

Offensive Conduct, Harassment and Violence Policy

Policy Number: 445

General Statement of Policy

It is the policy of Cottonwood County (hereinafter "County") to maintain an environment that is free from offensive conduct, harassment and violence based on race, national origin, gender, religion, disability, age, marital status, status with regard to public assistance or sexual orientation. The County prohibits any form of religious, racial, sexual, gender, marital status, age, national origin, status with regard to public assistance, sexual orientation or disability discrimination, harassment and violence.

It shall be a violation of this policy for any employee, agent, officer, commissioner or other elected official of the County to engage in offensive or harassing verbal or physical conduct of a sexual nature or regarding race, national origin, gender, religion, disability, age, status with regard to public assistance, marital status, sexual orientation towards any County employee, officer, agent, or member of the public seeking public services or public accommodations.

It shall be a violation of this policy for any County employee, office, commissioner or other elected official to inflict, threaten to inflict, or attempt to inflict, sexual violence or violence based on religion, race, gender, marital status, status with regard to public assistance, sexual orientation, age, national origin or disability, upon any employee, agent, officer or member of public seeking services or accommodation from the County.

The County will act to investigate all complaints, either formal or information, verbal or written, of offensive, harassing or violent conduct of a sexual nature or based upon religion, national origin, race, gender, sexual orientation, marital status, status with regard to public assistance, age or disability, and to discipline or take appropriate action against any employee, agent, officer, commissioner or other elected official who is found to have violated this policy.

Definitions

Sexual/Gender Based Offensive Conduct/Harassment

Sexual/Gender based offensive conduct/harassment includes unwelcome physical or verbal conduct relating to an individual's gender or directed at an individual because of gender; unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct, or other verbal or physical conduct or communication of a sexual or gender biased nature when:

- Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, public services or public accommodations;
- Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public services or public accommodations; or
- That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or use of public services or public accommodations or creating an intimidating, hostile or offensive employment, public service or public accommodation environment.

Examples of sexual/gender harassment may include but are not limited to:

- Unwelcome verbal remarks, jokes or innuendos of a sexual nature or based upon gender;
- Unwelcome pressure for sexual activity;
- Unwelcome, sexually motivated or inappropriate patting, pinching or other physical contact;
- Unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or access to public services or public accommodations;
- Unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises or preferential treatment with regard to an individual's employment or access to public services or public accommodations.
- Any sexually motivated, unwelcome touching;
- Distribution or display of written materials, picture or other graphics of a sexual or gender biased nature;
- Other unwelcome behavior or words directed at an individual because of gender.

Sexual Violence

Sexual violence is a physical act of aggression or force of the threat thereof which involves the touching of another's intimate parts, or forcing a person to touch any person's intimate parts including the genital area, groin, inner thigh, buttocks or breasts, as well as the clothing covering these areas:

Sexual violence may include, but is not limited to:

- Touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
- Coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts;
- Threatening to force or coerce sexual acts, including the touching of intimate parts of intercourse, on another.

Race/National Origin Based Offensive Conduct/Harassment and Bias

Racial/National origin harassment and/or bias occurs when:

- Submission to conduct or communications of a derogatory, harassing or biased nature based on race/national origin is made a term or condition, either explicitly or implicitly, or obtaining or retaining employment, or of obtaining or retaining access to public services or public accommodations;
- Submission to or rejection of conduct or communication of a derogatory, harassing or biased nature, based on race/national origin, by an individual is used as a factor in decisions affecting that individual's employment or access to public services or public accommodations; or

- The conduct or communication of a derogatory, harassing or biased nature based on race/national origin has the purpose or effect of substantially interfering with an individual's employment or use of public services/accommodations or creating an intimidating, hostile or offensive employment or public service/accommodation environment.

Racial/National Origin Violence

Racial/National origin violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race or national origin.

Religion Based Offensive Conduct/Harassment and Bias

Religious harassment/bias occurs when:

- Submission to conduct or communications of a religiously derogatory, harassing or biased nature is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining or retaining public services/accommodations;
- Submission to or rejection of conduct or communications of a religiously derogatory, harassing or biased nature by an individual is used as a factor in decisions affecting that individual's employment or access to public services/accommodations; or
- The conduct or communication of a religiously derogatory, harassing or biased nature has the purpose or effect of substantially interfering with an individual's employment or use of public services/accommodations or of creating an intimidating, hostile or offensive employment or public service/accommodation environment.

Religion Based Violence

Religious violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion.

