

RESOLUTION

WHEREAS, the Board of Supervisors has adopted County of Albemarle Personnel Policies pursuant to Albemarle County Code Section 2-1102; and

WHEREAS, the Board desires to add Section P-91 regarding employee discipline.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of Albemarle County, Virginia, hereby adds Section P-91, Americans with Disability Act Policy, to the County of Albemarle Personnel Policies, as follows:

Section P-91 Americans with Disability Act Policy (ADA Policy)

I. Purpose

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, firing, 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 the Board to comply with all federal and state laws concerning the employment of persons with disabilities.

II. Disability Discrimination Protection

A. Who is Protected?

Job applicants and employees who are qualified individuals with a disability are protected.

B. Definitions

1. *Direct threat*: A significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation.
2. *Disability*: means a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment.
3. *Essential functions of the job*: refer to those job activities that are determined by the employer to be essential or core to performing the job; these functions cannot be modified.
4. *Major life activities*: include the following, but are not limited to: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. It also includes operation of major bodily functions such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. Also covered are any mental or psychological disorders, such as intellectual disability (formerly termed mental retardation), organic brain syndrome, emotional or mental illness, and specific learning disabilities.
5. *Qualified individual*: means an individual who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such

individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual is applying for or holds

6. Reasonable accommodation: means any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to enjoy an equal employment opportunity including but not limited to participating in the application process and/or performing essential job functions. Reasonable accommodation also includes adjustments to assure that a qualified individual with a disability has rights and privileges in employment equal to those of employees without disabilities. Reassignment of an essential job function to another employee is not a reasonable accommodation.
7. Substantially limiting: The determination of whether an impairment substantially limits a major life activity requires an individualized assessment, and an impairment that is episodic or in remission may also meet the definition of disability if it would substantially limit a major life activity when active. Some examples of these types of impairments may include, but are not limited to, epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder and schizophrenia. An impairment such as cancer that is in remission but that may possibly return in a substantially limiting form also is considered a disability.
8. Undue hardship: means an action requiring significant difficulty or expense by the employer. In determining whether an accommodation would impose an undue hardship on an employer, factors to be considered include, but are not limited to:
 - a. The nature and cost of the accommodation.
 - b. The overall financial resources of the department or departments involved in the provision of the reasonable accommodation; the number of persons employed by the department; the effect on expenses and resources; or the impact of such accommodation upon the operation of the department.
 - c. The overall financial resources of the employer; the size, number, type and location of facilities/departments.
 - d. The type of operations of the County, including the composition, structure and functions of the workforce; administrative or fiscal relationship of the particular department involved in making the accommodation to the employer.
 - e. The impact of the accommodation on the operation of the department.

III. Requesting a Reasonable Accommodation

A. Pre-employment Requests

1. Applicants with a disability who can be reasonably accommodated will be given the same consideration for employment as any other applicant.
2. Job applicants with a disability may request a reasonable accommodation by contacting Human Resources and completing the designated form.

3. 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.
4. 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. Employment Requests

1. Employees with a disability may request a reasonable accommodation by contacting Human Resources or their supervisor and completing the designated form. Employees requesting a reasonable accommodation must provide appropriate documentation.
2. Supervisors who receive requests for reasonable accommodation or have reason to know that an employee may need a reasonable accommodation must contact Human Resources. Supervisors should not investigate medical conditions without guidance from Human Resources.
3. 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.
 - a. Generally, an accommodation meeting will be held with Human Resources, the employee, and the employee's department/school to discuss the need for accommodation and reasonable accommodation options.
4. Albemarle County will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job unless doing so causes a direct threat to these individuals or others in the workplace. Albemarle County will attempt to eliminate the threat by developing a reasonable accommodation. However, if the accommodation creates an undue hardship to Albemarle County, the accommodation will not be utilized

C. Who to Contact

Contact Human Resources with any questions or requests for accommodation.

III. 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 Drugs

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

Adopted:

I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true, correct copy of a Resolution duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of ____ to ____, as recorded below, at a regular meeting held on _____.

Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Dill	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Mr. Randolph	_____	_____
Mr. Sheffield	_____	_____