



AMERICANS WITH DISABILITIES ACT TRANSITION PLAN

Updated: May 2024



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1.0 Summary

1.1 Doña Ana County

Doña Ana County is a political subdivision of the state of New Mexico and was formally recognized by the New Mexico state legislature in 1852.¹ As a political subdivision, Doña Ana County derives its authority from the New Mexico Constitution and laws adopted by the legislature of the state New Mexico.² The laws provide the framework for county government, describe the powers conferred on the county and its various elected officials, and specify the functions of the county government and each elected official.³ A map of the State of New Mexico identifying all counties has been included. (Appendix A)

The political and corporate powers of the county government are exercised by the Board of County Commissioners.⁴ The Board of County Commissioners (Board) of Doña Ana County (County) consists of five members, all of who are elected according to state law. The powers of a county government may be categorized as legislative, executive, and administrative.⁵ Some of its more broadly defined powers include managing county revenues, overseeing county property, creating and maintaining the county's infrastructure (roads, highways, bridges, waste water systems and airports), planning and zoning, public works, providing for health and welfare, conducting elections, law enforcement, detention, and personnel administration⁶. An organizational chart for Doña Ana County has been included. (Appendix B)

Doña Ana County is a large employer in the southern region of the state of New Mexico. Therefore, providing the framework for and maintaining a policy concerning the employment relationship is highly desirable. The Board established a human resources policy by ordinance for the express purpose of establishing a merit system for all phases of the employment process, including the "general regulation of County employees."⁷ (Appendix C) The human resources policy ordinance mandates fair treatment and equal employment opportunity without regard to protected class. Under the ordinance, the Board vests the authority to administer a human resources system in the Human Resources Director under the supervision of the County Manager and with the consent of the Board.

¹ Historical Records Survey sponsored by the New Mexico Historical Records Survey, undated, referring to L.N.M., 1851, p. 120.

² The New Mexico County Commissioner Handbook, The NM EDGE County College, 2016 Ed., page 5.

³ *Ibid.* at pp 6-8.

⁴ The New Mexico County Commissioner Handbook. The NM EDGE County College. 2016 Ed. Page 6. See also New Mexico Statutes Annotated, 1978, Section 4-38-1 (1953).

⁵ *Ibid.* at page 33-34.

⁶ The New Mexico County Commissioner Handbook. The NM EDGE County College. 2016 Ed. Page 34.

⁷ Doña Ana County, N.M. Ordinance 235-2008 (April 8, 2008) codified at Doña Ana County, N.M., Code of Doña Ana County, Ch. 45.



1.2 Americans with Disabilities Act Overview

The Americans with Disabilities Act (ADA) of 1990 is a civil rights statute that prohibits discrimination against individuals with disabilities. The legislation was enacted in response to congressional findings that discrimination persists in critical areas of society such as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services. (42 U.S.C. Section 12101 (a) (3).) The ADA was intended as a comprehensive national mandate to eliminate discrimination against individuals with disabilities. (42 U.S.C. Section 12101 (b) (1).) The goals of the ADA “are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency” for individuals with disabilities. (42 U.S.C. Section 12101 (a) (7).)

The ADA was amended by President George W. Bush in September 2008, (hereinafter referred to as the ADA or the Act) with a statutory effective date of January 1, 2009. The effect of the amendment was to broaden the scope of protections afforded individuals with disabilities. The spirit of the law is one of inclusion. To that end, public entities, such as Doña Ana County, are obligated to ensure accessibility and usability of their programs, activities, and services so that individuals with disabilities have the opportunity to enjoy, participate in, or benefit from a public entity’s programs, activities, and services in the most integrated setting possible.

The Act is comprised of five (5) separate titles as follows:

Title I - Employment

Title II - Public Services

Title III - Public Accommodations and Services Operated by Private Entities

Title IV - Telecommunications (Now codified at 47 U.S.C. Section 225.)

