

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Adopting the Yamhill County  
Discrimination and Harassment Policy

BOARD ORDER 23- 50

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (“the Board”) sat for the transaction of county business in formal session on February 9, 2023, commissioners Lindsay Berschauer, Kit Johnston, and Mary Starrett being present.

THE BOARD ADOPTS THE FOLLOWING FINDINGS:

WHEREAS, ORS 659A.375(1) requires all employers located in the state of Oregon to adopt a written policy that contains, “procedures and practices for the reduction and prevention of discrimination prohibited by ORS 659A.030, including sexual assault, as defined in ORS 659A.370, and discrimination prohibited by ORS 659A.082 and 659A.112”; and

WHEREAS, ORS 243.319(1) further requires all Oregon public employers to, “establish and adopt a written policy that seeks to prevent workplace harassment that occurs between employees or between an employer and an employee in the workplace or at a work-related event that is off the employment premises and coordinated by or through the employer, or between an employer and an employee off the employment premises”; and

WHEREAS, The policy provided in Exhibit A meets all statutory requirements outlined in both ORS 659A.375(2) and ORS 243.319(2); and now, therefore

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

1. The Yamhill County Discrimination and Harassment Policy provided in Exhibit A, attached hereto and incorporated herein, is hereby approved and adopted.
2. This policy shall take effect on February 23, 2023.
3. The County Administrator shall take all actions necessary to implement this policy.

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DONE at McMinnville, Oregon on February 9, 2023.

ATTEST



YAMHILL COUNTY BOARD OF COMMISSIONERS

*Lindsay Berschauer*

KERI HINTON  
County Clerk

Chair LINDSAY BERSCHAUER

By: *Carolina Rook*  
Deputy CAROLINA ROOK

*Kit Johnston*

Commissioner KIT JOHNSTON

FORM APPROVED BY:

*Jodi Gollehon*  
JODI GOLLEHON  
Assistant Yamhill County Counsel

*Mary Starrett*

Commissioner MARY STARRETT



**ADMINISTRATIVE POLICIES**

<b>SECTION:</b>	<b>Human Resources Policies</b>	<b>POLICY NO.:</b>	<b>320</b>
<b>TITLE:</b>	<b>Yamhill County Discrimination and Harassment Policy</b>		
<b>BOARD ORDERS:</b>	<b>23-50</b>	<b>LAST REVISED:</b>	<b>02/2023</b>

**I. PURPOSE**

- 1.01 The Oregon Workplace Fairness Act requires all Oregon employers to adopt a written policy containing procedures and practices to reduce and prevent specific types of unlawful discrimination, harassment, and sexual assault.
- 1.02 Yamhill County prohibits unlawful discrimination, harassment, and sexual assault. Further, Yamhill County also prohibits physical or verbal harassment, “bullying,” or discriminatory conduct of any kind. This policy defines these terms and provides a complaint procedure for employees who believe they have been the victims of prohibited conduct. This policy applies to all matters related to hiring, firing, transfer, promotion, benefits, compensation, and other terms and conditions of employment.
- 1.03 This policy rescinds and replaces the following: Sexual Harassment Policy, Board Order 87-242, May 6, 1987.

**II. GENERAL POLICY**

- 2.01 It is Yamhill County policy to provide a work environment free from unlawful discrimination or harassment on the basis of race, color, religion, sex, sexual orientation, national origin, marital status, familial status, age, expunged juvenile record, performance of duty in a uniformed service or physical or mental disability, or any other characteristic protected by local law, regulation, or ordinance.
- 2.02 It is Yamhill County policy that all employees, interns, volunteers, customers, clients, contractors, and visitors to the worksite are entitled to a respectful and productive work environment free from behavior, action, or language that constitutes workplace harassment or discrimination. The “workplace” includes on Yamhill County premises, at a Yamhill County-sponsored offsite event, traveling on behalf of Yamhill County, or conducting Yamhill County business, regardless of location.

