

	<b><u>P - §22</u></b>	<b><u>Policy Name:</u></b>	<b><u>Current Version Approved:</u></b>
		Americans with Disabilities Act (ADA) and Americans with Disabilities Amendments Act (ADAAA)	
	<b><u>Prepared By:</u></b>	Human Resources	<b><u>Adopted:</u></b>
	<b><u>Amended:</u></b>		

## A. PURPOSE

The purpose of this policy is to ensure compliance with all laws federal and state laws concerning the employment of individuals with disabilities and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC).

## B. DEFINITIONS

Americans with Disabilities Act – law that prohibits discrimination against people with disabilities.

Direct threat - A significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation.

Disability - a physical or mental impairment that substantially limits one or more major life activities, a record (or past history) of such an impairment or being regarded as having such an impairment.

Essential functions - responsibilities that are determined by the employer to be critical or core to performing the job; the purpose of the position in the organization.

Major life activities – functions necessary for sustaining quality of life. Examples include but are not limited to: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, intellectual disability, mental illness, and major bodily functions. Detailed lists of covered functions are found in the ADA and ADAAA language.

Qualified individual - an individual who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position and who, with or without reasonable accommodation, can perform the essential functions position.

Reasonable accommodation - modification or adjustment to a job, the work environment, or the way things are usually done, that does not create an undue hardship to the employer.

Substantially limiting - a person is unable to perform an activity as compared to an average person in the general population.

Undue hardship - an action requiring significant operational difficulty, impaired service levels, or expense by the employer.

## C. ROLES AND RESPONSIBILITIES

**Employees** – responsible for notifying Human Resources if they believe they need accommodation.

**Managers/Supervisors** – responsible for notifying Human Resources if an employee has indicated that they have a disability, is perceived in having a disability, or has asked for an accommodation.

**Human Resources** –

- ensures that all job candidates are given fair and equal consideration without judgment or penalty for any type of disability covered under the ADA/ADAAA.
- ensures that all hiring, termination, training, promotion, and other employment factors adhere to the guidelines outlined in the legislation.
- reviews each request for accommodation, or the perceived need of accommodation, on a case-by-case basis.
- Works with departments to determine whether an accommodation would pose an undue hardship.

## D. POLICY

The Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAAA) are federal laws that prohibit disability discrimination in all employment practices including job application procedures, hiring, termination, advancement, compensation, training, and other terms, conditions, and privileges of employment. It applies to recruitment, advertising, tenure, layoff, leave, fringe benefits, and all other employment-related activities. It is the policy of Albemarle County to comply with all federal and state laws concerning the employment of persons with disabilities.

1. Job applicants and employees who are qualified individuals with a disability are protected. This includes employees with known limitations related to pregnancy, childbirth, or related medical conditions (Virginia Values Act).
2. Reasonable Accommodation
  - a. Pre-employment
    1. Applicants with a disability who can be reasonably accommodated will be given the same consideration for employment as any other applicant.

2. Human Resources will engage in the interactive process with the applicant to determine if the County can provide a reasonable accommodation without creating an undue hardship or causing a direct threat to workplace safety.
3. Applicants who pose a direct threat to the health, safety, or well-being of themselves or others in the workplace, and when the threat cannot be eliminated by reasonable accommodation, will not be hired.

b. Employee Request

1. Employees with a disability may request a reasonable accommodation by contacting Human Resources or their supervisor verbally or by email.
2. Human Resources will engage in the interactive process with employees with a disability to determine if the County can provide a reasonable accommodation without creating an undue hardship or causing a direct threat to workplace safety.
3. Albemarle County will reasonably accommodate qualified individuals unless doing so causes a direct threat to these individuals or others in the workplace. However, if the accommodation creates an undue hardship to Albemarle County, the accommodation will not be utilized.
4. Service Animals are defined by the ADA as dogs that are individually trained to do work or perform tasks for people with disabilities and may be considered in an accommodation request. If approved, the following rules apply:
  - a. A service animal must be under the control of its handler. Under the ADA, service animals must be harnessed, leashed, or tethered, unless the individual's disability prevents using these devices or the devices interfere with the service animal's safe, effective performance of tasks.
  - b. When it is not obvious what service an animal provides, only limited inquiries are allowed. Staff may ask two questions: (I) is the dog a service animal required because of a disability, and (II) what work or task has the dog been trained to perform.
  - c. Staff cannot ask about the person's disability, require medical documentation, require a special identification card on training documentation for the dog, nor ask that the dog demonstrate its ability to perform the work or task.
  - d. Emotional support animals, comfort animals, and therapy dogs are not service animals under Title II and Title III of the ADA. Other species of animals, whether wild or domestic, trained or untrained, are not

considered service animals. The work or tasks performed by a service animal must be directly related to the individual's disability.

### 3. Excluded from Coverage

#### a. Direct Threat

Individuals who pose a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation are excluded from coverage under the County's ADA policy.

#### b. Illegal or illicit Drugs

Individuals who are currently using illegal or illicit drugs are excluded from coverage under the County's ADA policy.

## E. RESOURCES

[Americans with Disabilities Act](#)

[Library of Virginia](#)

[Service Animals](#)