

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending Policies and)
Procedures for Compliance with Title II) Order No. 51-2018
of the Americans with Disabilities Act)

WHEREAS, Title II of the Americans with Disabilities Act (the ADA), and regulations implementing the ADA, 28 CFR Part 35, prohibit discrimination on the basis of disability by public entities; and

WHEREAS, 28 CFR 35.106 requires the County to disseminate sufficient information to applicants, participants, beneficiaries, and other interested persons to inform them of the rights and protections afforded by the ADA; and

WHEREAS, methods of providing such information include, but are not limited to, the publication of information in pamphlets, and the display of informative posters in public places; and

WHEREAS, 28 CFR 35.107 requires the County to designate a responsible employee or employees as coordinators of this policy and to establish a grievance procedure for resolving complaints of violations of the ADA at the local level; and

WHEREAS, on June 11, 2008, by Order No. 44-2008, the Board of County Commissioners adopted an ADA Notice and Grievance Procedure; and

WHEREAS, the Board of County Commissioners has since updated the ADA Notice and Grievance Procedure by Order No. 86-2011, Order No. 15-2013, Order No. 45-2016, and Order No. 11-2017; and

WHEREAS, the ADA Notice and Grievance Procedure must once again be updated to reflect a change in staff;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:


1. The Board of Commissioners appoints Todd Wood, Transit Director, as the ADA Title II Coordinator for CC Rider.
2. The Board adopts the Amended ADA Notice and Grievance Procedure which is attached hereto as Exhibit 1 and is incorporated herein by this reference.

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3. Copies of Exhibit 1 shall, at a minimum, be made in pamphlet and poster form and shall be made available to the public on the County Website.

Dated this 21st of November, 2018.


BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: 
Margaret Magruder, Chair

By: 
Henry Heimuller, Commissioner

By: 
Alex Tardif, Commissioner

Approved as to form

By: 
Office of County Counsel

AMENDED ADA NOTICE AND GRIEVANCE PROCEDURE

[Rev'd 11.18]

WHAT IS THE ADA?

The Americans with Disabilities Act of 1990 (ADA) provides civil rights protections to individuals with disabilities like those provided to individuals on the basis of race, color, sex, national origin, age, and religion. The ADA guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in any program receiving Federal financial assistance. Compliance with Title II of the ADA satisfies Section 504 of the Rehabilitation Act of 1973.

WHAT IS TITLE II?

The ADA has five sections or "titles" which address different areas of the law. Title II of the ADA addresses state and local governments, such as Columbia County. Title II of the ADA protects qualified individuals with disabilities from discrimination on the basis of disability in accessing services, programs, or activities.

WHO ARE INDIVIDUALS WITH DISABILITIES?

The ADA protects three categories of individuals:

- 1) Individuals who **have** a physical or mental disability that substantially limits one or more major life activities – including blindness, deafness, cerebral palsy, cancer, heart disease; mental retardation, brain injury, emotional or mental illness, and specific learning disabilities.
- 2) Individuals who have a **record** of a physical or mental disability that substantially limited one or more of the individual's major life activities, including people who have recovered from mental or emotional illness, drug addiction, heart disease, or cancer.
- 3) Individuals who are **regarded as having** such a disability, regardless of whether they have the disability. Common examples are someone who is obese or someone who is scarred due to injury, where there is no functional implication, but people may regard the person as having a disability even though they do not.

WHO ARE "QUALIFIED" INDIVIDUALS WITH DISABILITIES?

To be qualified, the individual must meet the essential eligibility requirements for receipt of services or participation in County programs, activities, or services with or without –

- 1) Reasonable modifications to a public entity's rules, policies, or practices;
- 2) Removal of architectural, communication, or transportation barriers; or
- 3) Provision of auxiliary aids and services.

Health and safety factors can be taken into account in determining who is qualified. An individual who poses a "direct threat" to the health or safety of others is not qualified. A direct threat is a significant risk of substantial harm to the health or safety of others that cannot be eliminated or reduced to an acceptable level by accommodations or modifications to the program. This threat must be real and may not be based on generalizations or stereotypes about the effects of a particular disability.

WHAT ARE THE REQUIREMENTS OF TITLE II?

Equality in participation and benefits: Those with disabilities must have an equally effective opportunity to participate in or benefit from County programs, services, and activities. (See the "Equally Effective Communication" section below) Examples –

A deaf individual does not experience equal opportunity to benefit from attending a public meeting if she does not have access to what is said through an interpreter or by using an assistive listening device.

Someone who uses a wheelchair will not have an equal opportunity to participate in a program if applications must be filed in a second floor office of a building without an elevator.

Use of printed information alone is not equally effective for those with low vision who cannot read regular written material.