- 2.03 Yamhill County department heads, managers, and supervisors are responsible for creating an atmosphere free of discrimination, harassment, and sexual assault, as well as physical or verbal harassment, “bullying,” or discriminatory conduct of any kind. Further, all employees, interns, volunteers, and contractors are responsible for respecting the rights of other employees, interns, volunteers, customers, clients, contractors, and visitors and to refrain from engaging in conduct prohibited by this policy, regardless of the circumstances, and regardless of whether others participate in the conduct or did not appear to be offended. All employees are encouraged to discuss this policy with their immediate supervisor, any member of the management team, or with Human Resources, if they have any questions.

### **III. NO-DISCRIMINATION, NO-RETALIATION**

- 3.01 Yamhill County provides equal employment opportunity to all qualified employees and applicants without unlawful regard to race, color, religion, sex, gender identity, pregnancy (including childbirth and related medical conditions), sexual orientation, national origin, age, disability, genetic information, veteran status, domestic violence victim status, or any other status protected by applicable federal, Oregon, or local law.
- 3.02 Yamhill County also recognizes an employee’s right to engage in protected activity under Oregon and federal law and will not retaliate against an employee for engaging in protected activity.
- 3.03 Yamhill County’s commitment to equal opportunity applies to all aspects of the employment relationship, including but not limited to, recruitment, hiring, compensation, promotion, demotion, transfer, disciplinary action, layoff, recall, and termination of employment.

### **IV. WORKPLACE HARASSMENT**

- 4.01 Workplace harassment can be based on national origin, age, sex, race, disability, religion, sexual orientation, gender identity, or gender expression. It may also encompass other forms of unwelcome, hostile, intimidating, threatening, humiliating, or violent behavior that is not necessarily illegal, but still prohibited by this policy.
- 4.02 This policy prohibits any conduct at work that a reasonable person would consider unwelcome, intimidating, hostile, threatening, violent, abusive, or offensive. Prohibited conduct may include verbal, written or physical conduct that denigrates, makes fun of, or shows hostility towards an individual because of that individual’s protected class or protected activity, and can include:
- Jokes, pranks, pictures (including drawings), epithets, slurs, derogatory remarks, or other banter.
  - Negative stereotyping.
  - Displaying racist symbols anywhere on Yamhill County property.
  - “Teasing” or mimicking the characteristics of someone with a physical or mental disability.
  - Criticizing or making fun of another person’s religious beliefs, or “pushing” your religious beliefs on someone who doesn’t have them.
  - Threatening, intimidating, or hostile acts that relate to a protected class or protected activity.
  - Written or graphic material that denigrates or shows hostility or aversion toward an individual or group because of the protected status.

This is not a complete list. All employees are expected to exercise common sense and refrain from other similar kinds of conduct.

- 4.03 This policy also prohibits employment actions, including hiring, promotion, termination, and compensation decisions, to be taken based on a protected characteristic. Any form of retaliatory action toward an employee for filing a complaint of discrimination or harassment, or for participation in an investigation of a complaint is also prohibited.

## **V. NO-BULLYING POLICY**

5.01 Yamhill County strives to promote a positive, professional work environment free of physical or verbal harassment, "bullying," or discriminatory conduct of any kind. Yamhill County, therefore, prohibits employees, interns, volunteers, and contractors from bullying one another or engaging in any conduct that is disrespectful, insubordinate, or that creates a hostile work environment. For purposes of this policy, "bullying" refers to repeated, unreasonable actions of individuals (or a group) directed towards an individual or a group of employees that are intended to intimidate, disparage, or deride the employee(s) or that subject the employee(s) to ridicule. Examples of bullying include:

- Verbal Bullying: Slandering, ridiculing or maligning a person or his/her family; persistent name calling that is hurtful, insulting or humiliating; using a person as butt of jokes; abusive and offensive remarks.
- Physical Bullying: Pushing; shoving; kicking; poking; tripping; assault, or threat of physical assault; damage to a person's work area or property.
- Gesture Bullying: Non-verbal threatening gestures, glances that can convey threatening messages.
- Exclusion Bullying: Socially or physically excluding or disregarding a person in work-related activities. In some cases, failing to be cooperative and working well with co-workers may be viewed as bullying.
- Cyber Bullying: Bullying that takes place using electronic technology, which includes devices and equipment such as cell phones, computers, and tablets as well as communication tools including social media sites, text messages, chat, and websites. Examples of cyberbullying include transmitting or showing mean-spirited text messages, emails, embarrassing pictures, videos or graphics, rumors sent by email or posted on social networking sites, or creating fake profiles on websites for co-workers, managers or supervisors.