Disability Based Offensive Conduct/Harassment and Bias

Disability based harassment and/or bias occurs when:

- Submission to conduct or communications of derogatory, harassing or biased nature which is based on an individual's disability is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment or of obtaining or retaining public services/accommodations;
- Submission to or rejection of conduct or communications of a derogatory, harassing or biased nature, based on an individual's disability, by an individual is used as a factor in decisions affecting that individual's employment or access to public services/accommodations; or
- The conduct or communication of derogatory, harassing or biased nature based on an individual's disability has the purpose or effect of substantially interfering with an individual's employment or use of public services/accommodations or of creating an intimidating, hostile or offensive employment or public services/accommodations environment.

Disability Based Offensive Conduct/Harassment and Bias

Age based harassment and/or bias occurs when:

- Submission to conduct or communications of a derogatory, harassing or biased nature which is based on an individual's age is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining or retaining public services/accommodations;
- Submission to or rejection of conduct or communications of a derogatory, harassing or biased nature, based on an individual's age, by an individual is used as a factor in decisions affecting that individual's employment or access to public services/accommodations; or
- The conduct or communication of derogatory, harassing or biased nature based on an individual's age has the purpose or effect of substantially interfering with an individual's employment or use of public services/accommodations or of creating an intimidating, hostile or offensive employment or public services/accommodations environment.

Marital Status Based Offensive Conduct/Harassment and Bias

"Marital status" means whether a person is single, married, remarried, divorced, separated or a surviving spouse and in employment cases includes protection against discrimination on the basis of identity, situation, actions, or beliefs of a spouse or former spouse.

Marital status based harassment and/or bias occurs when:

- Submission to conduct or communications or a derogatory, harassing or biased nature which is based on an individual's marital status is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining or retaining public services/accommodations;
- Submission to or rejection of conduct or communications of a derogatory, harassing or biased nature based on an individual's marital status, by an individual is used as a factor in decisions affecting that individual's employment or access to public services/accommodations; or
- The conduct of communication of derogatory, harassing or biased nature based on an individual's marital status has the purpose or effect of substantially interfering with an individual's employment or use of public services/accommodations or of creating an intimidating, hostile or offensive employment or public service/accommodations environment.

Status with Regard to Public Assistance Based Offensive Conduct/Harassment and Bias

"Status with regard to public assistance" means the condition of being a recipient of federal, state or local assistance, including medical assistance, housing subsidies, AFDC or general assistance.

Public assistance status based harassment and/or bias occurs when:

- Submission to conduct or communications of a derogatory, harassing or biased nature which is based on an individual's status with regard to public assistance, is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining or retaining public services/accommodations;

- Submission to or rejection of conduct or communications of a derogatory, harassing or biased nature, based on an individual's status with regard to public assistance, by an individual is used as a factor in decisions affecting that individual's employment or access to public services/accommodations; or
- The conduct or communication of derogatory, harassing or biased nature, based on an individual's status with regard to public assistance, has the purpose or effect of substantially interfering with an individual's employment or use of public services/accommodations or of creating an intimidating, hostile or offensive employment or public services/accommodations environment.

Sexual Orientation Based Offensive Conduct/Harassment and Bias

"Sexual Orientation" means having or being perceived as having an emotional, physical or sexual attachment to another person without regard to the sex of that person or being perceived as having an orientation for such an attachment, or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness. "Sexual orientation" does not include physical or sexual attachment to children by an adult.

Sexual orientation based offensive conduct/harassment and/or bias occurs when:

- Submission to conduct or communications of a derogatory, harassing or biased nature which is based on an individual's sexual orientation is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining or retaining public services/accommodations;
- Submission to or rejection of conduct or communications of a derogatory, harassing or biased nature, based on an individual's sexual orientation, by an individual is used as a factor in decisions affecting that individual's employment or access to public services/accommodations; or
- The conduct or communication of derogatory, harassing or biased nature based on an individual's sexual orientation has the purpose or effect of substantially interfering with an individual's employment or use of public services/accommodations or of creating an intimidating, hostile or offensive employment or public services/accommodations environment.

Sexual Orientation Violence

Sexual orientation violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, that individuals actual or perceived sexual orientation.

Assault

Assault is:

- An act done with intent to cause fear in another of immediate bodily harm or death;
- The intentional infliction of, or attempt to inflict, bodily harm upon another; or
- The threat to do bodily harm to another with present ability to carry out the threat.

Applicability

Offensive conduct, harassment or bias may occur:

- Between a supervisor and an employer;
- Between co-employees;
- Between an employee or supervisor and a member of the public seeking to obtain or use public services/accommodations;
- Between a commissioner or other elected official and an employee or member of the public receiving or seeking public services/accommodations; and
- Between an agent of the County and an employee, supervisor, elected official or member of the public.

Reporting Procedures

Any person who believes he or she has been the victim of offensive conduct of a sexual nature, sexual harassment or harassment or bias based on race, national origin, gender, religion, disability, age, marital status, status with regard to public assistance or sexual orientation by an employee, agent, official, commissioner or other elected official of the County, or any person with knowledge or belief or conduct which may constitute such harassment or bias toward an employee, official or member of the public seeking or receiving public services or accommodations, shall report the alleged conduct immediately to an appropriate County official designed by this policy.

