



ADMINISTRATIVE POLICY

SECTION:	POLICY#: 212
TITLE: Fair Treatment, Equal Protection, and Nondiscrimination Policy	R & O #: 23-43
	IMPLEMENTED BY PROCEDURE #: 212A Fair Treatment, Equal Protection, and Nondiscrimination Procedure; 211A Washington County ADA Grievance Procedure; 207-A Limited English Assistance
SPONSORING DEPT/DIV:	
ADOPTED: 6/27/2023	REVIEWED:

PURPOSE: The purpose of this policy is to establish standards for the fair treatment and equal protection of all people in accessing Washington County programs, activities, benefits and services.

AUTHORITY: Title VI of the Civil Rights Act of 1964 as amended, and the Civil Right Restoration Act of 1987 (P.L. 100.259), Title VIII of the Fair Housing Act of 1968, Sections 503 and 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, Section 1557 of the Patient Protection and Affordable Care Act, other related Federal and state Civil Rights laws, Oregon Revised Statute 659A.103 and 659A.403, Oregon Administrative Rules 407-030-0010, Oregon Administrative Rule 943-005-0010 and Washington County Resolution and Order 20-30.

GENERAL POLICY:

Washington County strives to treat all people equally. It is our policy to prevent and remediate discrimination on the basis of an identity protected by federal, state, or local civil rights law. We want all people to receive quality services and benefits and have opportunities for meaningful engagement in Washington County programs and activities.

This policy is intended to affirm our commitment to equal protection and fair treatment for all people who live, work, learn, play and pray in Washington County, as well as to require taking affirmative action to address past and present discrimination. All Washington County programs, departments and contractors are implicated by this policy. It serves as the foundation by which we ensure Civil Rights compliance and build toward greater equity and inclusion for everyone in our community.

Federal Civil Rights laws to which Washington County are subject, and the ways in which Washington County shall ensure compliance, include the following:

- A. **Title VI of the Civil Rights Act of 1964** (Title VI) states: "No person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the

benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Washington County strives to assure that no person shall, on the grounds of race, color or national origin, be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination under any program or activity that is a recipient of Federal financial assistance.

Washington County shall comply with all applicable Federal agency regulations prohibiting disparate impact in County programs or activities, and do so whether or not those programs and activities are federally funded, consistent with the Civil Rights Restoration Act of 1988.

In the event Washington County distributes federal aid funds to another governmental entity or other subrecipient, Washington County will include Title VI language in all written agreements and will monitor their compliance.

Washington County's Office of Equity, Inclusion and Community Engagement is responsible for initiating and monitoring Title VI activities, preparing required reports and updates, coordinating a complaint process, and other responsibilities as required by 23 CFR Part 200, 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation- Effectuation Of Title VI Of The Civil Rights Act Of 1964), and 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

B. Title II of the Americans with Disabilities Act of 1990 (Title II of ADA) states: "No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity."

Washington County is committed to preventing discrimination against qualified individuals on the basis of disability in its service, programs, or activities. Washington County will make all reasonable modifications to policies and programs so that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities.

Washington County will generally, upon request, provide reasonable accommodation and appropriate auxiliary assistance to support accessibility and effective communication for qualified persons with disabilities so they can participate equally in County programs, services, and activities. Washington County may refuse to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Washington County's Office of Equity, Inclusion and Community Engagement is responsible for supporting and monitoring ADA compliance activities, preparing required reports and updates, coordinating a complaint process, and other responsibilities as required by 28 CFR Part 35.

