will receive documents 1-455 except for those already determined not to be disclosed at all and which were described in the hearing officer's February 28, 2012 Decision.
2. HRB will receive documents 1-455 with this order, but prior to any disclosure of the "disclosed documents" in HRB case file No. 0114015081, HRB shall conduct its usual analysis pursuant to Admin. R. Mont. 24.8.210.
3. HRB shall maintain a copy of the hearing officer's February 28, 2012 decision and this order with the disclosed documents. A separate copy of the hearing officer's February 28, 2012 decision and this order shall be placed in a prominent place in the case file so as to avoid any accidental disclosure.
4. Any copies of Documents 1-455 contained in the hearing officer's file are not part of the official record, but will be sealed from public review until either the time for appeal has expired or such appeal has been concluded. AT that point they will be destroyed.

DATED this 26th day of March, 2012

DEPARTMENT OF LABOR AND INDUSTRY  
HEARINGS BUREAU

By: DAVID A. SCRIMM  
David A. Scrimm, Hearing Officer  
Hearings Bureau  
Montana Department of Labor and Industry

NOTICE: A party may be entitled to judicial review of this final agency decision in accordance with Mont. Code Ann. § 2-4-702 by filing a petition for judicial review in an appropriate district court within 30 days of service of the decision.