



ADMINISTRATIVE POLICIES

SECTION: 300 – Human Resources	POLICY#: 305
TITLE: Americans with Disabilities Act (ADA) Policy	R & O #: 17-133
	IMPLEMENTED BY PROCEDURE #: 305-A
SPONSORING DEPT/DIV: Support Services/Human Resources	
ADOPTED: 12/05/2017	REVIEWED:

PURPOSE: The purpose of this policy is to define provisions and processes for Washington County employees and applicants that comply with the reasonable accommodation requirements of federal and state disability laws.

AUTHORITY: Title I of the Americans with Disabilities Act of 1990 (ADA), as modified by the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) and state disabilities law (ORS 659A.100 to 659A.145).

DEFINITIONS:

1. **Direct Threat:** a significant risk of substantial harm to the health or safety of the individual or others in the workplace that cannot be eliminated or reduced through reasonable accommodation.
2. **Disability:** (a) a physical or mental impairment that substantially limits one or more major life activities of such individual, (b) a verified record of such an impairment, or (c) being regarded as having such an impairment. For an impairment to be considered a disability, it must substantially limit some form of a major life activity. Determination of whether an individual has a disability is made without taking into account the ameliorative effects of any mitigating measures such as medication, medical supplies, equipment, or appliances. Individuals who currently use drugs illegally are not considered to be persons with disabilities for purposes of this policy.
3. **Episodic Impairments or Conditions in Remission:** an impairment that is episodic or in remission is considered a disability if it would substantially limit a major life activity when the impairment is active.
4. **Equal Employment Opportunity:** an opportunity to attain the same level of performance or to enjoy equal benefits and privileges of employment as are available to a similarly-situated employee or applicant for employment without a disability.
5. **Essential Job Functions:** the required and necessary fundamental job duties of the employment position that the individual with a disability holds or desires.
6. **Interactive Process:** the process of the mutual exchange of information between the

County and the employee or applicant, and/or the County and the employee/applicant's health care provider, about possible accommodations that may allow applicants to participate in the application process or employees to perform the essential functions of their jobs.

7. **Major Life Activities:** includes but is not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working (ADA). Major life activities also includes the operation of major bodily functions, such as immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions (ADAAA).
8. **Qualified Individual with a Disability:** an individual that satisfies the skills, experience, education, and other job-related requirements of the position sought or held who can perform the essential job functions of the position, with or without reasonable accommodation.
9. **Reasonable Accommodation:** a modification or adjustment to a job, the work environment, or the way things are usually done that enables a qualified individual with a disability to enjoy an equal employment opportunity and that permits an applicant to participate in the application process or an employee to perform the essential job functions of their position without imposing an administrative or financial undue hardship to Washington County.
10. **Substantially Limits:** the determination of whether an impairment "substantially limits" a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as: medication, medical supplies, equipment, appliances, low-vision devices, prosthetics, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications. However, the ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered.
11. **Undue Hardship:** an action for which a significant financial expense or administrative difficulty is imposed upon the employer that would make an accommodation unreasonable.

GENERAL POLICY: Washington County provides equal employment opportunities to qualified individuals with disabilities in its job application procedures, hiring process, compensation, job training, advancement, and in all other terms, conditions and privileges of employment.

POLICY GUIDELINES:

1. Recruitment and Selection

Upon oral or written request as described below, qualified persons with disabilities who apply for County positions may request reasonable accommodations during the recruitment and selection process.

1.1 The job announcement should include information that informs applicants that they may request reasonable accommodations as part of the recruitment and

selection process.

- 1.2 Hiring managers may inquire as to the ability of an individual to perform the essential job functions of the position they are seeking.
- 1.3 Hiring managers may ask an applicant to describe or demonstrate how the applicant will be able to perform the essential job functions, with or without reasonable accommodation.
- 1.4 Hiring managers may ask questions and ask for demonstrations of how the applicant will perform the work as part of the interview and selection process. Interview questions and demonstrations must always be work related and focus on the essential functions of the job being interviewed for.
- 1.5 Hiring managers may not ask questions about:
 - the existence, nature or severity of a disability;
 - whether an applicant can perform any major life activities;
 - the worker's compensation history of the applicant;
 - an applicant's lawful drug use;
 - whether an applicant has been hospitalized or if they were ever treated by a psychiatrist or psychologist; or
 - an applicant's sick or family medical leave usage.

