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Sample Non-Discrimination and Harassment Policies

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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Sample Non-Discrimination and Harassment Policies

Reference Number: CTAS-1135

Counties are required to have written non-discrimination and harassment policies. Following are examples of policies that you may use as guides.

Sample Policy - Equal Employment Opportunity

Reference Number: CTAS-1136

Sample EEO Policy:

It is the policy of _____ County to provide equal employment opportunities to all individuals regardless of race, color, religion, sex, national origin, age, disability, status as a Vietnam-era veteran or special disabled veteran, or status in any other group protected by law. This policy extends to all terms and conditions of employment, including but not limited to hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training. It is the policy of _____ County to make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in undue hardship.

It is the policy of _____ County to maintain a respectful work and public service environment. _____ County prohibits and will not tolerate any form of unlawful harassment by or toward any employee or official on the basis of race, color, religion, sex, national origin, age, disability, status as a Vietnam-era veteran or special disabled veteran, or status in any other group protected by law. Any employee or official who engages in such behavior is subject to disciplinary action, up to and including termination of employment.

Employees or applicants with questions or concerns about any type of discrimination or harassment in the workplace are encouraged to bring these issues to the attention of the immediate supervisor or department head. Employees can raise concerns and make complaints without fear of reprisal and with the assurance of protection from harassment or retaliation. Anyone found to be engaging in discrimination or harassment in violation of county policy will be subject to disciplinary action, up to and including termination of employment. A finding of a violation of county policy does not, however, amount to a finding of unlawful discrimination or harassment; in order to further its objective of equal employment opportunities the county may, but shall not be required to, interpret its policy more broadly than federal or state law mandates.

Sample Policy - Hiring Practices

Reference Number: CTAS-1137

Sample Hiring Policy:

_____ County does not discriminate in its hiring practices on the basis of race, color, religion, sex, national origin, age, disability, status as a Vietnam-era veteran or special disabled veteran, or status in any other group protected by law. In order to give all interested parties an opportunity to apply for positions as they become open, job openings will be posted in the courthouse on the main bulletin board. All qualified applicants are urged to apply. Applicants must apply for a specific job opening. Employment applications will not be accepted unless a specific position is open at the time the application is submitted. Applications are not retained after the position for which the application was submitted has been filled. Anyone applying for a subsequent opening must submit a new application.

Sample Policy - Discrimination/Harassment Complaint Procedure

Reference Number: CTAS-1138

Sample Complaint Procedure Policy:

Discrimination, including harassment, in the workplace on the basis of race, color, religion, sex, national origin, age, disability, genetic information, veteran status, or status in any other group protected by law is illegal. If an employee believes that he or she has been subjected to illegal discrimination or harassment related to employment with _____ County, the employee should report the incident promptly to the county official or department head under whose direction the employee works. If the problem is not resolved within a reasonable time, or if for any reason the employee feels uncomfortable reporting the problem to the county official or department head, then the problem should be reported to the county _____. The county _____ may act as a mediator between the affected employee and the county official or department head under whose direction the employee works to assist them in reaching an acceptable resolution of the problem, but the county _____ has no legal authorization to make employment decisions on behalf of the county official or department head. A conclusion by the county that disciplinary action should be taken does not constitute a finding of unlawful discrimination or harassment; in order to further its objective of equal employment opportunities the county may, but shall not be required to, interpret its policy more broadly than federal or state law mandates. No adverse personnel action will be taken against an employee for reporting an incident of discrimination or harassment or for assisting in the investigation of a complaint. However, disciplinary action may be taken against an individual who intentionally and maliciously provides false information in connection with a complaint.

Sample Policy - Religious Accommodation

Reference Number: CTAS-1139

Sample Religious Accommodation Policy:

Efforts will be made to accommodate the religious observance and practices of an employee unless such accommodation is unreasonable and would result in an undue hardship on the conduct of business. In making these decisions supervisors will consider such factors as business necessity, financial costs and expenses, and resulting personnel problems.