This is not a complete list. All employees are expected to exercise common sense and refrain from other similar kinds of conduct.

## **VI. SEXUAL HARASSMENT AND SEXUAL ASSAULT**

6.01 Sexual harassment is a form of workplace harassment and includes, but is not limited to, the following types of conduct:

- Requests for sexual favors, unwelcome sexual advances, or other conduct of a sexual nature when such conduct is directed toward an individual because of that individual's sex and submission to such conduct is made either explicitly or implicitly a term or condition of employment; or submission to or rejection of such conduct is used as the basis for employment decisions affecting that individual.
- Unwelcome verbal or physical conduct that is sufficiently severe or pervasive to have the purpose or effect of unreasonably interfering with work performance or creating a hostile, intimidating or offensive working environment.

- 6.02 Sexual assault is unwanted conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat, or intimidation.
- 6.03 This policy prohibits sexual harassment and sexual assault, as described above, in the workplace, or sexual harassment and sexual assault, as described above, outside of the workplace that violates its employees, volunteers and interns' right to work in a harassment-free workplace. Although by no means all-inclusive, the following examples represent prohibited behavior:
- Physical harassment, including but not limited to unwelcome physical contact such as touching, impeding or blocking movement, or any physical interference with work.
  - Verbal harassment, including but not limited to disparaging or disrespectful comments, jokes, slurs, innuendoes, teasing, and other sexual talk such as jokes, personal inquiries, persistent unwanted courting and derogatory insults.
  - Nonverbal harassment, including but not limited to suggestive or insulting sounds, obscene gestures, leering or whistling.
  - Visual harassment, including but not limited to displays of explicit or offensive calendars, circulation of derogatory content, posters, pictures, drawings or cartoons that reflect disparagingly upon a class of persons or a particular person.

## **VII. REPORTING PROCEDURE**

- 7.01 Any employees, volunteers, and contractors aware of or experiencing discrimination, harassment or sexual assault in the workplace should report that information immediately. An employee may report an incident either verbally or in writing to any Yamhill County designee such as the immediate supervisor or department head, to Yamhill County's Human Resources office, or as an alternate, any County manager. Employees, interns, volunteers, and contractors may report to any of the persons listed above, regardless of any particular chain of command. All employees are encouraged to document any incidents involving discrimination, harassment, and sexual assault as soon as possible.
- 7.02 Any manager or Human Resources staff receiving a complaint is responsible for providing a copy of this policy to a complainant at the time of a complaint.

## **VIII. INVESTIGATION AND CONFIDENTIALITY**

- 8.01 All complaints and reports will be promptly and impartially investigated and will be kept confidential to the extent possible, consistent with Yamhill County's need to investigate the complaint and address the situation. If conduct in violation of this policy is found to have occurred, Yamhill County will take prompt, appropriate corrective action, and any employee found to have violated this policy will be subject to disciplinary action, up to and including termination of employment.
- 8.02 The County will follow-up with the victim of alleged harassment at least once every three months of the calendar year following the date a report of prohibited harassment is received, for the purpose of determining if the alleged harassment has stopped or if retaliation has been experienced. This follow-up will continue unless and until the victim of alleged harassment objects to the follow-up in writing.

- 8.03 Records of workplace harassment will be maintained in accordance with Yamhill County Personnel Files policy, applicable collective bargaining agreements, and applicable laws and statute of limitations periods.

