

BARNSTABLE COUNTY AMERICANS WITH DISABILITIES ACT POLICY

Adopted on: May 4, 2011

Policy Barnstable County does not discriminate based upon disability and provides reasonable accommodations for qualified individuals with disabilities in a fair and equitable manner, and in accordance with applicable federal and state law.

This policy applies to employees of Barnstable County, applicants for employment, volunteers and users of services in Barnstable County.

Federal and State Regulations

The Rehabilitation Act of 1973. Section 504 of the Rehabilitation Act makes it illegal for any entity receiving federal financial assistance to discriminate on the basis of disability. Section 504 obligates local governments to ensure that people with disabilities have equal access to any programs, services, or activities. Covered entities, such as local governments, are also required to ensure that employment practices do not discriminate based upon disability.

The Americans with Disabilities Act (ADA) requires that state and local governments provide qualified individuals with disabilities equal access to their programs, services, or activities unless doing so would fundamentally alter the nature of their programs, services, or activities or would impose an undue burden.

Massachusetts General Law c 93 section 103 and Article CXIV of the Amendments to the Massachusetts Constitution prohibits discrimination, exclusion from participation, and denial of benefits on the basis of disability in any program or activity in the Commonwealth.

Definitions

ADA: Americans with Disabilities Act

Disability: According to the Americans with Disabilities Act (ADA), a disability is defined as a physical or mental impairment that substantially limits one or more of a person's major life activities (for example, walking, standing, or breathing).

Essential Functions: Job duties considered so fundamental that the individual cannot do the job without performing them.

Interactive Process: The interactive process is when an employer and an individual with a documented disability work together to identify what barriers

exist to the individual's performance of a particular job function. This analysis often includes a review of the individual's abilities and limitations and which factors or job tasks pose difficulties.

Qualified Persons with Disabilities: An employee or applicant with a disability who satisfies skill, experience, education and other job-related requirements for the position and who can perform the essential functions of the job in question with or without reasonable accommodations. This includes part-time, full-time, probationary, non-career status and temporary employees.

Undue Hardship: An action requiring significant difficulty, expense or disruption, or an action that would fundamentally alter the nature of an operation at Barnstable County

Reasonable Accommodations A copy of the ADA Procedure for Handling Reasonable Accommodations can be obtained from the ADA Coordinator.

Grievance Procedure If discrimination based upon disability has occurred, Barnstable County will take immediate action to eliminate the discrimination and resolve the grievance in accordance with the ADA Grievance Procedure. The ADA Grievance Procedure may be used by anyone who wishes to file a grievance alleging discrimination on the basis of disability in employment practices and policies or the provision of services, activities, programs, and benefits by Barnstable County. A complete copy of the ADA Grievance Procedure is publically posted and can be obtained from the ADA Coordinator. A copy of the ADA Grievance Procedure is attached as Addendum A.

Remedies In addition to the above, if an employee or member of the public believes she/he has been discriminated against due to his/her disability; he/she may file a formal complaint with either or both of the following Governmental Agencies:

Massachusetts Commission Against Discrimination
One Ashburton Plaza – Room 601
Boston, MA
(617) 994-6000

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, NW
Disability Rights Section - NYAV
Washington, DC 20530
800 - 514 - 0301 (voice)
800 - 514 - 0383 (TTY)

BARNSTABLE COUNTY AMERICANS WITH DISABILITIES ACT PROCEDURE FOR HANDLING REASONABLE ACCOMMODATION REQUESTS

This procedure outlines how department heads and/or hiring officials should respond to requests for reasonable accommodations in accordance with federal and state laws pertaining to qualified individuals with disabilities as well as the instructions for individuals on how to request accommodations.

The Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act require Barnstable County to provide appropriate employment accommodations to employees with documented disabilities unless doing so would create an undue hardship, compromise the health and safety of staff of the County, or fundamentally alter the nature of the County's employment mission.

All requests for reasonable accommodations will be handled by the Department Head or his/her designee. Department Heads may request the assistance of the County ADA Coordinator (Director of Department of Human Services) in the event the request cannot be accommodated within the Department easily.

Training Requirements

1. Department Heads and Hiring Officials are expected to be familiar with the laws and statutes relating to the Americans with Disabilities Act and the Rehabilitation Act that apply to employment and provision of services to the public.
2. The ADA Coordinator will provide annual information to employees regarding compliance with the ADA and other disability laws and statutes. County employees will receive information and instruction on:
 - o how to request communication access for individuals who are Deaf or hard of hearing and have requested accommodation
 - o how to operate the TTY in the Department of Human Services as well as the procedure for instructing staff in the process for retrieving calls
 - o accessible print and web guidelines
 - o conducting an accessible meeting or event
 - o other emerging topics

Guidelines for Job Applicants

The ADA prohibits employers from asking job applicants about the existence, nature, or severity of a disability. Applicants for employment at Barnstable County should inform the hiring official or the Department of Human Resources of the need for any reasonable accommodation. Upon receiving an accommodation request, hiring officials and Human Resources designees should do one of the following:

1. Engage the job applicant in an interactive process to determine whether the individual qualifies as an individual with a disability and if so, determine what reasonable accommodation can be offered, or
2. Contact the ADA Coordinator for assistance, if needed, at (508) 375-6626.

As part of the interactive process, the hiring official may ask the applicant to provide medical and other documentation to support his/her request. All medical documents will be handled confidentially. Once the required documentation has been submitted, the requested accommodation(s) will be discussed with the applicant, and if necessary, possible alternatives may be suggested.

The Human Resources Department is responsible for implementing all approved accommodations during the interview process.

