

Warren County Board of Supervisors

RESOLUTION NO. 365 OF 2014

Resolution introduced by Supervisors Taylor, Kenny, Sokol, Merlino, Dickinson, Girard, Vanselow, Wood and Simpson

AMENDING RESOLUTION NO. 356 OF 2013; ADOPTING THE AMERICANS WITH DISABILITIES ACT (“ADA”) SECTION 504 COMPLIANCE POLICY

WHEREAS, Resolution No. 356 of 2013 adopted the Americans with Disabilities Act (“ADA”) Section 504 Compliance Policy, and

WHEREAS, the Warren County Personnel Committee has recommended that the policy be amended to replace all occurrences of “Personnel Officer” with “County Human Resources Director” and

WHEREAS, at the Personnel Committee’s request, the correct Department name and address be amended, now, therefore, be it

RESOLVED, that the Warren County Board of Supervisors hereby amends the Americans with Disabilities Act (“ADA”) Section 504 Compliance Policy attached hereto as Schedule “A”, to apply to all Warren County buildings, programs, services and activities, County employment and contracts, and be it further

RESOLVED, that Resolution No. 356 of 2013 is hereby amended accordingly.

SCHEDULE "A"

**ADA/SECTION 504 POLICY
WARREN COUNTY, NEW YORK**

I. POLICY STATEMENT

As provided by Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (ADA) and ADA Title II Regulations:

A. Warren County Programs, Services and Activities

1. Warren County, New York ("Warren County") will ensure that no qualified disabled individual shall, solely on the basis of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any of its programs, services or activities. Warren County further ensures that every effort will be made to provide nondiscrimination in all of its programs or activities regardless of the funding source.
2. Warren County shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the Act or this part. This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.
3. Warren County shall generally permit the use of a service animal (including miniature horses, to the extent any particular facility can accommodate these animals) by an individual with a disability, except that:
 - a) Warren County may ask an individual with a disability to remove a service animal from the premises if the animal is out of control and the animal's handler does not take effective action to control it or the animal is not housebroken. If Warren County properly excludes a services animal, it shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises.
 - b) Warren County shall not be responsible for the care or supervision of a service animal.
 - c) Warren County shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. Warren County may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. Warren County shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. Generally, Warren County will not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).
 - d) Individuals with disabilities shall be permitted to be accompanied by their service animals

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in all areas of a public entity's facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go.

- e) Warren County shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. If Warren County normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.
4. a) Warren County shall 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) Warren County shall 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 Warren County can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements adopted by resolution of the Warren County Board of Supervisors.
- c) Warren County shall not ask an individual using a wheelchair or other manually powered mobility device questions about the nature and extent of the individual's disability.
- d) Warren County may ask a person using an other power-driven mobility device to provide a credible assurance that the mobility device is required because of the person's disability.
- e) If Warren County permits the use of another power-driven mobility device by an individual with a mobility disability, it shall 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, Warren County shall 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.
5. a) Warren County shall ensure that individuals with disabilities have an equal opportunity to purchase tickets for accessible seating:
- i) During the same hours;
 - ii) During the same stages of ticket sales, including, but not limited to, pre-sales, promotions, lotteries, wait-lists, and general sales;
 - iii) Through the same methods of distribution;

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- iv) 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
 - v) Under the same terms and conditions as other tickets sold for the same event or series of events.
- b) Warren County shall, upon inquiry:
- i) Inform individuals with disabilities, their companions, and third parties purchasing tickets for accessible seating on behalf of individuals with disabilities of the locations of all unsold or otherwise available accessible seating for any ticketed event or events at the facility;
 - ii) Identify and describe the features of available accessible seating in enough detail to reasonably permit an individual with a disability to assess independently whether a given accessible seating location meets his or her accessibility needs; and
 - iii) Provide materials, such as seating maps, plans, brochures, pricing charts or other information, that identify accessible seating and information relevant thereto with the same text or visual representations as other seats, if such materials are provided to the general public.
- c) Purchasing of multiple tickets, holding and releasing of tickets, transfer and secondary market of tickets shall be governed by ADA Title II Regulations.
6. All Warren County offices and programs shall be accessible to users of TTYs (Teletypewriter) either by having a TTY to provide direct TTY access or by way of the NY Relay Service.
7. Telephone emergency services, including 911 services, shall provide direct access to individuals who use TDD's and computer modems.
8. Warren County shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities and facilities. Warren County shall provide signage at all inaccessible entrances to each of its facilities, directing users to an accessible entrance or to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each accessible entrance of a facility.
9. a) Warren County is not required to permit an individual to participate in or benefit from services, programs or activities of that public entity when that individual poses a direct threat to the health or safety of others. In determining whether an individual poses a direct threat to the health or safety of others, Warren County will make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications

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of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

b) Warren County is not required to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the service program, or activity or would result in undue financial and administrative burdens, Warren County has the burden of proving that compliance with this subpart would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the Warren County Administrator or his or her designee after considering all resources available for use in the funding and operation of the service, program or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required that would result in such an alteration or such burdens, Warren County shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits or services provided by Warren County.

10. a) Warren County shall not discriminate against any individual because that individual has opposed any act or practice made unlawful by this part, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under the Act or regulations adopted in furtherance thereof.

b) Warren County shall not coerce, intimidate, threaten or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by the Act or regulations adopted in furtherance thereof.

B. Warren County Employment

Warren County will ensure that no qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any service, program, or activity conducted by a public entity.

C. Warren County Administration of 504 Contracts

All Warren County departments administering Section 504 contracts whereupon the contractor, other than another government entity, provides programs, services or activities to the public, shall require the contractor to comply with the Section 504/ADA requirements applicable to governments. The contracting county department shall monitor respective contracts for compliance with Section 504/ADA.

D. Word/Phrase Meaning

For our purposes, a disabled person is defined as any person who:

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1. Has a physical or mental impairment that substantially limits one or more major life activity,
2. Has a record of such an impairment, or
3. Is regarded as having such impairment.

II. ORGANIZATION AND SECTION 504/ADA COORDINATORS RESPONSIBILITIES

Administration of the County's 504/ADA responsibilities shall be as follows:

- A. The Self Insurance Administrator for Warren County, 1340 State Route 9, Lake George, New York 12845, acts as the Warren County ADA Coordinator and coordinates ADA compliance activities, inquiries, accommodation requests, and complaints.
- B. The Department Head of each department involved with federally funded programs, services and activities, acts as the Section 504 Coordinator for that department and coordinates Section 504 compliance activities, inquiries, accommodation requests, and complaints.
- C. The County Human Resources Director for Warren County, Department of Human Resources and Civil Service Administration, 1340 State Route 9, Lake George, New York 12845, shall handle all employment related activities, inquiries, accommodation requests and complaints.

III. SECTION 504/ADA NOTICE TO THE PUBLIC

Notice required by 504/ADA shall read as follows:

In accordance with the requirements of Title II of the ADA and Section 504 of the Rehabilitation Act of 1973, Warren County will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs or activities. Warren County does not discriminate on the basis of disability in its hiring or employment practices. Warren County departments administering Section 504 contracts shall require the contractors to comply with Section 504/ADA regulations applicable to governments. Warren County has adopted a policy that sets forth in more detail how it complies with said laws and regulations adopted pursuant thereto. A copy of that policy is accessible through the County's website or upon request to the ADA Coordinator.

This notice is provided as required by Title II of the ADA and Section 504 of the Rehabilitation Act of 1973. Questions, complaints or requests for additional information or accommodation regarding the ADA may be forwarded to the designated ADA Coordinator:

Self Insurance Administrator
County of Warren, New York
1340 State Route 9
Lake George, New York 12845
(518) 761-6529
Office Hours: Monday - Friday, 7 a.m. to 5 p.m.

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Questions, complaints or requests for additional information or accommodation regarding the ADA and employment matters may be forwarded to the County Human Resources Director for Warren County:

County Human Resources Director
County of Warren, New York
1340 State Route 9
Lake George, New York 12845
(518) 761-6440
Office Hours: Monday - Friday, 8 a.m. to 5 p.m.

Questions, complaints or requests for additional information or accommodation regarding Section 504 contract matters may be forwarded to the Department Head of the department administering the federally funded program by filing the complaint with the Warren County Administrator:

Warren County Administrator
County of Warren, New York
1340 State Route 9
Lake George, New York 12845
(518) 761-6539
Office Hours: Monday - Friday, 8 a.m. - 5 p.m.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service or activity of Warren County should contact the ADA/Section 504 Coordinator as soon as possible, but no later than 48 hours before the scheduled event.

