



LARIMER COUNTY POLICY

ADMINISTRATIVE POLICY

SUBJECT: Americans with Disabilities Act (ADA) – Title II Provision of services, programs and activities to individuals with disabilities

DATE: April 30, 2019

EFFECTIVE PERIOD: Until Superseded

REVIEW SCHEDULE: Every five years in April, or as needed

CANCELLATION: Administrative Policy and Procedure 310.1G – Americans with Disabilities Act (ADA) Compliance; June 9, 2015 and Administrative Policy and Procedure 310.5B – Americans with Disabilities Act (ADA) Grievance Procedure; February 1, 2011

REVISION SECTION:

1. New Policy and Procedure

DEFINITIONS:

Not applicable.

ENCLOSURES:

Not applicable.

REFERENCES:

1. [Governing Policies Manual 3.1](#) – Customer Service
2. US Department of Justice; [Department of Justice – ADA](#)
3. Human Resources Policy and Procedure [331.4.25A – Legal Compliance](#) (Section I, A, 1) – addressing Title 1 of the ADA

PURPOSE:

Title II of the ADA prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments, except public transportation services. These Policies and Procedures are intended to further compliance by Larimer County with Title II of the ADA (Reference 2). For employment and ADA matters, see [331.4.25A - Legal Compliance](#) (Reference 3).

SCOPE:

This policy applies to all Offices, Departments, employees, and volunteers.

RESPONSIBILITY:

The Finance Director administers this Policy.

POLICY:

I. NONDISCRIMINATORY ELIGIBILITY CRITERIA

- A. Larimer County will not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any service, program, or activity, unless such criteria can be shown to be necessary for the provision of the service, program, or activity being offered.
- B. Larimer County may impose or apply eligibility criteria that screen out or might screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any service, program, or activity, when such eligibility criteria are in place to avoid a fundamental alteration in the nature of a program or because of a legitimate safety requirement. Larimer County will ensure that its safety requirements are based on actual risks, not on mere speculation, stereotypes, or generalizations about individuals with disabilities.
- C. In those circumstances where Larimer County employees believe that waiving eligibility criteria would fundamentally alter a service, program, or activity, Larimer County must explain how waiving eligibility criteria would result in such alteration. The decision as to whether waiving eligibility criteria would result in such alteration will be made by the Larimer County Manager or their designee after considering all reasonable methods or means of providing access to the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration, Larimer County must take any other action that would not result in such an alteration.

II. REASONABLE ACCOMMODATION

Larimer County will make a reasonable accommodation to the known physical or mental limitations of an individual with a disability to allow participation in services, programs and activities provided by the County, unless Larimer County can demonstrate that the accommodation will result in a fundamental change or would impose an undue hardship on the operation of Larimer County's business (Reference 2).

III. EFFECTIVE COMMUNICATION

- A. It is the policy of Larimer County to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications are with others (Reference 1).

- B. The County, through its agencies, will furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities, including applicants, participants, members of the public, and companions an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by the County.
- C. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication involved; and the context in which the communication is taking place. In order to be effective, auxiliary aids and services will be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.
- D. When an auxiliary aid or service is requested, the County will give primary consideration to the choice expressed by the individual with disabilities. The County will honor the choice unless:
 - 1. it can show that another effective means of communication is available;
 - 2. it can show that the use of the means chosen would result in a fundamental alteration in the service, program, or activity; or
 - 3. it can show that the use of the means chosen would result in undue financial burden to the County.
- E. The County agency will consult with the individual with a disability to identify an effective manner of communication that can be achieved with the individual in the context of the program, service or activity. The County will not require an individual with a disability to bring another individual to interpret for him or her.
- F. The County will not require an adult accompanying an individual with a disability to interpret or facilitate communication except:
 - 1. In an emergency involving imminent threat to the safety or welfare of an individual or the public where there is no interpreter available; or
 - 2. Where the individual with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on the adult for assistance is appropriate under the circumstances.
- G. The County will not rely on a minor child to interpret or facilitate communications, except in an emergency involving an imminent threat to the safety or welfare of an individual or in public where there is no interpreter available.
- H. When the County uses an automated-attendant system, including, but not limited to, voice mail and messaging, or an interactive voice response system, for receiving and directing incoming telephone calls, that system must provide effective real-time communication with individuals using auxiliary aids and services, including TTY's and all forms of FCC-approved telecommunications relay systems, including Internet-based relay systems.

