



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: May 25, 2022

Department: Business Services Agenda Planning Date: Time required: 10 min

☐ Audio/Visual aids

Contact: Justine Flora Phone: 503/584-7786

Department Head Signature:
CC Chaffins

TITLE Policy 304 and Procedures 304-A, 304-B and 304-C Americans with Disabilities Act (ADA)

Issue, Description & Background Policy 304 was adopted in January of 1997 and last revised May of 2019. We are recommending revisions to update the policy; adding a component for a new Public Works ADA Right of Way Transition Plan.

Financial Impacts: None identified

Impacts to Department & External Agencies Minimal administrative responsibilities will be added along with the addition of Procedure 304-C

Options for Consideration: 1. Adopt changes to Policy 304 and Procedures 304-A, 304-B and addition of 304-C
2. Reject changes to Policy 304 and Procedures 304-A, 304-B and addition of 304-C

Recommendation: 1. Adopt changes to Policy 304 and Procedures 304-A, 304-B and addition of 304-C

List of attachments: Board Order In the Matter of Revising Administrative Policy 304, Americans with Disabilities Act
Policy 304, Americans with Disabilities Act final revision
Policy 304, Americans with Disabilities Act edited version
Procedure 304-A, Americans with Disabilities Act - final version
Procedure 304-A, Americans with Disabilities Act - edited version
Procedure 304-B, Americans with Disabilities Act - final version
Procedure 304-B, Americans with Disabilities Act - edited version
Procedure 304-C, Americans with Disabilities Act - new procedure

Presenter: Justine Fora
Leslie Martin
Don Alexander

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to: Don Alexander, Leslie Martin and Justine Flora

BEFORE THE BOARD OF COMMISSIONERS

FOR MARION COUNTY, OREGON

In the Matter of Revising Administrative)
Policy 304, *Americans with Disabilities Act*)

ORDER No. _____

This matter came before the Marion County Board of Commissioners at its regularly scheduled public meeting Wednesday, May 25, 2022, to consider the adoption of a revised administrative policy.

WHEREAS, the board adopted Policy 304, Americans with Disabilities Act in January 1997 requiring regular review and updates as necessary; and

WHEREAS the board finds it appropriate to accept the revisions to Policy 304, Americans with Disabilities Act; now therefore,

IT IS HEREBY ORDERED that revised Marion County Administrative Policy 304, Americans with Disabilities Act attached hereto, is adopted.

DATED at Salem, Oregon, this *25th* day of May 2022. _

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner

Attachment:

- Policy 304, Americans with Disabilities Act final revision
- Policy 304, Americans with Disabilities Act edited version
- Procedure 304-A, Americans with Disabilities Act - final version
- Procedure 304-A, Americans with Disabilities Act - edited version
- Procedure 304-B, Americans with Disabilities Act - final version
- Procedure 304-B, Americans with Disabilities Act - edited version
- Procedure 304-C, Americans with Disabilities Act - new procedure

SECTION:	General Administration	POLICY #:	304
TITLE:	Americans with Disabilities Act	PROCEDURE #:	304-A - Employees 304-B - Public 304-C – Rights-of-way
		ORDER #:	19-071
DEPT:	Business Services, Human Resources, and Public Works	PROGRAM:	Human Resources Risk Management Public Works Engineering
ADOPTED:	01/97	REVIEWED:	05/22
		REVISED:	05/2022

PURPOSE: The purpose of this policy is to ensure that Marion County does not discriminate against individuals with disabilities. The county complies with the Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAA) (28 CFR Part 35 and 36).

AUTHORITY: The Marion County Board of Commissioners may establish rules and regulations in reference to managing the interest and business of the county under ORS 203.010, 203.035 and 203.111.

The Marion County Board of Commissioners expresses the governing body's official, organizational position on fundamental issues or specific repetitive situations through formally adopted, written policy statements. The policy statements serve to provide rules for public officials on the conduct of county business.

Marion County Administrative Policies and Procedures outline the forms and process through which the board takes formal action on administrative policy. They are the official record of county administrative policy.

APPLICABILITY: All county departments, elected officials, and employees, and the general public.

GENERAL POLICY: In accordance with the requirements of the Americans with Disabilities Act (ADA) and the ADA Amendments Act (ADAAA), Marion County does not discriminate on the basis of disability against qualified individuals with disabilities in county employment, services, programs, or activities.

DEFINITIONS:

Disability: The Americans with Disabilities Amendments Act defines disability as: a physical or mental impairment, which substantially limits a major life activity; a record of physical or mental impairment that substantially limits a major life activity; or when a covered entity takes an action prohibited by the ADAA because of an actual or perceived impairment that is not both transitory and minor.

SUBJECT: AMERICANS WITH DISABILITIES ACT

Major Life Activities: Includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. The regulations include the operations of major bodily functions.

Physical or Mental Impairment: Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body system, such as neurological, musculoskeletal, special sense organs, respiratory, cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine, and any mental or psychological disorders such as intellectual disability, organic brain syndrome, emotional or mental illness and specific learning disabilities.