2. Employment

- 2.1 Washington County employees with disabilities are entitled to reasonable accommodations that will enable them to perform the essential job functions of their position, to participate in any job application process, and to participate in any of the terms, conditions, benefits or privileges of employment in the same or similar manner as employees without disabilities.
- 2.2 Washington County will not discriminate in any terms or conditions of employment including, but not limited to, hiring or placement, promotion, demotion or transfer, leaves of absence, rates of pay and other compensation, training, disciplinary action, layoff, or termination;
- 2.3 Employees may request a reasonable accommodation in accordance with the procedures established under this policy.
- 2.4 Managers and supervisors, in consultation with Human Resources will determine an appropriate accommodation in accordance with the procedures established under this policy.
- 2.5 A request for a reasonable accommodation may be denied if the County can demonstrate that the accommodation would impose an undue hardship on the operation of the department or work group.

3. Undue Hardship

- 3.1 A request for a reasonable accommodation may be denied if the County can demonstrate that the accommodation would impose an undue hardship on the operation of the department or work group;
- 3.2 Whether an accommodation will impose an undue hardship is determined on a case-by-case basis. Factors to be considered may include but are not limited to:
 - the nature and cost of the accommodation;
 - the financial resources of the County needed to provide the accommodation;
 - the type of operation or services provided by the department or work

group; and the composition or layout of the workplace.

3.3 The determination of whether an accommodation request imposes an undue hardship will be made by the hiring manager or supervisor after consulting with Human Resources and County Counsel.

4. Employment-Related Physical and Psychological Examinations

4.1 Washington County may require an applicant or an employee to undergo an employment-related physical or psychological examination for the purpose of providing medical documentation which verifies that a) the individual has a qualifying disability that substantially limits one or more major life activities; b) the applicant or individual is able to safely perform the essential functions of the position they hold or are applying for; and/or c) that the applicant or employee does not pose a direct threat to themselves or others.

4.2 Disability-related inquiries and examinations of employees must be job-related and consistent with business necessity. A medical inquiry or examination is job-related and consistent with business necessity when:

- the County has reasonable belief, based on objective evidence, that the ability of an employee to perform the essential functions of the position may be impaired by a medical condition; or
- the County has reasonable belief, based on objective evidence, that an employee will pose a direct threat to themselves or others due to a medical condition; or
- the employee asks for a reasonable accommodation and the disability or need for accommodation is not known or obvious; or
- the inquiry or examination is required in positions that affect public safety.

4.3 A physical or psychological medical examination may be required of a candidate for employment, but only after an offer of employment has been made.

4.4 An offer of employment may be made to a candidate for employment on the condition that the individual passes a physical or psychological examination only if all other candidates for the position are subject to the same examination regardless of their disability.

5. Confidentiality

5.1 All medical information and records of individuals seeking reasonable accommodations shall be treated as confidential and shall be maintained in Human Resources in a confidential medical file separate from other personnel records.

5.2 Managers and supervisors may be informed about necessary restrictions, modifications, or accommodations to the required work or duties of an employee.

5.3 Relevant medical information may be provided to State Worker's Compensation offices in accordance with Worker's Compensation laws.

6. Responsibilities: The Human Resources Division is authorized to establish necessary procedures to implement and monitor this policy and may modify the established procedures as necessary to carry out the intent of this policy.

7. Exceptions:
Exceptions to this policy may only be granted by the Washington County Board of Commissioners unless such authority has been delegated to the County Administrator.

8. Implementation:
Elected officials and department directors are expected to be knowledgeable of, and shall be responsible for, implementing this policy within their respective departments. Observance of this policy is mandatory for all County employees and violation may result in disciplinary action (up to and including termination).

9. Periodic Review:
This policy shall be reviewed by Support Services, Human Resources Division at least every three years, or more often if needed, and updated as necessary.