- I. The County will respond to telephone calls from a telecommunications relay service established under Title IV of the ADA in the same manner that it responds to other calls.

IV. **MOBILITY DEVICES**

- A. It is the policy of Larimer County to permit individuals with mobility disabilities to use wheelchairs and manually-powered mobility aids, such as walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility disabilities in any areas open to pedestrian use.
- B. Larimer County will make reasonable modifications in its policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with mobility disabilities, unless Larimer County can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements adopted by Larimer County. Larimer County will ensure that its safety requirements are based on actual risks, not on mere speculation, stereotypes, or generalizations about individuals with disabilities. The operation of other power-driven mobility devices in a manner or in a facility where such operation violates Larimer County's legitimate safety requirements would fundamentally alter the nature of the program.
- C. In determining whether a particular power-driven mobility device can be allowed in a specific facility, as a reasonable modification, Larimer County will apply the following assessment factors:
 1. The type, size, weight, dimensions, and speed of the device;
 2. The facility's volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);
 3. The facility's design and operational characteristics (e.g., whether its service, program, or activity is conducted indoors, its square footage, the density and placement of stationary devices, and the availability of storage for the device, if requested by the user);
 4. Whether legitimate safety requirements can be established to permit the safe operation of the other power-driven mobility device in the specific facility; and
 5. Whether the use of the other power-driven mobility device creates a substantial risk of serious harm to the immediate environment or natural or cultural resources or poses a conflict with Federal land management laws and regulations.
- D. Larimer County employees will not ask an individual using a wheelchair or other power-driven mobility device questions about the nature and extent of the individual's disability.
- E. However, Larimer County employees may make inquiries into use of other power-driven mobility devices. Larimer County employees may ask a person

using another power-driven mobility device to provide a credible assurance that the mobility device is required because of the person's disability. Larimer County, when permitting the use of another power-driven mobility device by an individual with a mobility disability, will accept the presentation of a valid, State-issued, disability parking placard or card, or other State-issued proof of disability as a credible assurance that the use of the other power-driven mobility device is for the individual's mobility disability. In lieu of a valid, State-issued disability parking placard or card, or State-issued proof of disability, Larimer County will accept as a credible assurance a verbal representation, not contradicted by observable fact, that the other power-driven mobility device is being used for a mobility disability. A "valid" disability placard or card is one that is presented by the individual to whom it was issued and is otherwise in compliance with the State of issuance's requirements for disability placards or cards.

V. SERVICE ANIMALS

- A. Larimer County allows service animals to accompany individuals with disabilities in all areas of its facilities where the public is normally allowed to go.
- B. **Service animals are defined as dogs and miniature horses (they range in height from 24 inches to 34 inches measured to the shoulders, and weight about 70 to 100 pounds) that are individually trained to do work or perform tasks for people with disabilities.** Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a service animal has been trained to provide must be directly related to the person's disability. Animals whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.
- C. **Service Animals Must Be Under Control**
Under the ADA, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.
- D. **Inquiries, Exclusions, Charges, and Other Specific Rules Related to Service Animals**
 1. When it is not obvious what service an animal provides, only limited inquiries are allowed. Staff may ask two questions: (1) is the service animal required because of a disability, and (2) what work or task has the service animal been trained to perform. Staff cannot ask about the person's disability, require medical documentation, require a special

identification card or training documentation for the service animal, or ask that the service animal demonstrate its ability to perform the work or task.