Reasonable Accommodation: Includes: making existing facilities readily accessible and usable by individuals with disabilities; job restructuring; part-time and modified work schedules; reassignment to a vacant position; acquisition or modification of equipment and/or devices; adjustment or modification of examinations; adjustment or modification of training materials; and adjustment or modification of policies and similar activities.

Rights-of-way: The right of the public to pass over a specifically described portion of land which is a matter of record. Rights-of-way are available for passage by the public at large.

Rights-of-way Grievance: An appeal to a higher authority following the Public Works Department's decision on an accommodation request. A decision may be appealed if the Public Works Department denies an accommodation request or if the individual making the accommodation request is dissatisfied with the proposed accommodation. For example, the accommodation is approved, but the timeframe for its implementation is of concern.

Undue Hardship: An action that requires significant difficulty or expense, considered in light of the effect on expenses and resources or the impact of such accommodation upon the business operation.

POLICY GUIDELINES:

Information on the Americans with Disabilities Act is available on the United States Department of Justice Civil Rights Division website: <http://www.ada.gov/>.

1. RESPONSIBILITIES

- 1.1. Marion County Human Resources is responsible for handling employment-related requests and claims.
- 1.2. Each Marion County Department is responsible for handling public requests for accommodation to access services, programs, and activities.
- 1.3. Marion County Public Works is responsible for handling accommodation requests related to rights-of-way.

SUBJECT: AMERICANS WITH DISABILITIES ACT

1.4. Marion County Risk Management is responsible for handling ADA/Section 504 complaints regarding access to public programs, activities, services, or rights-of-way.

1.5. Employment Accommodation

1.5.1. All county departments are responsible for identifying the essential functions of each position within the department prior to recruitment. Generally, essential functions of a position are reviewed annually.

1.5.2. Functions of a position are considered essential if:

1.5.2.1. the position exists to perform the function;

1.5.2.2. there are a limited number of other employees available to perform the function or among whom the function can be distributed; or,

1.5.2.3. the function is highly specialized and the person in the position is hired for his/her expertise or ability to perform the function.

1.5.3. Whenever possible, Marion County will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job. An individual who can be reasonably accommodated in a job without undue hardship to the county, will be given the same consideration for a position as any other applicant.

1.5.4. Marion County's ADA Committee is responsible for reviewing reasonable accommodation requests.

1.5.5. Medical records regarding an employee's disability or an applicant's disability must be kept separate from other applicant files and employee files.

1.6. Physical and Service Accessibility Under the ADAA

1.6.1. New buildings must be built so that they are readily accessible to individuals with disabilities.

1.6.2. Existing buildings must have architectural barriers removed if it is possible without great difficulty or expense to the county.

1.6.3. If a building is renovated, the renovated portion must be made accessible to individuals with disabilities to the extent required under the ADAA.

1.6.4. Service accessibility includes removing procedural barriers which may cause individuals with disabilities to be unable to access public services.

1.6.5. Each department is required to maintain and annually review its plans for assuring physical and service accessibility.

1.7. Public Access to County Programs, Services, and Activities

1.7.1. Marion County does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Under Title II of the ADA, each county program or service, when viewed in its entirety, will be readily accessible to and usable by qualified individuals with disabilities.

1.7.2. Marion County will make reasonable modifications to policies and procedures in order for qualified individuals with disabilities to participate in programs, services, or activities unless doing so would cause a fundamental alteration in the nature of a program or service or would result in an undue financial or administrative burden on the county.

SUBJECT: AMERICANS WITH DISABILITIES ACT

1.7.3. Public Access Accommodation Requests:

- 1.7.3.1. Individuals needing ADA accommodations or services in order to participate in a county program, activity, or event must submit a request to the Marion County department sponsoring the program.
- 1.7.3.2. Requests for accommodations must be received as soon as possible, but not less than two business days before an activity or event.
- 1.7.3.3. Department staff must be responsive to citizen requests for accommodation and process them in a timely manner.

1.8. Grievance Procedure: Public Rights-of-Way Reasonable Accommodation

1.8.1. A Grievance procedure is required for public entities with 50 or more employees. Federal law does not describe what a Grievance procedure must include, but the United States Department of Justice recommends that a Grievance procedure include:

- 1.8.1.1. A description of how and where a Grievance may be filed with the government entity;
- 1.8.1.2. If a written complaint is required, a statement notifying potential complainants that alternative means of filing will be available to people with disabilities who require such an alternative;
- 1.8.1.3. A description of the time frames and processes to be followed by the complainant and the government entity;
- 1.8.1.4. Information on how to appeal an adverse decision; and
- 1.8.1.5. A statement of how long complaint files will be retained.

2. EXCEPTIONS

There are no exceptions to this policy.

3. IMPLEMENTATION

Marion County Risk Management and Human Resources are responsible for implementing this policy and assuring compliance by all county departments.