## **IX. PENALTIES**

- 9.01 Yamhill County will not tolerate discrimination, harassment, and sexual assault, as well as physical or verbal harassment, “bullying,” or discriminatory conduct of any kind. Any individual found to have engaged in such conduct may face disciplinary action up to, and including, termination. Yamhill County may also subject managers and supervisors who fail to report known harassment – or fail to take prompt, appropriate corrective action — to disciplinary action, up to and including termination.

## **X. RETALIATION PROTECTIONS**

- 10.01 Yamhill County prohibits retaliation against any employees, interns, volunteers, customers, clients, contractors, and visitors for filing a complaint regarding conduct in violation of this policy. Yamhill County will not tolerate retaliation against any employees, interns, volunteers, customers, clients, contractors, and visitors for raising a good faith concern, for providing information related to a concern, or for otherwise cooperating in an investigation of a reported violation of this policy. Any employee who retaliates against anyone involved in an investigation is subject to disciplinary action, up to and including termination.

## **XI. OTHER RESOURCES AVAILABLE TO EMPLOYEES**

- 11.01 Yamhill County provides an Employee Assistance Program (EAP) to employees and dependents. EAP provides confidential counseling services and educational tools such as resources relating to eldercare, childcare, legal consultation, financial coaching, identity theft, and others. For access to and information about EAP, please contact Human Resources or go to the internal County Intranet page.
- 11.02 Yamhill County cannot provide legal resources to its employees or referrals to specific attorneys. Employees may contact the Oregon State Bar for more information: <https://www.osbar.org/public/>.

## **XII. NONDISCLOSURE OR NONDISPARAGEMENT AGREEMENTS**

- 12.01 Under this policy, a nondisclosure agreement is any agreement by which one or more parties agree not to discuss or disclose information regarding any complaint of work-related harassment, discrimination, or sexual assault.
- 12.02 A nondisparagement agreement is any agreement by which one or more parties agree not to discredit or make negative or disparaging written or oral statements about any other party or Yamhill County.
- 12.03 A no-rehire provision is an agreement that prohibits an employee from seeking reemployment with Yamhill County and allows Yamhill County to not rehire that individual in the future.

- 12.04 Yamhill County will not require or coerce an employee to enter into any agreement if the purpose or effect of the agreement prevents the employee from disclosing or discussing conduct constituting discrimination, harassment, or sexual assault.
- 12.05 An employee claiming to be aggrieved by discrimination, harassment, or sexual assault may, however, voluntarily request to enter into a settlement, separation, or severance agreement which contains a nondisclosure, nondisparagement, or no-rehire provision and will have at least seven days to revoke any such agreement after signing.

### **XIII. TIME LIMITATIONS**

- 13.01 Nothing in this policy precludes any person from filing a formal grievance in accordance with a collective bargaining agreement, if applicable, or a claim with the Bureau of Labor and Industries' Civil Rights Division or the Equal Employment Opportunity Commission, or any other legal remedy available under the law, whether civil or criminal. Note that Oregon state law requires that any legal action taken on alleged discriminatory conduct (specifically that prohibited by ORS 659A.030, 659A.082 or 659A.112) commence no later than five (5) years after the occurrence of the violation. Other applicable laws may have a shorter time limitation on filing. In addition, a claimant must provide advance notice of a claim against Yamhill County as provided in ORS 30.275.

## EMPLOYEE ACKNOWLEDGEMENT

I, \_\_\_\_\_ (print name), acknowledge that I have received and will read a copy of Yamhill County's Discrimination and Harassment Policy. I also understand that a copy of this policy and other county policies are available to me at any time to review in the Human Resources Office and Yamhill County's internal intranet.

I will bring any questions or concerns I have regarding Yamhill County's Discrimination and Harassment Policy to Human Resources or any trusted manager or supervisor.

During my employment with Yamhill County, I understand that it is my responsibility to remain informed about this policy as revisions, updates and new policies are issued, and to ask questions about any interpretation of this policy. Furthermore, I understand that it is my responsibility to review and become knowledgeable of this policy, and violation of this policy could result in severe disciplinary action, up to and including termination of employment.

I have read this acknowledgement carefully before signing.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

The original of this document will be kept in the Employee's personnel file. A copy will be provided to the Employee upon request.