DEFINITIONS:

The following definitions shall apply for the purpose of this part:

- (a) **Affirmative action.** A good faith effort to eliminate past and present discrimination in all federally assisted programs, and to ensure future nondiscriminatory practices.
- (b) **Beneficiary.** Any person or group of persons (other than States) entitled to receive benefits, directly or indirectly, from any federally assisted program, *i.e.*, relocatees, impacted citizens, communities, etc.
- (c) **Compliance.** That satisfactory condition existing when a recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good faith effort toward achieving this end has been made.
- (d) **Discrimination.** That act (or action) whether intentional or unintentional, through which a person in the United States, solely because of race, color, religion, sex, or national origin, has been otherwise subjected to unequal treatment under any program or activity.
- (e) **Facility.** Includes all, or any part of, structures, equipment or other real or personal property, or interests therein, and *the provision of facilities* includes the construction, expansion, renovation, remodeling, alternation or acquisition of facilities.
- (f) **Familial status.** The relationship between one or more individuals who have not attained 18 years of age and who are domiciled with:
- (1) A parent or another person having legal custody of the individual; or
 - (2) The designee of the parent or other person having such custody, with the written permission of the parent or other person.
 - (3) Familial status includes any individual, regardless of age or domicile, who is pregnant or is in the process of securing legal custody of an individual who has not attained 18 years of age.
- (g) **Federal assistance.** Includes:
- (1) Grants and loans of Federal funds,
 - (2) The grant or donation of Federal property and interests in property,
 - (3) The detail of Federal personnel,
 - (4) The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and
 - (5) Any Federal agreement, arrangement, or other contract which has, as one of its purposes, the provision of assistance.
- (h) **National origin.** includes ancestry.

(i) **Noncompliance.** The unsatisfactory condition that arises when recipient has failed to meet the prescribed requirements and has shown an apparent lack of good faith effort in implementing all policy provision requirements.

(j) **Persons.** Where designation of persons by race, color, or national origin is required, the following designations ordinarily may be used: “White not of Hispanic origin”, “Black not of Hispanic origin”, “Hispanic”, “Asian or Pacific Islander”, “American Indian or Alaskan Native.” Additional subcategories based on national origin or primary language spoken may be used, where appropriate, on either a national or a regional basis.

(k) **Program.** Includes any highway, project, or activity for the provision of services, financial aid, or other benefits to individuals. This includes education or training, work opportunities, health, welfare, rehabilitation, housing, or other services, whether provided directly by the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient.

(l) **Protected class.** A group of persons distinguished by race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, familial status, source of income or disability.

(m) **Protective hairstyle.** means a hairstyle, hair color or manner of wearing hair that includes, but is not limited to, braids, regardless of whether the braids are created with extensions or styled with adornments, locs and twists.

(n) **Race.** Physical characteristics that are historically associated with race, including but not limited to natural hair, hair texture, hair type and protective hairstyles.

(o) **Recipient.** Any State, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any State, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof. The term *recipient* does not include any ultimate beneficiary under any such program.

(p) **Title VI Program.** The system of requirements developed to implement Title VI of the Civil Rights Act of 1964. References in this part to Title VI requirements and regulations shall not be limited to only Title VI of the Civil Rights Act of 1964. Where appropriate, this term also refers to the civil rights provisions of other Federal statutes to the extent that they prohibit discrimination on the grounds of race, color, sex, or national origin in programs receiving Federal financial assistance of the type subject to Title VI itself. These Federal statutes are:

(1) Title VI of the Civil Rights Act of 1964, [42 U.S.C. 2000d-d4](#) ([49 CFR part 21](#); the standard DOT Title VI assurances signed by each State pursuant to DOT Order 1050.2; Executive Order 11764; [28 CFR 50.3](#));

(2) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ([42 U.S.C. 4601-4655](#)) ([49 CFR part 25](#); Pub. L. 91-646);

(3) Title VIII of the Civil Rights Act of 1968, amended 1974 ([42 U.S.C. 3601-3619](#));

(4) [23 U.S.C. 109\(h\)](#);

(5) [23 U.S.C. 324](#);

POLICY GUIDELINES:

1. Responsibilities:

All County Departments and Offices, in collaboration with the Office of Equity, Inclusion and Community Engagement and consistent with any and all guidance materials, shall take all steps necessary to ensure compliance consistent with legal and administrative obligations, to sufficiently administer programs, services and activities in a nondiscriminatory manner, and to review and resolve any complaints pursuant to this policy.

2. 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).