4. PERIODIC REVIEW

This policy shall be reviewed by Human Resources, Public Works, and Risk Management at least every three years, or more often if needed, and updated as necessary.

Approved: 01/97

Revised: 04/05
02/09
04/12
05/19
05/22



TITLE: Americans with Disabilities Act		PROCEDURE #: 304-A
DEPT: Human Resources		DIVISION/ PROGRAM: Human Resources
EFFECTIVE DATE: 2/09	REVIEWED: 05/22	REVISED: 05/22

OBJECTIVE: To establish procedures for employees to request an accommodation under the Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAA) (28 CFR Part 35 & 36)

REFERENCE: Policy # 304

POLICY STATEMENT: These procedures are adopted to implement Marion County Administrative Policy 304, Americans with Disabilities Act for Marion County employees.

APPLICABILITY: All county employees

PROCEDURES:

1. **Introduction:**

The Americans with Disabilities Act (ADA). The ADA and ADAA requires state and local government employers to take specific steps to ensure that individuals with disabilities do not experience discrimination in employment practices. Employment practices include job application procedures, hiring, firing, advancement, compensation, training and other terms, conditions, and privileges of employment.

2. **Definitions:**

2.1. **Disability**

2.1.1. A physical or mental impairment that substantially limits one or more major life activities; or,

2.1.2. A record of a physical or mental impairment that substantially limited a major life activity; or,

2.1.3. When a covered entity takes an action prohibited by the ADAA because of an actual or perceived impairment that is not both transitory and minor.

2.2. **Essential Job Function**

Functions of a position are considered essential if:

2.2.1. The position exists to perform the function; or,

SUBJECT: AMERICANS WITH DISABILITIES ACT

2.2.2. There are a limited number of other employees available to perform the function or among whom the function can be distributed; or

2.2.3. A function is highly specialized and the person in the position is hired for his/her expertise or ability to perform the function.

2.3 Reasonable accommodation

Modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions.

2.4 Undue hardship

An action that requires significant difficulty or expense, considered in light of the effect on expenses and resources or the impact of such accommodation upon the business operation.

3. Interactive Process:

3.1. The interactive process is defined as a process in which the covered individual and the employer determine the precise limitations created by the disability and how best to respond to the need for accommodation.

3.2. The county, as the employer, will engage in an interactive process when a need is identified, or accommodation requested. An employee who believes a disability prevents or hampers their ability to perform an essential function of their position must complete the Marion County Reasonable Accommodation Request forms. These forms may be obtained from their supervisor, Marion County Human Resources, or on the county intranet web page.

3.3. The county may require the employee to obtain a statement from the employee's healthcare provider to certify that the employee has a covered disability for which the employee need a reasonable accommodation. The employee must take a copy of their Essential Job Functions and an Interactive Process Questionnaire to their medical provider for completion. The employee must submit the completed documentation to Marion County Human Resources.

3.4. Request for accommodation shall be reviewed by the Marion County ADA Committee. The committee will evaluate requests for accommodation, seek additional information or documents as necessary to make recommendations as part of the interactive process, and approve appropriate reasonable accommodations.

3.5. Marion County Human Resources will provide the employee with written determination regarding the accommodation request and what, if any, accommodation will be provided.

3.6. The employee may contact HR to re-engage in the interactive process, to address any concerns about the proposed accommodation, for reconsideration of the accommodation decision or to provide additional information in support of the request.

SUBJECT: AMERICANS WITH DISABILITIES ACT

Adopted: 02/09

Revised: 11/11
05/22



TITLE: Americans with Disabilities Act		PROCEDURE #: 304-B
DEPT: Business Services		DIVISION/ PROGRAM: Risk Management
EFFECTIVE DATE: 8/05	REVIEWED: 2/09, 11/11, 03/15, 05/22	REVISED: 2/09, 11/11, 05/2022

OBJECTIVE: To establish procedures for handling non-employee concerns regarding provision of, or access to county programs, services, or activities

REFERENCE: Policy # 304

POLICY STATEMENT: These procedures are adopted to implement Marion County Administrative Policy 304, Americans with Disabilities Act for Marion County employees. Marion County complies with the Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAA).

APPLICABILITY: Individuals who are not employees of Marion County

PROCEDURES:

1. **Introduction:**

Marion County does not discriminate based on disability in admission to, access to, or operations of its programs, services, or activities. Under Title II of the ADA, each county program or service, when viewed in its entirety, will be readily accessible to and usable by qualified individuals with disabilities. Marion County will make reasonable modifications to policies and procedures for qualified individuals with disabilities to participate in programs, services or activities unless doing so would cause a fundamental alteration to the nature of a program or service or would result in an undue financial or administrative burden on the county.

2. **Access and Accommodation Requests:**

- 2.1. Individuals needing ADA accommodations or services in order to participate in a Marion County program, activity or event should make their request to the Marion County department sponsoring the program.
- 2.2. Requests for accommodations must be received as soon as possible, but not less than two business days before an activity or event.

