

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Adopting)
the Columbia County Workplace) ORDER NO. 90-2019
Harassment Policy)

WHEREAS, pursuant to SB 479 (2019) and SB 726 (2019) the County is required to update its harassment and discrimination policy by January 1, 2020; and

WHEREAS, the County is committed to preventing workplace harassment; and

WHEREAS, it is in the best interest of the County to update the County's harassment and discrimination policy consistent with the law;

NOW, THEREFORE, it is hereby ordered as follows:

1. The Workplace Harassment Policy which is attached hereto as Exhibit "1" is hereby adopted.
2. The adopted Workplace Harassment Policy shall be included in the Columbia County Personnel rules until superseded by further action of the Board.

DATED this 18 day of December, 2019.

Approved as to for

By: [Signature]
Office of County Counsel

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: [Signature]
Henry Heimuller, Chair

By: [Signature]
Margaret Magruder, Commissioner

By: [Signature]
Alex Tardif, Commissioner

EXHIBIT "1"

WORKPLACE HARASSMENT/DISCRIMINATION POLICY

14.1 Definitions.

14.1.1 "Sexual Assault" means unwanted conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat or intimidation.

14.1.2 "Workplace harassment" means conduct that constitutes discrimination prohibited by ORS 659A.030 or by other state or federal law, including conduct that constitutes sexual assault or that constitutes conduct prohibited by ORS 659A.082 or 659A.112.

14.2 Scope of Policy. This policy and implementing procedures apply to all elected public officials, employees, volunteers, interns and contractors of Columbia County in the work place or in any work-related setting outside of the workplace.

14.3 Policy Statement. It is the policy of Columbia County to be fair and impartial in all of its relations with its employees or applicants for employment at the County.. The County is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equitable opportunities and prohibits discriminatory practices, including workplace harassment. Therefore, the County expects that all relationships among persons in the workplace will be business-like and free of bias, prejudice and harassment. The County prohibits workplace harassment whether from co-workers, supervisors, managers, volunteers, temporary workers, or by someone not directly connected to the County (e.g., an outside vendor, consultant or customer).

AFFIRMATION OF POLICY

The Columbia County Board of Commissioners hereby reaffirms its official policy of non-discrimination towards any qualified employee or applicant for employment. Discrimination on the basis of race, sex, color, religion, national origin, age, sexual orientation, political affiliation, marital status, military reservist status, ancestry, genetic information, disability, veteran status or use of military leave, association with a protected class, or any other characteristic protected by law (except where there are bona fide occupational qualifications), is prohibited by all elected officials, employees and volunteers of Columbia County. This policy applies, but is not limited to, recruitment, promotion, hiring, layoff, dismissal, demotion, transfer, rates of pay, fringe benefits, training or other forms of compensation, use of facilities, social and recreational programs, and other terms, conditions and privileges of employment for all job classifications. All personnel actions will be administered in accordance with this Rule. This Rule shall be disseminated to all County employees and be available to all affected members of the community and relevant labor market.

14.4 Program Responsibility. The Human Resources Director shall be responsible for carrying out this Policy and Program. The Human Resources Director shall advise and assist staff and management personnel in all matters regarding implementation of and compliance with this Workplace Harassment policy. Department Heads and supervisors shall be responsible for compliance within their own departments and sections. Employee questions or concerns should be referred to the Human Resources Department.

14.5 Sexual Harassment. It is the County's policy that sexual harassment is unacceptable conduct and will not be tolerated. Sexual harassment is a form of sex discrimination and is an unlawful employment practice under federal and state laws. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature when, for example (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (ii) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (iii) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment. Sexual assault is a form of sexual harassment.

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. It can include, but is not limited to: unwanted sexual advances or requests for sexual favors, sexual jokes and innuendo, verbal abuse of a sexual nature, commentary about an individual's body, sexual prowess or sexual deficiencies, leering, catcalls or touching, insulting or obscene comments or gestures, display or circulation in the workplace of sexually suggestive objects or pictures (including through e-mail), and other physical, verbal or visual conduct of a sexual nature. Sex-based harassment that does not involve sexual activity or language (e.g., a male supervisor who yells only at female employees and not males) may also constitute discrimination if it is severe or pervasive and directed at employees because of their sex/gender.

