



ADMINISTRATIVE POLICIES

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.

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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.

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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.

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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