SUBJECT: AMERICANS WITH DISABILITIES ACT

3. Complaint and Investigation Process:

3.1. Complaints alleging discrimination by Marion County or its employees on the basis of an individual's disability should be submitted to the Marion County Risk Manager. The risk manager has been designated by Marion County to coordinate complaints and compliance efforts.

Risk Manager
Marion County
PO Box 14500
Salem OR 97309
503.589.3295

email: riskmanagement@co.marion.or.us

3.2. A complaint should be filed in writing, containing the name, address and telephone number of the person filing, and briefly describing the alleged violation of the regulations.

3.3. A complaint should be filed within 10 days of the alleged violation.

3.4. An investigation, as may be appropriate, shall follow the filing of a complaint. The Risk Manager or designee shall conduct the investigation. These procedures contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.

3.5. A written determination as to the validity of the complaint and a description of the resolution, if any, shall be issued by the Risk Manager and a copy forwarded to the complainant no later than 30 days after its filing.

3.6. The Risk Manager shall maintain separate, confidential files and records for Marion County relating to the complaints filed.

3.7. The complainant can request reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made to the Marion County Chief Administrative Officer.

Adopted: 08/05

Revised: 02/09
11/11
05/22



TITLE: ADA Transition Plan for Public Rights-of-Way - Accessibility Grievance Procedure		PROCEDURE #: 304-C - Rights-of-way
DEPT: Public Works		PROGRAM: Engineering
EFFECTIVE DATE: 05/2022	REVIEWED:	REVISED:

OBJECTIVE: To establish a request for accommodation and outline the grievance procedure for prompt and equitable resolution of complaints alleging any action prohibited by the U.S. Department of Justice regulations implementing Title II of the Americans with Disabilities Act.

REFERENCE: Policy #304

POLICY STATEMENT: In accordance with the requirements of the Americans with Disabilities Act (ADA) and the ADA Amendments Act (ADAAA), Marion County does not discriminate on the basis of disability against qualified individuals with disabilities in county employment, services, programs, or activities.

APPLICABILITY: Members of the public.

PROCEDURES:

1. Request for Accommodation

1.1. An accommodation request may be filed in one of the following ways:

- 1.1.1. Submit a request for accommodation to the Public Works Department via the on-line form. <https://www.co.marion.or.us/PW/Engineering/Pages/ADA-Transition-Plan.aspx>
- 1.1.2. Email a request for accommodation to <mailto:PWADA@co.marion.or.us>
- 1.1.3. Mail a written request for accommodation to:
Marion County Public Works, Attn: ADA Request
5155 Silverton Rd NE
Salem, OR 97305
- 1.1.4. Deliver a written request for accommodations to the
Marion County Public Works Department
5155 Silverton Rd NE, Bldg. 1
Salem, OR 97305
- 1.1.5. Verbal request to Public Works Department
Phone: 503-588-5036

1.2. Public works staff will review the request and respond to requestor in writing no later than 30 calendar days after receipt of the request.

2. Complaint and Investigation Process

SUBJECT: ADA Transition Plan for Public Rights-of-Way Accessibility Grievance Procedure

- 2.1. If the response by the Public Works Department does not satisfactorily resolve the issue, the individual making the request may file a formal grievance using the on-line form <https://www.co.marion.or.us/PW/Engineering/Pages/ADA-Transition-Plan.aspx> with the county risk manager. The risk manager has been designated to coordinate ADA compliance efforts for Marion County.