Some specific examples of other inappropriate or illegal behaviors include: (1) negative or offensive comments, jokes or suggestions about another employee's gender or sexuality; (2) obscene or lewd sexual comments, jokes, suggestions or innuendoes; (3) slang, names or labels such as "honey", "sweetie", "boy", "girl", that others find offensive; (4) talking about or calling attention to another employee's body or sexual characteristics in a negative or embarrassing way; (5) laughing at, ignoring or not taking seriously an employee who experiences sexual harassment; (6) blaming victims of sexual harassment for causing the problems; (7) continuing certain behaviors after a co-worker has objected to that behavior; (8) displaying sexual pictures, cartoons or calendars on any County property.

Sexual harassment negatively affects morale, motivation and job performance. It results in increased absenteeism, turnover, inefficiency and loss of productivity. It is inappropriate, offensive and illegal, and it will not be tolerated by this County.

14.6 Protected Class Harassment. Harassment on the basis of a protected class is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, sex, color, religion, national origin, age, sexual orientation, political affiliation, marital status, military reservist status, ancestry, genetic information, disability, veteran status, the use of military leave or any other protected classification defined by federal or state law. Protected class discrimination also includes discrimination on the basis of an association with a protected class, (an individual's relatives, friends or associates) that (i) has the purpose or effect of creating an intimidating, hostile or offensive work environment; (ii) has the purpose

or effect of unreasonably interfering with an individual's work performance; or (iii) otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to, epithets, slurs or negative stereotyping, threatening, intimidating or hostile acts, denigrating jokes and display or circulation in the workplace of written or graphic materials that denigrates or shows hostility or aversion toward an individual or group (including through e-mail).

14.7. Religious Beliefs and Practices.

14.7.1. Accommodation. Sometimes individuals hold religious beliefs or conduct religious practices that conflict with their work schedules or assigned responsibilities. At an employee's request, the County will attempt to provide a reasonable accommodation for sincerely held religious beliefs and practices of the employee if to do so does not impose an undue hardship on the County, or interfere with the employee's ability to perform the essential functions of the position. If an employee would like to request, or if a supervisor receives a request for a religious accommodation, the employee or supervisor should contact the Human Resources Department. Employees may be asked to provide appropriate documentation to support the request.

The County is not obligated to provide the employee's preferred accommodation if there is more than one effective alternative from which to choose.

14.7.2. Expression of Religious Beliefs. The County will allow expression of sincerely held religious beliefs by employees in the workplace, to the extent that other types of personal expression are allowed, provided that such expression is not harassing or disruptive. Employees who object to religious conduct occurring in the workplace should first inform the individual (co-worker or third party) engaging in the conduct that they wish it to stop. If the conduct does not stop, employees should report it to their supervisor or the Human Resources Department. Employees who do not wish to personally confront an individual who is directing unwelcome religious or anti-religious conduct towards them should report the conduct to their supervisor or the Human Resources Department. The circumstances will be investigated and appropriately addressed. Any employee who feels s/he has been subject to religious discrimination or harassment should follow the complaint procedures outlined in this Rule.

While supervisors are permitted to engage in certain religious expression, they should avoid expression that might, due to their supervisory authority, reasonably be perceived by employees as coercive, even when not so intended.

14.8. Genetic Information. The County will not attempt to obtain or discriminate against employees or applicants because of genetic information. Genetic information includes not only information about a individual's genetic test and the genetic tests of an individual's family members, but also information about any diseases, disorders, or conditions that someone's family member may have. If an employee or applicant feels the County has discriminated against them on the basis of genetic information, that individual should follow the complaint procedure outlined in this Rule.

14.9. Retaliation Prohibited. The County prohibits retaliation against any individual who in good faith reports workplace harassment or participates in an investigation of such reports. Retaliation against an

individual for reporting harassment or discrimination or for participating in an investigation of a claim of harassment or discrimination is a serious violation of this Policy and, like harassment or discrimination itself, will subject the offender to disciplinary action. Employees who believe they have been the subject of retaliation for reporting conduct under this Rule shall file a complaint of such alleged retaliation as outlined in Section 14.10 below.

14.10 Reporting and Investigation. Victims of workplace harassment have a right to seek redress through the County's internal process described herein, through the Bureau of Labor and Industries' complaint resolution process under ORS 659A.820 to 659A.865, or under any other available law, whether civil or criminal. A civil action under ORS 659A.885 alleging a violation of ORS 659A.030, 689A.082, 659A.112, Section 2 of SB 726 (2019), or Section 4 of SB 479 (2019) must be commenced not later than five years after the occurrence of the alleged violation unless a complaint has been timely filed under ORS 659A.820.