Guidelines for Employees

Upon receiving an accommodation request, the Department Head/Supervisor should engage the employee in an interactive dialogue to clarify the type of accommodation(s) needed. The Department Head/Supervisor with assistance of HR and ADA Coordinator, if needed, should determine, among other things:

- whether the employee qualifies as an individual with a disability,
- the essential functions of the employee's job,
- whether the accommodation(s) being sought is "reasonable" and/or to identify alternative accommodation(s).

As part of the interactive process, the Department Head/Supervisor may ask the employee to provide medical and other documentation to support his/her request for reasonable accommodation. All medical documents will be handled confidentially. After submission of all required documentation, the Department Head/Supervisor may confer with the ADA coordinator, employee, the employee's supervisor and may also confer with Human Resources (HR) to discuss the requested accommodation(s), and if necessary, possible alternatives. After making a final determination on the matter, the Department Head/Supervisor will communicate the decision to the employee, the employee's supervisor and appropriate HR personnel.

Employees who are in disagreement with the outcome of their request for an accommodation may address their concerns by following the ADA Grievance Procedure.

Guidelines for Public Requests

Any eligible person with a disability who desires access to services provided by Barnstable County may request a reasonable accommodation from the program. If the person is not provided an accommodation, said person may file a grievance by following the ADA Grievance Procedure.

Requirements for posting of ADA Public Notice and ADA Grievance Procedure

The Barnstable County ADA Public Notice and Grievance Procedure are posted in a location accessible to the public and on the County website.

Reporting Requirements

All requests for accommodation and their disposition must be forwarded to the ADA Coordinator within five working days of disposition.

The ADA Coordinator will file requests/dispositions in a locked file for seven years. Only authorized employees will have access to this information. It will not be filed with personnel records.

Each employee will receive training on disability issues, laws and compliance annually as part of the requirements for employment. A record of employee training will be maintained in the HR office and a copy to the ADA Coordinator.

Any grievances related to a request for reasonable accommodations filed by an employee shall immediately be reported to the ADA Coordinator and the Department Head who will collaborate on a resolution of the grievance.

Rights and Responsibilities of Barnstable County Employees

Duty to Cooperate

Department heads, supervisors, and other agents of the county have a duty to engage employees and applicants in an interactive process in response to requests for reasonable accommodations. Anyone who feels uncomfortable initiating the interactive process is encouraged to contact ADA Coordinator at 508-375-6628 as soon as they have notice of a possible need for an accommodation.

Freedom from Retaliation

Any eligible member of the County has the right to request a reasonable accommodation. It is a violation of County policy to retaliate against an individual for

requesting an ADA accommodation. Any person who retaliates against an individual is subject to disciplinary action up to and including termination by the County.

Confidentiality

In accordance with the ADA, Barnstable County will protect and maintain the privacy and confidentiality of medical information of its employees obtained in connection with the reasonable accommodation process. All medical information will be treated confidentially and maintained securely and separately from personnel files.

Frequently Asked Questions

1. What is a disability?

According to the Americans with Disabilities Act (ADA), disability is defined as a physical or mental impairment that substantially limits one or more of a person's major life activities (for example, walking, standing, or breathing).

2. What is the interactive process?

The interactive process is when an employer and an individual with a documented disability work together to identify what barriers exist to the individual's performance of a particular job function. This analysis often includes a review of the individual's abilities and limitations and which factors or job tasks pose difficulties. Fundamental to the process is ensuring that the employee provides sufficient documentation to enable the County to determine if the condition substantially limits a major life activity, and if so, what accommodation(s) may be reasonable but still permit the employee to meet the essential functions of the employee's position.

3. How are reasonable accommodations made?

Accommodations are provided through an interactive process between the applicant or employee and Hiring Official. The individual requesting the accommodation may be asked to obtain documentation from his/her health care provider to be forwarded to Hiring Official. Supporting documentation from a qualified clinician may include:

- a diagnosis of the impairment and any accompanying test results,
- a detailed description of the specific impairment, functional limitations (with and without the use of mitigating measures such as treatment, aids, and medication), functional need, and the medical justification for such need, and
- a recommendation for the type and duration of the accommodation needed, as well as the rationale underlying the request.

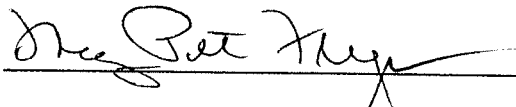
Assistance of the ADA Coordinator may be requested by the hiring official/department head and/or the applicant/employee.

Upon receiving and reviewing the appropriate documentation, a determination will be made regarding the individual's disability status as well as his/her essential job functions as they relate to the accommodation being requested.

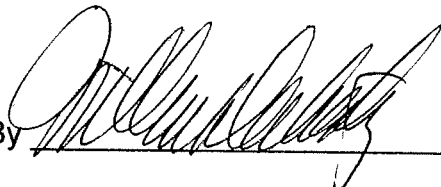
4. What should I do if I feel as though I've been discriminated against or harassed because of my disability?

Individuals may report alleged acts of discrimination or harassment on the basis of disability by contacting the ADA Coordinator at 508-375-6628.

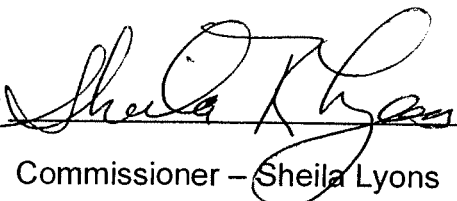
APPROVED BY BARNSTABLE COUNTY COMMISSIONERS

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Date: 5/4/11

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