Email: riskmanagement@co.marion.or.us

Mail: Risk Manager
Marion County
PO Box 14500
Salem OR 97309
Phone: 503-589-3295

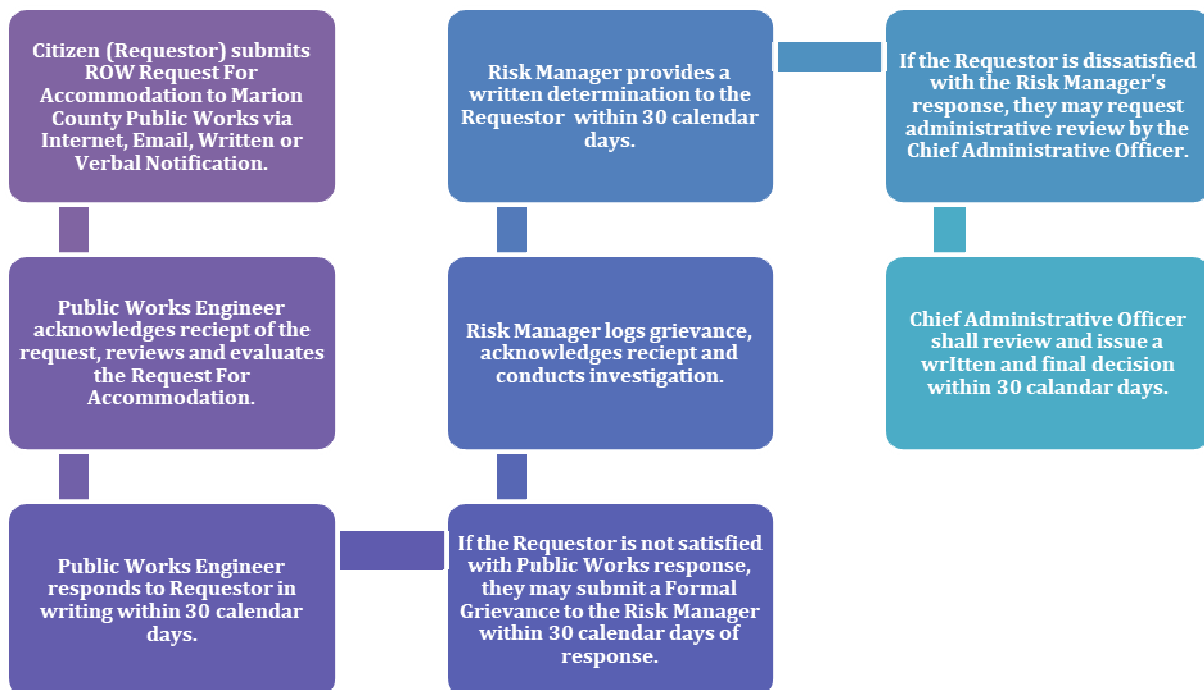
- 2.2. A complaint must be filed in writing and contain the name, address, and telephone number of the person filing the complaint. It must describe the alleged violation of the regulations.
- 2.3. A county employee may transcribe an oral complaint from a member of the public.
- 2.4. A complaint must be filed no later than 30 calendar days after the response to the request for accommodation has been mailed to the complainant pursuant to Section 2.9 below.
- 2.5. The risk manager or designee shall conduct the investigation, as may be appropriate, following the filing of a complaint.
- 2.6. These procedures contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.
- 2.7. The risk manager shall issue a written determination as to the validity of the complaint and a description of the resolution, if any, and send a copy to the complainant pursuant to Section 2.9 below no later than 30 calendar days after receipt of the complaint.
- 2.8. If dissatisfied with the resolution, the complainant may request reconsideration of the case.
- 2.8.1. Requests for reconsideration must be made to the Marion County Chief Administrative Officer in one of the following ways:
- 2.8.1.1. Email a request for reconsideration to jfritz@co.marion.or.us
- 2.8.1.2. Mail a written request for accommodation to
Chief Administrative Officer – ADA Request
Marion County Board of Commissioners Office
PO Box 14500
Salem, OR 97309
- 2.8.1.3. Deliver a written request for accommodations to the
Chief Administrative Officer
Marion County Board of Commissioners Office
555 Court St NE, Suite 5232
Salem, OR 97301

SUBJECT: ADA Transition Plan for Public Rights-of-Way Accessibility Grievance Procedure

- 2.8.2. A request for reconsideration must be filed no later than 30 calendar days after written determination of the risk manager has been mailed to the complainant pursuant to Section 2.9 below.
- 2.8.3. The chief administrative officer shall issue a written and final decision and send a copy to the complainant pursuant to Section 2.9 below no later than 30 calendar days after receipt of the request for reconsideration.
- 2.9. All decisions shall be sent by first class mail to the complainant. Phone notification shall also be made in cases involving visually impaired individuals.
- 2.10. In accordance with the Secretary of State's record retention schedules, the risk manager shall maintain the files and records of the county relating to complaints filed.
- 2.11. Nothing in this grievance process is meant to be used for any personnel, EEO, or labor agreement grievance procedure for Marion County.

Adopted: 04/2022

ROW Accommodation Request and Grievance Procedure





ADMINISTRATIVE POLICIES

SECTION: Human Resources General Administration		POLICY #:	304
TITLE: Americans with Disabilities Act		PROCEDURE #:	304-A - Employees 304-B - Public 304-C - Rights-of-way
		ORDER #:	19-071
		PROGRAM:	Human Resources Risk Management Public Works Engineering
DEPT:	Business Services, Human Resources , and Public Works		
ADOPTED:	01/97	REVIEWED:	05/2022
		REVISED:	05/1998/2005/2022

PURPOSE:

The purpose of this policy is to ensure that Marion County does not discriminate against individuals with disabilities. The county complies with the Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAA) (28 ~~CFR~~ [CFR](#) Part 35 and 36).

AUTHORITY:

The Marion County Board of Commissioners may establish rules and regulations in reference to managing the interest and business of the county under ORS 203.010, 203.035 and 203.111.

The Marion County Board of Commissioners expresses the governing body's official, organizational position on fundamental issues or specific repetitive situations through formally adopted, written policy statements. The policy statements serve to provide rules for public officials on the conduct of county business.

The Marion County ~~Board of Commissioners'~~ Administrative Policies and Procedures ~~manual~~ outlines the forms and process through which the board takes formal action on administrative policy. ~~It is~~ [They are](#) the official record of county administrative policy.

APPLICABILITY:

All county departments, elected officials, and employees, and the general public.

