



ADMINISTRATIVE POLICIES

SECTION:	Human Resources	POLICY #:	304
TITLE:	Americans with Disabilities Act	PROCEDURE #:	304-A
		ORDER #:	19-071
DEPT:	Business Services	PROGRAM:	Human Resources
ADOPTED:	01/97	REVIEWED:	
		REVISED:	05/19

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 CRF 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 the official record of county administrative policy.

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

GENERAL POLICY: 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.

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

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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.

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. Marion County Risk Management is responsible for handling ADA/Section 504 claims regarding access to public programs, activities or services.
- 1.3. Employment Accommodation:
 - 1.3.1. All county departments are responsible for identifying the essential functions of each position within the department.
 - 1.3.2. The essential functions of a position are identified prior to recruitment and updated annually.
 - 1.3.3. Functions of a position are considered essential if:
 - 1.3.3.1. the position exists to perform the function;
 - 1.3.3.2. there are a limited number of other employees available to perform the function or among whom the function can be distributed; or,

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- 1.3.3.3. a function is highly specialized and the person in the position is hired for his/her expertise or ability to perform the function.
 - 1.3.4. Whenever possible, Marion County will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job.
 - 1.3.5. An individual, who can be reasonably accommodated for a job without undue hardship to the employer, will be given the same consideration for a position as any other applicant.
 - 1.3.6. Reasonable accommodation requests will be reviewed by Marion County's ADA Committee.
 - 1.4. Medical records regarding an employee's disability or an applicant's disability must be kept separate from other applicant files and employee files.
 - 1.5. Physical and Service Accessibility under the ADAA:
 - 1.5.1. New buildings must be built so that they are readily accessible to individuals with disabilities.
 - 1.5.2. Existing buildings must have architectural barriers removed if it is possible without great difficulty or expense to the employer.
 - 1.5.3. If a building is renovated, the renovated portion must be made accessible to individuals with disabilities to the extent required under the ADAA.
 - 1.5.4. Service accessibility includes removing procedural barriers, which may cause individuals with disabilities to be unable to access public services.
 - 1.6. Each department is required to maintain and annually review its plans for assuring physical and service accessibility.
 - 1.7. Non-employee 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 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.
 - 1.7.3. Non-Employee Access and Accommodation Requests:
 - 1.7.3.1. Individuals needing ADA accommodations or services in order to participate in a Marion 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.

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2. EXCEPTIONS

- 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.

3. IMPLEMENTATION

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

4. PERIODIC REVIEW

This policy shall be reviewed by 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