2. Allergies and fear of dogs or miniature horses are not valid reasons for denying access or refusing service to people using service animals. When a person who is allergic to a dog or miniature horse dander and a person who uses a service animal must spend time in the same room or facility, for example, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.
3. A person with a disability cannot be asked to remove his/her service animal from the premises unless: (1) the service animal is out of control and the handler does not take effective action to control it or (2) the service animal is not housebroken. When there is a legitimate reason to ask that a service animal be removed, staff must offer the person with the disability the opportunity to obtain goods or services without the animal's presence.
4. Service animals must be allowed in public areas where food is sold or prepared even if State or local health codes would otherwise prohibit animals on the premises.
5. A person with a disability who uses a service animal cannot be isolated from other patrons, treated less favorably than other patrons, or charged fees that are not charged to other patrons without animals. In addition, if a program, service or activity requires a deposit or fee to be paid by patrons with pets, it must waive the charge for service animals.
6. If a program, service or activity normally charges patrons for damage that they cause, a person with a disability may also be charged for damage caused by him/herself or his/her service animal.
7. Staff are not required to provide care or food for a service animal.
8. Any exception to the use of service animals is only permissible where there is a demonstrable fundamental alteration or direct threat that will cause a significant risk of substantial harm to health or safety or will fundamentally alter the nature of the service or program.

VI. **CONTRACTORS, LICENSING AND CERTIFICATION**

A. Larimer County will not directly or through contractual or other arrangements, use criteria or methods of administration:

1. That have the effect of subjecting individuals with disabilities to discrimination on the basis of disability;

2. That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of Larimer County's program with respect to individuals with disabilities; or
 3. That perpetuate the discrimination of another public entity if both Larimer County and the other entity are subject to common administrative control or both are agents of the State of Colorado.
- B. In selecting procurement contractors, Larimer County may not use criteria that subject individuals with disabilities to discrimination on the basis of disability.
- C. Larimer County will not administer a licensing or certification program in a manner that subjects individuals with disabilities to discrimination on the basis of disability, nor will Larimer County establish requirements for the programs or activities of licensees or certified entities that subject individuals with disabilities to discrimination on the basis of disability.

VII. **EMERGENCY MANAGEMENT PLAN DEVELOPMENT**

- A. Larimer County will not discriminate against an individual with a disability in connection with participation in services, programs and activities provided in the development, implementation, and execution of the Larimer County emergency management plan. Larimer County will ensure that its emergency management plan will give consideration to any potential barriers that might exclude or limit the opportunity for individuals with disabilities to participate in and benefit from the Larimer County emergency management plan. This policy extends to any and all public or private entities and organizations in conjunction with the Larimer County managed response to emergent situations.
- B. Larimer County recognizes that emergency management is wide-ranging. It includes all programs, services, and activities related to emergencies and disasters, including, but not limited to the following:
1. Preparation - advance planning for emergencies and disasters;
 2. Testing of Preparedness - staging emergency simulations and other approaches to testing the effectiveness of emergency preparedness;
 3. Notification – alerting the public to emergencies and disasters and to available programs, services, and activities;
 4. Ensuring the functional operation of reverse 9-1-1, including texting capacity, and captioned warning announcements on television and websites;
 5. Provision for auxiliary aids and services necessary for effective communication at all planned emergency shelters;
 6. Community Evacuation and Transportation;
 7. Emergency Shelter Programs;
 8. Temporary Lodging and Housing;
 9. Social Services and Emergency – and Disaster-Related Benefit Programs;

10. Emergency Medical Care and Services;
 11. Emergency food, water, and medical supplies;
 12. Relocation Programs, Activities, and Services;
 13. Transition and Transportation Back to the Community Following an Emergency or Disaster;
 14. Emergency and Disaster Recovery Programs, Services, and Activities; and
 15. Remediation of Damage Caused by Emergencies and Disasters– repairing and rebuilding damaged facilities, removing debris, and relocation and re-introduction of State and local government programs, services, and activities following an emergency or disaster.
- C. Larimer County has a voluntary registry for citizens requiring special assistance because of age or disability, during an emergency. Larimer County will include in its plans to provide the necessary capacity to transport, shelter, and provide any other necessary services for this population.