GENERAL POLICY:

~~In accordance with the requirements of the Americans with Disabilities Act (ADA) and the ADA Amendments Act (ADAAA), Marion County does not discriminate on the basis of disability against qualified individuals with disabilities in county employment, services, programs, or activities. The ADA and ADAA prohibit state or local government employers from discriminating against qualified individuals with disabilities in employment practices and access to public programs, activities, and services. Employment practices include job application procedures, hiring, firing, advancement, compensation, training and other terms, conditions and privileges of employment.~~

SUBJECT: AMERICANS WITH DISABILITIES ACT

DEFINITIONS:

Disability: The Americans with Disabilities Amendments Act defines disability as: a physical or mental impairment, which substantially limits a major life activity; a record of physical or mental impairment that substantially limits a major life activity; or when a covered entity takes an action prohibited by the ADAA because of an actual or perceived impairment that is not both transitory and minor. ~~(formerly referred to as “regarded as”).~~

Major Life Activities: Includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. The regulations include the operations of major bodily functions.

Physical or Mental Impairment: Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body system, such as neurological, musculoskeletal, special sense organs, respiratory, cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine, and any mental or psychological disorders such as intellectual disability, organic brain syndrome, emotional or mental illness and specific learning disabilities.

Reasonable Accommodation: Includes: -making existing facilities readily accessible and usable by individuals with disabilities; job restructuring; part-time and modified work schedules; reassignment to a vacant position; acquisition or modification of equipment and/or devices; adjustment or modification of examinations; adjustment or modification of training materials; and adjustment or modification of policies and similar activities.

Rights-of-way: ~~Refers to a strip of land given to the public for specific uses including roadways, bridge structures, public utilities, etc.~~ The right of the public to pass over a specifically described portion of land which is a matter of record. Rights-of-way are available for use-passage by the public at large. The most common county right-of-way is an easement for roadway purposes granted to the county by a private landowner.

Rights-of-way Grievance: ~~An appeal to a higher authority regarding decisions made by the ADA Compliance Officer following an accommodation request that has been denied or it may provide information regarding some other aspect of the response the requestor finds objectionable following the Public Works Department’s decision on an accommodation request. A decision may be appealed if the Public Works Department denies an accommodation request or if the individual making the accommodation request is dissatisfied with the proposed accommodation. For example, the accommodation is approved, but the timeframe for its implementation is of concern.~~

Undue Hardship: An action that requires significant difficulty or expense, considered in light of the effect on expenses and resources or the impact of such accommodation upon the business operation.

SUBJECT: AMERICANS WITH DISABILITIES ACT

POLICY GUIDELINES:

Information on the Americans with Disabilities Act is available on the United States Department of Justice Civil Rights Division website: <http://www.ada.gov/>.

1. RESPONSIBILITIES

1.1. Marion County Human Resources is responsible for handling employment-related requests and claims.

1.2. Each Marion County Department is responsible for handling public requests for accommodation to access services, programs, and activities.

1.3. Marion County Public Works is responsible for handling accommodation requests related to rights-of-way.

~~1.2.1.4.~~ Marion County Risk Management is responsible for handling ADA/Section 504 ~~claims~~ complaints regarding access to public programs, activities ~~or~~, services, or rights-of-way.

1.5. Employment Accommodation:

~~1.2.1.1.5.1.~~ All county departments are responsible for identifying the essential functions of each position within the department ~~prior to recruitment.~~ Generally, ~~Essential functions of a position are updated-reviewed annually.~~

~~1.2.2.~~ The essential functions of a position are identified prior to recruitment and updated annually.

~~1.2.3.1.5.2.~~ Functions of a position are considered essential if:

~~1.2.3.1.1.5.2.1.~~ the position exists to perform the function;

~~1.2.3.2.1.5.2.2.~~ there are a limited number of other employees available to perform the function or among whom the function can be distributed; or,

~~1.2.3.3.1.5.2.3.~~ a ~~the~~ function is highly specialized and the person in the position is hired for his/her expertise or ability to perform the function.

~~1.2.4.~~ Whenever possible, Marion County will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job.

~~1.2.5.1.5.3.~~ An individual, who can be reasonably accommodated ~~for in~~ a job without undue hardship to the ~~employer~~ county, will be given the same consideration for a position as any other applicant.

~~1.2.6.1.5.4.~~ Marion County's ADA Committee is responsible for reviewing ~~R~~ reasonable accommodation requests ~~will be reviewed by Marion County's ADA Committee.~~

~~1.2.7.1.5.5.~~ Medical records regarding an employee's disability or an applicant's disability must be kept separate from other applicant files and employee files.

1.6. Physical and Service Accessibility Under the ADAA:

SUBJECT: AMERICANS WITH DISABILITIES ACT

~~1.2.8.1.6.1.~~ New buildings must be built so that they are readily accessible to individuals with disabilities.

~~1.2.9.1.6.2.~~ Existing buildings must have architectural barriers removed if it is possible without great difficulty or expense to the ~~employer~~county.