The County encourages the reporting party or complainant to use the report form available from the County Commissioner's office or available from the department head of any County department, but oral reports shall be considered complaints as well. Nothing in this policy shall prevent any person from reporting harassment or violence directly to the County Human Rights Officer.

In Each County Department

- The department head of each department is the person responsible for receiving oral or written reports of all types of offensive conduct, harassment and bias described in section below, at the department level.
- Any supervisory employee, whether or not the person is a department head, who receives a formal or informal, oral or written report of harassment, bias or violence as defined in this policy shall inform the department head immediately without screening or investigating the report, unless the department head is involved in the alleged harassment, bias or violence. In the event that the department head is involved, the report shall be made directly to the County Human Rights Officer or Alternative Human Rights Officer as described below. Failure of a supervisory employee to forward such a report to the appropriate party shall be grounds for discipline, including immediate discharge of employment.
- Upon receipt of a report, the department head must notify the County Human Rights Officer immediately, without screening or investigating the report. The department head may request, but may not insist upon, a written complaint by the complainant. A written statement of the alleged facts will be forwarded as soon as practicable by the department.

head to the Human Rights Officer. If the report was given verbally, the department head shall personally reduce it to written form within 24 hours and forward it to the Human Rights Officer. Failure to forward any harassment or violence report or complaint as provided herein will result in disciplinary action against the department head.

- If the complaint involves the department head, the complaint shall be made or filed directly with the County Human Rights Officer by the reporting or complainant.

County-Wide

- The County Board hereby designates the County Coordinator (or successor), as the County Human Rights Officer to receive reports of sexual harassment and of offensive conduct, harassment and violence based on race, national origin, gender, religion, disability, age, marital status, status with regard to public assistance or sexual orientation.
- If the complaint involves the Human Rights Officer, the complaint shall be filed directly with one of the following Alternative Human Rights Officers.

Cottonwood County Attorney
1044 3rd Avenue
Windom, MN 56101
(507) 831-5040

Cottonwood County Sheriff
Law Enforcement Center
902 5th Avenue
Windom, MN 56101
(507) 831-1375

- The County shall conspicuously post the name of the Human Rights Officer and alternative Human Rights Officer, including mailing address and telephone number.
- Submission of a good faith complaint or report of offensive or harassing conduct of a sexual nature or offensive conduct, harassment, bias or violence based on race, national origin, gender, religion, disability, age, marital status, status with regard to public assistance or sexual orientation shall not affect the reporter's future employment or access to public services or public accommodations.
- Use of formal reporting forms is not mandatory.
- The County will process complaints made under this policy as discreetly as possible, consistent with the County's legal obligations and the necessity to investigate allegations of discriminatory harassment and violence and take disciplinary action when the conduct has occurred.

Investigation

- By the authority of the County Board, the Human Rights Officer or Alternative Human Rights Officer, upon receipt of a report or complaint of offensive or harassing conduct of a sexual nature or offensive conduct, harassment, bias or violence based on race, national origin, gender, religion, disability, age, marital status, status with regard to public

assistance or sexual orientation, shall undertake or authorize an investigation. The investigation may be conducted by County Officials or by a third party designated by the County.

- The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s).
- In determining whether alleged conduct constitutes a violation of this policy, the County should consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incident occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and the surrounding circumstances.
- In addition, the County may take immediate steps, at its discretion, to protect the complainant and other employees or members of the public pending completion of the investigation.
- The County Human Rights Officer shall make a written report to the County Attorney. If the complaint involves the County Attorney, the report may be filed directly with the County Board. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

County Action

- The County will take such action as appropriate based on the results of the investigation. In the event that the investigation establishes that a violation of this policy has occurred, disciplinary action may be taken.
- Consistent with the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes Sec. 13.01 et seq., the results of the County's investigation will be made available to the complainant.

Reprisal

The County will discipline or take appropriate action against any employee, officer, commissioner, agent or other elected official who retaliates against any person who reports alleged harassment, bias or violence under this policy or any person who testifies, assists or participates in an investigation, or who testifies, assists or participates in a proceeding or hearing related to such harassment, bias or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

Discipline

Any County action taken against an individual pursuant to this policy shall be consistent with the requirements of:

- Applicable Collective Bargaining Agreements
- County Policies
- State and Federal law

The County will take such disciplinary action it deems necessary and appropriate, including warning, suspension, immediate discharge or other appropriate action to end discriminatory harassment and violence and prevent its recurrence.

Dissemination of Policy

- This policy shall be conspicuously posted in each county building in areas accessible to employees and members of the public.
- This policy shall be distributed to all employees upon its adoption and to all new employees upon hire.