Contractors, service providers and grantees shall be in compliance with all provisions of the policy. Any violation of this provision may be considered a material defect and may be grounds for cancellation, termination or suspension in whole or in part by the County.

3. Periodic Review:

This policy shall be reviewed by the Office of Equity, Inclusion and Community Engagement at least every three years, or more often if needed, and updated as necessary.



ADMINISTRATIVE PROCEDURE

SECTION: 200 – General Administration	PROCEDURE #: 212-A
TITLE: Washington County Fair Treatment, Equal Protection, and Nondiscrimination Procedures	IMPLEMENTS POLICY #: 212 Washington County Fair Treatment, Equal Protection, and Nondiscrimination Policy
SPONSORING DEPARTMENT/DIV: County Administrative Office, Office of Equity, Inclusion and Community Engagement	
EFFECTIVE DATE:	REVIEWED:

OBJECTIVE: The purpose of this policy is to establish standards for the fair treatment and equal protection of all people in accessing Washington County programs, activities, benefits and services.

PROCEDURES:

Implementation:

All County Departments and Offices, in collaboration with the Office of Equity, Inclusion and Community Engagement and consistent with any and all guidance materials, shall implement this policy through:

- (A) Public communication about how complaints related to this policy will be investigated and that complaints can also be filed with the relevant state or federal agencies, as appropriate.
- (B) Ongoing data collection and monitoring of programs and activities sufficient to conduct comprehensive analysis and reporting consistent with legal and administrative obligations;
- (C) Periodic comprehensive analysis and reporting to ensure compliance consistent with legal and administrative obligations;
- (D) Supporting manager and relevant program staff training to sufficiently administer programs, services and activities in a nondiscriminatory manner; and
- (E) Cooperate with the review and resolution of any complaint processes pursuant to this policy.

Client and Community Complaint and Resolution Process

Washington County's Office of Equity, Inclusion and Community Engagement Chief Equity Officer or designee is authorized to coordinate, review and address all client and community complaints pursuant to this policy, except for as provided below.

Any individual may make a complaint if they believe that Washington County has discriminated against them in the provision of any service or benefit or exclusion from any program or activity provided by the County directly or through a contractor, service provider or grantee because of their race, color, national origin, disability, religion, age, sex/gender, sexual orientation, gender identity and expression, marital status, veteran status, source of income, or any other basis prohibited by federal, state, or local law. Washington County also prohibits retaliation against any person who complains or participates in any investigation of discrimination.

Complaints arising out of County employment or based on allegations of workplace discrimination, harassment and retaliation will be handled in accordance with Washington County Human Resources Policy 301. All other allegations of Civil Rights violations or discrimination in accessing County services will be handled by the Office of Equity, Inclusion and Community Engagement, pursuant to collaborative agreements with the respective County department or program team.

Complaints should be made as soon after the alleged discrimination as is practicable, and within six months (180 calendar days) after the alleged discrimination, unless good cause exists to warrant any delay. Complaints can be made in person, by email or by written mail to the Washington County's Office of Equity, Inclusion and Community Engagement Chief Equity Officer or designee.

Free interpretation and translation services, as well as disability accommodations, including alternate complaint request format, are available upon request.

In most cases, after a complaint is filed, the Chief Equity Officer or designee will make every effort to meet with the complainant and respondent within fifteen (15) business days of receipt to discuss the details of the complaint and explore options for resolution.

If the complainant is open to informal resolution, the Chief Equity Officer or designee will facilitate a resolution process as appropriate. If the complainant wishes to proceed with a formal complaint, Washington County may conduct an investigation on the basis of the complaint. Washington County will make every effort to investigate all such complaints within a reasonable time, subject to the availability of staff and technical analysis required.

Civil Rights Investigatory Standards

All investigations shall be conducted in compliance with the standards established by the United States Department of Justice. See U.S. Department of Justice, Civil Rights Division, *Title VI Legal Manual*, §§ VI – VIII. Although the manual addresses violations of Title VI of the Civil Rights Act, it provides useful guidance for investigation of complaints under Title IX and section 504.