~~1.2.10.1.6.3.~~ If a building is renovated, the renovated portion must be made accessible to individuals with disabilities to the extent required under the ADAA.

~~1.2.11.1.6.4.~~ Service accessibility includes removing procedural barriers, which may cause individuals with disabilities to be unable to access public services.

~~1.2.12.1.6.5.~~ Each department is required to maintain and annually review its plans for assuring physical and service accessibility.

1.7. ~~Non-employee~~Public Access to County Programs, Services, and Activities:

~~1.2.13.1.7.1.~~ Marion County does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. ~~Under Title II of the ADA,~~ each county program or service, when viewed in its entirety, will be readily accessible to and usable by qualified individuals with disabilities.

~~1.2.14.1.7.2.~~ Marion County will make reasonable modifications to policies and procedures in order for qualified individuals with disabilities to participate in programs, services, or activities unless doing so would cause a fundamental alteration in the nature of a program or service or would result in an undue financial or administrative burden on the county.

~~1.2.15.1.7.3.~~ ~~Non-Employee~~Public Access ~~and~~ Accommodation Requests:

~~1.2.15.1.1.7.3.1.~~ Individuals needing ADA accommodations or services in order to participate in a ~~Marion C~~county program, activity, or event must submit a request to the Marion County department sponsoring the program.

~~1.2.15.2.1.7.3.2.~~ Requests for accommodations must be received as soon as possible, but not less than two business days before an activity or event.

~~1.2.15.3.1.7.3.3.~~ Department staff must be responsive to citizen requests for accommodation and process them in a timely manner.

1.8. Grievance Procedure: Public Rights-of-Way Reasonable Accommodation ~~Denial~~

1.8.1. A Grievance procedure is required for public entities with 50 or more employees. ~~and shall include the following~~ Federal law does not describe what a Grievance procedure must include, but the United States Department of Justice recommends that a Grievance procedure include:

1.8.1.1. A description of how and where a Grievance may be filed with the government entity; ~~Clearly state that a grievance will be filed only after an accommodation request has been submitted and then denied.~~

1.8.1.2. If a written complaint is required, a statement notifying potential complainants that alternative means of filing will be available to people with disabilities who require such an alternative; ~~Identify a timeframe for grievance submittal, as soon as possible, but not later than 90 or 180 calendar days after the reasonable accommodation denial; and~~

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- 1.8.1.3. A description of the time frames and processes to be followed by the complainant and the government entity; Identify the designee for the grievance process;
- 1.8.1.4. Information on how to appeal an adverse decision; and
- 1.8.1.5. A statement of how long complaint files will be retained.

~~1.3.~~

2. EXCEPTIONS

There are no exceptions to this policy.

2.1. Job applicants who pose a significant risk of substantial harm to the health and safety of others, for whom the risk cannot be eliminated by providing a reasonable accommodation, will not be hired.

2.2. Employees who may pose a significant risk of substantial harm to the health and safety of others, for whom the risk cannot be eliminated by providing a reasonable accommodation, will be placed on a leave of absence until a decision is made regarding their employment status.

Commented [LT1]: Moved to Procedure 304-A

3. IMPLEMENTATION

Marion County Risk Management and Human Resources ~~is~~ are responsible for implementing this policy and assuring compliance by all county departments.

4. PERIODIC REVIEW

This policy shall be reviewed by Human Resources, Public Works, and Risk Management ~~and Human Resources~~ at least every three years, or more often if needed, and updated as necessary.

Approved: 01/97

Revised: 04/05
02/09
04/12
05/19
08/2005/22



TITLE: Americans with Disabilities Act		PROCEDURE #: 304-A
DEPT: Human Resources Business Services		DIVISION/ PROGRAM: Human Resources
EFFECTIVE DATE: 2/09	REVIEWED: 5/11 Pending	REVISED: 11/11 Pending

OBJECTIVE: To establish procedures for employees to request an accommodation under the Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAA) (28 CFR Part 35 & 36)

REFERENCE: Policy # 304

POLICY STATEMENT: These procedures are adopted to implement Marion County Administrative Policy 304, Americans with Disabilities Act for Marion County employees.

APPLICABILITY: All county employees

PROCEDURES:

1. Introduction:

The Americans with Disabilities Act (ADA). The ADA and ADAA requires state and local government employers to take specific steps to ensure that individuals with disabilities do not experience discrimination in employment practices. Employment practices include job application procedures, hiring, firing, advancement, compensation, training and other terms, conditions, and privileges of employment.

2. Definitions:

2.1. Disability

2.1.1. A physical or mental impairment that substantially limits one or more major life activities; or,

2.1.2. A record of a physical or mental impairment that substantially limited a major life activity; or,

2.1.3. When a covered entity takes an action prohibited by the ADAA because of an actual or perceived impairment that is not both transitory and minor.