14.10.1 Making a Complaint. A victim of workplace harassment may voluntarily disclose information regarding an incident of workplace harassment. The Human Resources Director is the person designated to receive workplace harassment complaints. If the Human Resources Director is not available, the County Counsel is an alternative. However, employees may also report workplace harassment to a supervisor or Department Head. The receiving supervisor, department head, Human Resources Director shall provide the employee making the complaint with a copy of this policy.

14.10.2 Timeline under which Relief may be Sought. The County desires to address workplace harassment as soon as possible. Therefore, the County encourages complaints to be made as soon as possible following workplace harassment. In all cases, complaints must be filed within four years of the date on which alleged harassment occurred or within the applicable time limitation on the commencement of an action under ORS 659A.875, whichever is greater.

14.10.3 Investigation. Upon receipt of a complaint alleging workplace harassment the County provide the complainant with a copy of this policy and will conduct an appropriate investigation and will notify the complainant of the result as soon as possible. Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action and public records laws. Misconduct constituting workplace harassment, or retaliation under this Policy will be dealt with promptly and appropriately. Responsive action may include, for example, training, referral to counseling, monitoring of the offender and/or disciplinary action such as warning, reprimand, withholding of a promotion or pay increase, reduction of wages, demotion, reassignment, suspension without pay or dismissal, as the County believes appropriate under the circumstances. The County will inform the complainant that the County will follow up with them until and unless the person objects to such action in writing.

14.11 Documenting Workplace Harassment. The County and employees are advised to document any incidents involving discrimination and/or sexual assault that may be covered under State law. Records regarding workplace harassment complaints shall be kept in careful accordance with State records retention laws.

14.12 Follow Up with Victims. Following a report of workplace harassment, the supervisor/department head or Human Resources Director shall follow up with the victim of such alleged harassment at least once every three months for the 12 month time period following the date of the report to determine if the harassment has stopped or if any retaliation has occurred. The victim of the alleged workplace harassment shall be informed of this follow up and may request, in writing, that such follow up not occur.

14.13 Tort Claim Notice. Effective for conduct that occurs on or after October 1, 2019, Oregon law provides that the statute of limitation for filing discrimination claims shall be five years from the date of conduct. However, ORS 30.275 requires that any notice of claim against the County must be filed with the County within 180 days of the conduct.

14.14 Agreements. Except as provided in Section 4 of Senate Bill 479 (2019), the will not require or coerce an employee, as a condition of employment, continued employment, promotion, compensation or the receipt of benefits, to enter into a nondisclosure or non-disparagement agreement for the purpose or effect of preventing the employee from disclosing or discussing conduct that constitutes workplace harassment including sexual assault. A nondisclosure agreement is a contract by which one or more parties agree not to disclose confidential information that they have shared with each other as a necessary part of doing business together. A non-disparagement agreement restricts individuals from taking any action that negatively impacts an organization, its reputation, products, services, management or employees. This does not prevent an employee claiming to be aggrieved by discriminating conduct covered under State law from voluntarily requesting to enter into an agreement that contains a nondisclosure, non-disparagement or no-rehire provision. If an employee enters into such an agreement with the County, the employee shall have seven calendars days from date of signing to revoke the agreement.

14.15 Resources Available to Employees. Employees who believe they have been the victim of workplace harassment may connect with legal resources, counseling and other support services provided by qualified professionals in the community. Assistance may also be available by contacting Oregon Bureau of Labor and Industries and/or utilizing the County's Employee Assistance Program.

14.16 Notice to Employees.

IMPORTANT NOTICE TO ALL EMPLOYEES: Employees who have experienced conduct they believe is contrary to this Policy have an obligation and right to take advantage of this internal complaint procedure. Employees who believe they have been the victim of workplace harassment also have a right to utilize the complaint resolution process through the Oregon Bureau of Labor and Industries or any other process allowed by state or federal law. An employee's failure to fulfill this obligation could affect his or her rights in pursuing legal action. Also, please note that federal, state and local discrimination laws establish specific time frames for initiating a legal proceeding pursuant to those laws. Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment. Therefore, while no fixed reporting period has been established, the County strongly urges the prompt reporting of complaints or concerns so that rapid and constructive action can be taken. The County will make every effort to

stop alleged workplace harassment before it becomes severe or pervasive, but can only do so with the cooperation of its employees. The availability of this complaint procedure does not preclude individuals who believe they are being subjected to harassing conduct from promptly advising the offender that his or her behavior is unwelcome and requesting that it be discontinued.

This Policy shall, at a minimum, be provided to all employees at the time of adoption and shall be included in orientation materials that are provided to new employees at the time of hire. Additionally, this Policy shall be provided to all County volunteers, interns, and independent contractors by the Department managing such persons.