Integrated setting ("mainstreaming"): Individuals with disabilities cannot be excluded from regular programs or required to accept accommodations. The County may offer separate or special programs when necessary to provide people with disabilities an equal opportunity to benefit from the programs. Examples –

A recreation department sponsors a separate basketball team for wheelchair users.

A museum offers a tour for blind people which permits them to touch and handle specific objects on a limited basis (but cannot exclude a blind person from the standard tour).

Eligibility criteria and medical inquiries: The County's eligibility criteria for participation in its programs, services, or activities must not screen out or tend to screen out people with disabilities, except in rare instances when such requirements are necessary. A program cannot request medical information unless it can demonstrate that each piece of information requested is needed to ensure safe participation in the program.

Safety: The County may impose legitimate safety requirements necessary for the safe

operation of its services, programs, and activities. Safety requirements must be based on real risks, not on speculation, stereotypes, or generalizations about people with disabilities

Surcharges: Although providing accommodations may result in some additional cost, the County may not place a surcharge only on particular individuals with disabilities to cover expenses. For example, there can be no extra program charge to a deaf person who benefitted from interpreter services, or to groups of people with disabilities, but a tuition fee may be increased for all students.

Reasonable modifications: The County must reasonably modify its policies, practices, or procedures to ensure access and equal opportunity to individuals with disabilities. For example, a lengthy and complex application process could be modified for people with mental disabilities who are unable to complete the process on their own. Modifications might include simplifying the process or individually assisting applicants.

Personal services and devices: The County is not required to provide people with disabilities with personal or individually prescribed devices (hearing aids or communication devices) or to provide services of a personal nature (such as assistance in eating, toileting or dressing).

Maintenance of accessible features: The County must ensure equipment and features of facilities that provide accessibility to disabled persons are in working order and accessible to individuals with disabilities. Isolated or temporary interruptions in access due to maintenance and repair of accessible features are acceptable.

WHAT IS EQUALLY EFFECTIVE COMMUNICATION?

The County must ensure that its communications with people with disabilities are as effective as its communications with others. The County is required to provide appropriate auxiliary aids and services where necessary to ensure effective communication. Primary consideration must be given to the choice of auxiliary aid requested by the disabled person. Whatever accommodation is requested, the County must seek to provide it unless it is determined to be an undue administrative or financial hardship, or another effective means of communication exists. Examples of auxiliary aids and services –

Deaf or hard of hearing: qualified interpreters, notetakers, real-time captioning, written materials, assistive listening systems, open and closed captioning, TTYs, and exchange of written notes.

Blind or low vision: qualified readers; audiotape, Braille, or large print materials; and assistance in locating items.

Speech disability: TTYs, computer terminals (just take turns typing back and forth).

WHAT ARE THE REQUIREMENTS FOR FACILITY ACCESS?

The County must ensure its programs, activities, and services are accessible to individuals with disabilities. One key aspect of that is facilities access.

New Construction: All newly constructed facilities (begun after 1-26-92) must be in strict compliance with federal and state building accessibility codes.

Alteration and Renovation of Existing Construction: The County is required to make modifications to existing facilities that are "readily achievable" to ensure services, programs and activities are accessible. Some exemptions are provided for historic properties. In addition, generally, if a facility or part of the facility will be significantly altered or renovated, meeting current code requirements may be applicable.

Overall Program Access: The County is not necessarily required to make every pre-ADA facility fully compliant with current accessibility codes. However, County services, programs, or activities must be accessible to and usable by people with disabilities when viewed in their entirety. This is called "overall program access."

Overall program accessibility can be achieved a number of ways. Structural options include altering existing facilities or constructing new ones. Nonstructural options include—

Acquisition or redesign of equipment

Assignment of aides to assist individuals with disabilities

Provision of services at alternate accessible sites

The County must give priority to the option that results in the most integrated setting appropriate to encourage interaction among all users, including those with disabilities.

WHAT ARE THE ADMINISTRATIVE REQUIREMENTS?

Columbia County ADA Coordinators

The County has designated four ADA Title II Coordinators to ensure that complaints are handled promptly.

Employment

The Human Resources Director, Jean Ripa, is the Title II Coordinator for all employment related ADA questions or complaints. She advises County employees, County Contractors and the public about the ADA as it relates to employment issues and the County's compliance obligations, and also handles the investigation of grievances filed by the public alleging discrimination in County employment programs, services, or activities.

Jean Ripa is located in the Human Resources Department in the Columbia County Courthouse Annex on the Third Floor, 230 Strand Street, St. Helens, Oregon 97051; 503-397-7264. ADA questions and grievances related to employment should be directed to Jean Ripa.