2.2. Essential Job Function

Functions of a position are considered essential if:

2.2.1. The position exists to perform the function; or,

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2.2.2. There are a limited number of other employees available to perform the function or among whom the function can be distributed; or

2.2.3. A function is highly specialized and the person in the position is hired for his/her expertise or ability to perform the function.

2.3 Reasonable accommodation

Modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions.

2.4 Undue hardship

An action that requires significant difficulty or expense, considered in light of the effect on expenses and resources or the impact of such accommodation upon the business operation.

3. Interactive Process:

3.1. The interactive process is defined as an informal practicea process in which the covered individual and the employer determine the precise limitations created by the disability and how best to respond to the need for accommodation.

~~3.1.~~3.2. The county, as the employer, ~~must~~will engage in an interactive process when a need is ~~identified~~identified, or accommodation requested. An employee who believes a disability prevents or hampers their ability to perform an essential function of their position must complete the Marion County Reasonable Accommodation Request forms. These forms may be obtained from their supervisor, Marion County Human Resources program staff, or on the county intranet web page.

~~3.2.~~3.3. The county may require the employee to obtain a statement from the employee's healthcare provider to certify that the employee has a covered disability for which ~~he/she~~the employee needs a reasonable accommodation. The employee must take a copy of their Essential Job Functions and an Interactive Process Questionnaire to their medical provider for completion. The employee must submit the completed documentation to ~~the assigned Marion County Human Resources analyst~~.

~~3.3. The employee's supervisor shall forward the request for accommodation and any supporting medical provider documentation to the assigned human resources analyst.~~

3.4. Request for accommodation shall be reviewed by the Marion County ADA Committee. The committee will evaluate requests for accommodation, seek additional information or documents as necessary to make recommendations as part of the interactive process, and approve appropriate reasonable accommodations.

3.5. Marion County Human Resources program staff will provide the employee with written determination ~~on the regarding the~~ accommodation request and what, if any, accommodation will be provided.

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- 3.6. The employee may ~~request~~contact HR to-re-engage in the interactive process, to address any concerns about the proposed accommodation, for reconsideration of the accommodation decision or to provide additional information in support of the request.

Adopted: 02/09

Revised: 11/11
Pending



TITLE: Americans with Disabilities Act		PROCEDURE #: 304-B
DEPT: Business Services		DIVISION/ PROGRAM: Human Resources Risk Management
EFFECTIVE DATE: 8/05	REVIEWED: 2/09, 11/11, 03/15, <u>05/22</u>	REVISED: 2/09, 11/11, <u>05/2022</u>

OBJECTIVE: To establish procedures for handling non-employee ~~concerns complaints of~~ alleged discrimination in the regarding provision of, or access to county programs, services, or activities

REFERENCE: Policy # 304

POLICY STATEMENT: These procedures are adopted to implement Marion County Administrative Policy 304, Americans with Disabilities Act for Marion County employees. Marion County complies with the Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAA).

APPLICABILITY: Individuals who are not employees of Marion County

PROCEDURES:

1. Introduction:

Marion County does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Under Title II of the ADA, each county program or service, when viewed in its entirety, will be readily accessible to and usable by qualified individuals with disabilities. Marion County will make reasonable modifications to policies and procedures for qualified individuals with disabilities to participate in programs, services or activities unless doing so would cause a fundamental alteration in the nature of a program or service or would result in an undue financial or administrative burden on the county.

2. Access and Accommodation Requests:

- 2.1. Individuals needing ADA accommodations or services in order to participate in a Marion County program, activity or event should make their request to the Marion County department sponsoring the program.
- 2.2. Requests for accommodations must be received as soon as possible, but not less than two business days before an activity or event.

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3. Complaint and Investigation Process:

3.1. Complaints alleging discrimination by Marion County or its employees on the basis of an individual's disability should be submitted to the Marion County Risk Manager. The risk manager has been designated by Marion County to coordinate complaints and compliance efforts.

~~Justine Flora~~, Risk Manager

Marion County

PO Box 14500

Salem OR 97309

~~503.584.7786 (voice)~~ 503.589.3295

email: ~~jflora@co.marion.or.us~~ riskmanagement@co.marion.or.us

3.2. A complaint should be filed in writing, containing the name, address and telephone number ~~of the person filing~~, and briefly describing the alleged violation of the regulations.

3.3. A complaint should be filed within 10 days ~~after the complainant becomes aware~~ of the alleged violation.

3.4. An investigation, as may be appropriate, shall follow the filing of a complaint. The ~~coordinator~~ Risk Manager or designee shall conduct the investigation. These procedures contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.

3.5. A written determination as to the validity of the complaint and a description of the resolution, if any, shall be issued by the ~~Coordinator~~ Risk Manager and a copy forwarded to the complainant no later than 30 days after its filing.

3.6. The ~~Coordinator~~ Risk Manager shall maintain separate, confidential files and records for Marion County relating to the complaints filed.

3.7. The complainant can request reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made to the Marion County Chief Administrative Officer.

Adopted: 08/05

Revised: 02/09

11/11

05/22