Sample Policy - Disability Accommodation

Reference Number: CTAS-1140

Sample Disability Accommodation Policy:

It is the policy of [name of county] to assure equal employment opportunity to persons with disabilities on the basis of qualifications and ability to perform the job. There shall be no discrimination in terms of employment opportunities, wages, hours of work, or other terms or conditions of employment or benefits.

An individual with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or who is regarded as having such an impairment.

Application Process

Persons with disabilities are guaranteed the same application process as other applicants. Assistance may be provided when needed, such as the following:

- (a) A reader may be provided for completing an application or written examination for qualified applicants who are vision-impaired or functionally illiterate.*
- (b) Waiver of a driver's license may be requested for qualified disabled applicants who are not allowed to drive.*

Employment Physical

New employees working in _____ positions are required to take a physical examination after an offer of employment has been made. The physical examination will be conducted at the [name of county] Health Department at county expense. If a physical limitation is determined which prevents an otherwise qualified individual from performing the essential functions of the job, the appointee can still retain the position if reasonable accommodation can be made. The possibility of reasonable accommodation shall be de-

terminated by the applicant and the employer. Information obtained in the pre-employment physical shall be confidential to the extent provided by law, except for the following:

(a) Supervisors shall be informed of any restrictions on the duties required for reasonable accommodation.

(b) Safety personnel shall be informed of any possibility of emergency treatment.

Reasonable Accommodation

A department shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with disabilities. The specific accommodations needed shall be determined jointly by the individual and the employer with technical assistance provided by the ADA Coordinator for [name of county]. Reasonable accommodation may include, but shall not be limited to:

(a) making facilities readily accessible to and usable by persons with disabilities, and

(b) job restructuring, job sharing or modified work schedule, acquisition or modification of equipment or devices and other similar actions.

In determining whether an accommodation would impose an undue hardship on the operation of the department, factors to be considered include:

(a) the overall size of the specific work area or program with respect to the number of employees and budget,

(b) the type of operation, and

(c) the nature and cost of the accommodation needed.

It is the responsibility of the employee or applicant to make known to the employer the need for an accommodation.

Accessibility

Each department is required periodically to survey its programs and physical facilities to determine if they are accessible to persons with disabilities. If structural problems are found, it is the responsibility of [name of county] to budget for changes. Non-structural problems requiring some form of reasonable accommodation will be addressed on an individual basis. The ADA Coordinator will provide technical assistance in areas of accessibility related to employment.

Complaints

Individuals who believe that they have been subjected to discrimination on the basis of a disability are encouraged to report the incident in accordance with the complaint procedure included with the county's policy on Equal Employment Opportunity, or discuss the matter with the county's ADA Coordinator, _____, or both.

Sample Policy - Sexual Harassment

Reference Number: CTAS-1141

Sexual harassment, when it was first recognized, was treated somewhat differently than other forms of workplace harassment. As the law has developed over the years, this form of harassment is being treated essentially the same as the other forms of harassment and a separate policy is not necessary. However, counties may wish to adopt a separate policy addressing this issue. Following is an example of such a policy:

One particular kind of harassing behavior is sexual harassment. Sexual harassment, which can consist of a wide range of unwanted and unwelcome sexually directed behavior, is defined as:

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

(1) Submitting to the conduct is made either explicitly or implicitly a term or condition of an individual's employment or of obtaining public services; OR

(2) Submitting to or rejecting the conduct is used as the basis for an employment decision affecting an individual's employment or public services; OR

(3) Such conduct has the purpose or result of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Neither sexual harassment nor any other form of unlawful harassment will be tolerated in the workplace. Employees are urged to report alleged incidents of unlawful harassment. No adverse personnel action will be taken against any employee who reports such incidents or who assists in an investigation of a complaint. Anyone found to be engaging in harassment in violation of county policy will be subject to disciplinary action, up to and including termination of employment. A finding of a violation of county policy does not, however, amount to a finding of unlawful harassment; in order to further its objective of equal employment opportunities the county may, but shall not be required to, interpret its policy more broadly than federal or state law mandates.

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