VIII. **TICKETING**

- A. Larimer County will provide wheelchair spaces and companion seats that comply with the 2010 ADA Standards along with any other seats required to be offered for sale to people with disabilities. Larimer County will ensure that individuals with disabilities have an equal opportunity to purchase tickets for accessible seating when selling tickets for a single event, or series of events, at Larimer County facilities. Larimer County will ensure that people with disabilities will have an equal opportunity (Reference 2):
1. During the same hours;
 2. During the same stages of ticket sales, including, but not limited to, pre-sales, promotions, lotteries, wait-lists, and general sales;
 3. Through the same methods of distribution;
 4. In the same types and numbers of ticketing sales outlets, including telephone service, in-person ticket sales at the facility, or third-party ticketing services, as other patrons; and
 5. Under the same terms and conditions as other tickets sold for the same event or series of events.

IX. **DESIGNATION OF ADA COORDINATOR**

- A. Larimer County has a designated ADA Coordinator as required by the ADA. Questions, concerns, suggestions or requests related to issues covered by Title II of the ADA must be brought to the attention of the ADA Coordinator.
- B. The duties of the Larimer County ADA Coordinator include the coordination of the County's efforts to comply with and carry out its responsibilities under Title II of the ADA and its regulations. The ADA Coordinator will investigate any complaint communicated to the County alleging its noncompliance with Title II of

the ADA or alleging any actions that would be prohibited by Title II of the ADA. In response to complaints from the public, individuals with disabilities, or organizations representing individuals with disabilities, the ADA Coordinator will follow the Larimer County Grievance Procedure (see Section X).

- C. The ADA Coordinator may be contacted by writing to: ADA Coordinator, Larimer County Risk Management, 200 West Oak Street, Suite 4000, PO Box 1190, Fort Collins, CO 80522-1190; by telephoning (970)498-9567 between the hours of 8 a.m. and 5:00 p.m. on weekdays; by email at Accessibility@larimer.org.
- D. Where appropriate, Larimer County departments and divisions will designate an employee to coordinate the department or divisions efforts to comply with and carry out its responsibilities under Title II of the ADA. Any employees designated to perform these duties within their departments or divisions will liaise, interact, and coordinate with the ADA Coordinator to further the County's consistent and comprehensive compliance with Title II of the ADA.

X. **GRIEVANCE PROCEDURES**

- A. This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 (Reference 2). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by Larimer County. The County's Human Resources Policy (Reference 3) governs employment-related complaints of disability discrimination.
- B. The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.
- C. The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:
 ADA Coordinator
 Larimer County Risk Management
 200 West Oak Street, Suite 4000
 PO Box 1190
 Fort Collins, CO 80522-1190
- D. Within 15 calendar days after receipt of the complaint, the Coordinator will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, the Coordinator will respond in writing, and where appropriate, in format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the County and offer options for substantive resolution of the complaint.

- E. If the response by the Coordinator does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the Risk Manager or his/her designee.
- F. Within 30 calendar days after receipt of the appeal, the Risk Manager or his/her designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the Risk Manager will respond in writing, and, where appropriate, in a format accessible to the complainant. The Risk Manager's decision will be final.
- G. All written complaints received by the Coordinator or his/her designee, appeals to the Risk Manager or his/her designee, and responses from these two offices will be retained by the County for at least three years.

XI. TRAINING

All Larimer County employees and elected officials in all Offices, Divisions and Departments of Larimer County will receive ADA training within three months of the date of hire.

XII. SELF-EVALUATION

- A. It is the policy of Larimer County to continually evaluate its current services, programs, activities, policies, practices, and the effects thereof, to identify any that do not or may not meet the requirements of Title II of the ADA and its regulations. To the extent modification of any such services, programs, activities, policies, and practices is required, Larimer County will proceed to make the necessary modifications.
- B. Larimer County will provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments.

*Approved by County Manager – 04/30/2019
Linda Hoffmann*