The ADA does not require Warren County to take any action that would fundamentally alter the nature of its programs or services, or impose on it an undue financial or administrative burden.

Complaints that a program, service or activity of Warren County is not accessible to persons with disabilities should be directed to the ADA Coordinator.

Warren County will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

IV. SECTION 504/ADA SELF-EVALUATION

Warren County will complete the self-evaluation required by 504/ADA as follows:

- A. Warren County shall evaluate its current services, policies and practices, and the effects thereof, that do not or may not meet the requirements of Section 504 of the Rehabilitation Act of 1973, the ADA and the rules and regulations promulgated thereunder and, to the extent modification of any such services, policies and practices is required, Warren County shall proceed to make the necessary modifications.

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- B. Warren County shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by advertising in the official newspaper, posting the same on the website and surveying employees with the request to submit comments.
- C. Warren County shall, for at least three years following completion of the self-evaluation, maintain on file and make available for public inspection:
 - i) A list of the interested persons consulted;
 - ii) A description of areas examined and any problems identified; and
 - iii) A description of any modifications made.

V. GRIEVANCE PROCEDURES

This Grievance Procedure is established to meet the requirements of the ADA. 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, employment and/or Section 504 contracts.

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 tape recording of the complaint, will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible but not later than 60 calendar days after the alleged violations to:

- A. In the case of complaints involving services activities or programs, the designated ADA Coordinator:

Self Insurance Administrator
County of Warren, New York
1340 State Route 9
Lake George, New York 12845
(518) 761-6529
Office Hours: Monday - Friday, 7 a.m. to 5 p.m.

- B. In the case of complaints relating to Federal or State funding requiring Section 504 compliance, to the Section 504 Coordinator for that department by filing the complaint with the Warren County Administrator:

Warren County Administrator
County of Warren, New York
1340 State Route 9
Lake George, New York 12845
(518) 761-6539
Office Hours: Monday - Friday, 8 a.m. - 5 p.m.

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C. In the case of employment complaints, to the County Human Resources Director:

County Human Resources Director
County of Warren, New York
1340 State Route 9
Lake George, New York 12845
(518) 761-6440
Office Hours: Monday - Friday, 8 a.m. to 5 p.m.

For all complaints, within 15 calendar days after receipt of the complaint, the ADA/Section 504 Coordinator/County Human Resources Director or his/her designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, ADA/Section 504 Coordinator/County Human Resources Director or his/her designee will respond in writing and, where appropriate, in a format accessible to the complainant, such as large print, Braille or audiotape. The response will explain the position of Warren County and, if appropriate, offer options for substantive resolution of the complaint.

If the response by the ADA/Section 504 Coordinator or the County Human Resources Director or his/her designee 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 County Administrator of Warren County or his/her designee. Within 15 calendar days after receipt of the appeal, the County Administrator will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the Warren County Administrator or his/her designee will respond in writing and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by the ADA/Section 504 Coordinator or his/her designee, appeals to the Warren County Administrator or his/her designee, and responses from these two offices will be retained by Warren County for at least three (3) years.

VI. REASONABLE ACCOMMODATION PROCEDURES

Any individual who wishes to request a specific accommodation (including communication aids or services) in order to facilitate the delivery of services or participation in programs or activities provided by Warren County should contact the ADA Coordinator as soon as possible but no later than 48 hours before the scheduled event:

Self Insurance Administrator
County of Warren, New York
1340 State Route 9
Lake George, New York 12845
(518) 761-6529
Office Hours: Monday - Friday, 7 a.m. to 5 p.m.

VII. ASSURANCES

Pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), Warren County desiring to avail itself of federal financial assistance from the United States Department of

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Transportation, hereby gives assurance that no qualified disabled person shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, including discrimination in employment, under any services, program or activity that receives or benefits from this federal financial assistance.

Warren County further assures that its programs will be conducted, and its facilities operated, in compliance with all requirements imposed by or pursuant to 49 C.F.R. Part 27, 28 C.F.R. Part 35, and 42 U.S.C. 12101-12213.

Adopted June 21, 2013, and amended by Resolution No. 365 of 2014, at Lake George, Warren County, New York.

BY THE WARREN COUNTY BOARD OF SUPERVISORS