Investigations shall generally follow the following steps:

1. Review the initial complaint to identify whether the basis of the claim applies to Title VI, Title IX, or Section 504, Oregon laws or Washington County policy related to discrimination, harassment or retaliation.
2. Review the initial complaint to identify the appropriate jurisdiction for investigation and response. If Washington County is not the appropriate jurisdiction, the complaint will be forwarded to that jurisdiction and the complainant will be notified within 15 business days.
3. Prepare a written investigation plan.
 - a. Plan and analytical framework should be tailored to whether the complaint alleges intentional discrimination, disparate impact or retaliation.
4. Interview the complainant.
 - a. Obtain all documents, videos or other evidence supporting the claim from the claimant.
 - b. Identify other sources of evidence, including witnesses, data, policies, procedures, documents and video.
 - c. Draft a written summary of the claim based on the complainant's statements and information provided.
5. Create a list of all potential witnesses.
6. Create a list of all potential evidence.
7. Interview all potential witnesses.
 - a. Draft a summary of each interview.
8. Collect all potential evidence.
 - a. Summarize all evidence.
9. Draft investigation report.
 - a. The report should include the following:
 - i. An executive summary of no more than one page stating the nature of the claim, the relevant facts, the legal basis for the allegation and the investigator's recommended conclusions.
 - ii. A statement of the relevant facts with timeline and references to the source for each fact.
 - iii. A discussion of the legal basis for the claims.
 - iv. A recommended finding of substantiated or unsubstantiated including the facts and legal authorities supporting the conclusion.
 - b. Consult with Legal Counsel to assist with determining whether the evidence supports a civil rights violation.
10. Provide the Report with all supporting documentation to the Chief Equity Officer.
11. Upon receipt of the report the Chief Equity Officer shall consult with the Director of Human Resources and the County Counsel before deciding whether to accept or reject the recommendation. If the Chief Equity Officer, the Director of Human Resources and the County Counsel cannot reach agreement regarding whether to accept or reject the recommendation, the final decision will be made by the County Administrator. The Chief Equity Officer, Director of Human Resources and the County Counsel may designate a qualified subordinate to assume these duties.
12. Upon such investigation, the Chief Equity Officer or designee will respond to the complainant and the respondent in writing to explain the findings and the County's decision, along with any appropriate options for resolution, if any. Violation of the policy by County

employees, interns or volunteers may result in disciplinary action (up to and including termination).

13. If the complainant or respondent is not satisfied with the proposed resolution, they may appeal this decision by notifying the Chief Equity Officer, or designee, within fifteen (15) business days of receiving this response.

Contractor, Service Provider, and Grantee Compliance

The County will work cooperatively with contractors, service providers, and grantees to support compliance with the Washington County Fair Treatment, Equal Protection, and Nondiscrimination Policy. Noncompliance means that Contractor has failed to meet the prescribed requirements and has shown an apparent lack of good faith effort in implementing all policy provisions requirements. Compliance means that Contractors have effectively implemented all policy requirements or can demonstrate that every good faith effort toward achieving this end has been made.

If a provider of services, contractor, or grantee is found to be noncompliant with Title VI, Title IX or Section 504 regulations, an agreement will be developed between the County and the provider, contractor, or grantee to assure that compliance occurs. If an agreement with time frames has been reached, compliance has not occurred, and appeal processes have been exhausted, the following will occur:

- (1) Providers of Services: The County will purchase no further services from the provider and will notify other affected agencies of the action. Service providers may be reinstated after assurance of compliance has been reached.
- (2) Contractors and Grantees: The County will notify the contractor or grantee that a breach of contract exists, or the conditions of the grant have been violated. The grant or contract will be terminated, and other affected agencies will be notified. Contractors and grantees may be reinstated after assurance of compliance has been reached.

Demonstration of Title VI, Title IX, and Section 504 compliance shall be a factor considered when determining awards of future Washington County grants and contracts.

Appeal Process

An appeal shall be heard directly by Washington County's Administrator or designee within a reasonable time after receiving the request for appeal. The appeals process will include a de novo review of any and all investigatory findings and will conclude with a final resolution of the complaint.