Jail

Captain Tony Weaver is the Title II Coordinator for all Jail related ADA questions or complaints. He advises County employees, County contractors and the public about the ADA as it relates to the Jail and the County's compliance obligations, and also handles the investigation of grievances filed by the public alleging discrimination in County Jail programs, services, or activities. The Columbia County Captain is located in the Columbia County Justice Facility, 901 Port Avenue, St. Helens, Oregon 97051; 503-366-4603. ADA questions and grievances related to the Jail should be directed to the Columbia County Captain Tony Weaver.

Columbia County Rider Transportation

The Columbia County Rider Transportation (CC Rider) Administrator, Todd Wood, is the Title II Coordinator for all CC Rider related ADA questions or complaints. He advises County employees, County contractors and the public about the ADA as it relates to CC Rider programs, services, or activities and the County's compliance obligations, and also handles the investigation of grievances filed by the public alleging discrimination in CC Rider programs, services, or activities. Todd Wood is located in the Columbia County St. Helens Transit Facility, 1155 Deer Island Road, St. Helens, Oregon 97051; 503-366-8504. ADA questions and grievances related to CC Rider should be directed to Todd Wood.

Other

Columbia County has designated Columbia County Counsel, Sarah Hanson, as the County's ADA Title II Coordinator for all non-employment, non-Jail, and non-CC Rider related ADA questions and grievances. She advises County employees, County contractors, and the public about the ADA and Columbia County's compliance obligations, and also handles the investigation of grievances. Sarah Hanson is located in the Columbia County Courthouse, Room 20, 230 Strand St, St. Helens, Oregon 97051; 503-397-3839.

GRIEVANCE PROCEDURE

The prompt and equitable resolution of all ADA grievances shall be achieved through the following review process:

1. Employment related ADA grievances are investigated and resolved under the Columbia County Personnel Rules. The rules are available through the Columbia County Human Resources Director, Jean Ripa. Employment related grievances shall be addressed to the Columbia County Human Resources Director, 230 Strand Street, St.

Helens, Oregon 97051. Phone 503-397-7264.

2. Jail related ADA grievances are investigated and resolved by Captain Tony Weaver. Complaints should be addressed to Columbia County Captain, Tony Weaver, 901 Port Avenue, St. Helens, Oregon 97051. 503-366-4603. Grievances will be resolved under the Jail's ADA policies and procedures, which are available at the Jail.
3. CC Rider related ADA grievances are investigated and resolved by the CC Rider Administrator, 1155 Deer Island Road, St. Helens, Oregon 97051; 503-366-8504. Complaints should be addressed to Todd Wood, and will be resolved according the procedure set forth in 4, below.
4. All other non-employment, non-Jail, non-CC Rider complaints should be addressed to the Office of County Counsel, Room 20, 230 Strand Street, St. Helens, Oregon 97051. Phone: 503-397-3839; Fax 503-366-3925, and will be resolved according to the following procedure:
 - a. A complaint regarding access or discrimination should be filed in writing or verbally. It must contain the name and address of the person filing it, and briefly describe the alleged violation.
 - b. A complaint should be filed within thirty days after the complainant becomes aware of the alleged violation.
 - c. An investigation, as may be appropriate, shall follow the filing of a complaint. The ADA Coordinator shall issue a written determination as to the validity of the complaint and a description of the resolution after consulting with appropriate County staff within a reasonable period of time. The ADA coordinator shall attempt to issue a written determination within 30 days of receipt of a complaint.
 - d. If the Complainant is not satisfied with the resolution provided by the ADA Coordinator, the Complainant shall notify the ADA Coordinator that the Complainant is not satisfied. Upon receipt of such notice, the ADA Coordinator shall forward the Complaint, the written resolution and all supporting documentation to a Review Panel. The Review Panel shall consist of the Columbia County Human Resources Director, the Columbia County Facilities Manager, and the Columbia County Clerk. The Review Panel shall review the written resolution for compliance with Title II of the ADA, and shall issue a written determination within a reasonable amount of time. The Review Panel shall attempt to issue a written determination within 30 days of receipt of a complaint. The Review Panel's determination is final.
5. The ADA Coordinator shall maintain the files and records of the County relating to complaints filed.
6. The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies, such as the filing of an ADA complaint with the responsible department or agency. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.
7. When notice is to be provided, phone notification shall also be made in cases involving visually impaired individuals.
8. The ADA Coordinator may modify this grievance and appeal process in order to assure equal access to programs, services and activities for people with disabilities.

9. Columbia County will make appropriate arrangements to ensure that disabled persons are provided other accommodations, if needed, to participate in this grievance process. Such arrangements may include, but are not limited to, providing interpreters for the deaf, providing taped cassettes of material for the blind, or assuring a barrier-free location for the proceedings. The Coordinator will be responsible for such arrangements.