Title V - Miscellaneous Provisions

Title I protects individuals with disabilities from employment discrimination in regard to pre-employment processes and procedures; hiring, promotion, or discharge; compensation; training; and other terms, conditions, or privileges of employment. (42 U.S.C. Section 12112 (a).) It is an employer’s duty to make every effort to provide an effective accommodation for an applicant during the pre-employment process or for a current employee during the employment relationship. An individual with a disability must be given the same consideration for employment as individuals without disabilities.



As long as an individual is qualified for an employment opportunity, the individual cannot be denied the opportunity simply because of a disability.

Title II prohibits a public entity from excluding an individual with a disability from benefiting from or participating in a public entity's services, programs, or activities or being subjected to discrimination. (42 U.S.C. Section 12132.) The duty to provide an effective accommodation is extended to a public entity's affiliate agencies or agencies that provide services on behalf of the public entity. Examples of public services covered by the ADA include:

- Public transportation
- Government facilities
- Public schools and universities
- Recreation and state parks

Title III ensures that an individual with a disability will be provided full and equal enjoyment of a public accommodation's goods, services, facilities, privileges, advantages, or accommodations. (42 U.S.C. 12182 (a).) Examples of public accommodations include:

- Public gathering places (restaurants, bars, movie theaters, etc.)
- Places of lodging (hotels, motels, inns)
- Retail stores
- Social service centers

Title IV, the Telecommunications Act of 1934, requires that telephone providers, manufacturers, and carriers must ensure that telecommunication services, equipment, and functions are accessible to and useable by individuals with disabilities.

Title V of the ADA contains supplemental regulations that are not explicitly covered in other parts of the ADA. These topics include (but are not limited to):

- **Other Federal & State Laws:** The ADA does not invalidate or limit other federal or state laws addressing the civil rights of individuals with disabilities. In fact, the ADA permits federal agencies and states to provide greater protection for individuals with disabilities than what the ADA provides.
- **State Immunity:** States are prohibited from asserting immunity against a violation of the requirements of the ADA, thus, ensuring that individuals with disabilities have legal recourse in either state or federal court.
- **Retaliation:** This provision protects individuals who engage in a protected activity related to the ADA. Protected activities include opposing an act or practice made unlawful by the ADA, filing a charge of discrimination under the ADA, or aiding in a proceeding related to the ADA. The section also prohibits threatening, intimidating, coercing, or harassing any individual who has made or been granted an accommodation request pursuant to or sought the protection of the ADA.
- **Attorney's Fees:** At the discretion of a judge, the prevailing party to a lawsuit is entitled to reasonable attorney's fees, litigation expenses, and costs.



- **Technical Assistance:** Federal agencies delegated enforcement authority are also delegated the responsibility to provide technical assistance to entities covered under the ADA.

The federal government takes a central role in enforcing the standards set forth in the ADA on behalf of individuals with disabilities. (42 U.S.C. Section 12101 (b) (3).) Title I enforcement powers have been delegated to the Equal Employment Opportunity Commission. Title II, Part A, enforcement powers have been delegated to the Department of Justice.

Program Accessibility Requirements

A public entity violates the ADA when an individual with a disability is excluded from participating in or denied the benefit of any of its programs, activities, or services or is subjected to discrimination because the public entity's facilities are inaccessible or unusable. (28 C.F.R. Section 35.149.) The programs, activities, or services include those provided by or made available by a public entity. (28 C.F.R. 35.102.) Public entities are mandated to operate each program, activity, or service so that it is readily accessible and usable by individuals with disabilities. (28 C.F.R. Section 35.150.) The accessibility and usability standard by which to measure a public entity's programs, activities, and services is referred to as program accessibility.

There are five (5) broadly-defined barriers to accessibility. They are:

- **Attitudinal.** Attitudinal barriers are based on assumptions, stereotypes, ignorance, or fear.
- **Physical.** Architectural barriers include physical building structures and outdoor spaces.
- **Technological.** Technological barriers occur when a technological design or software or hardware makes using the technology difficult for an individual with a disability.
- **Communications.** Informational barriers prevent people from communicating with each other.
- **Organizational.** Organizational barriers occur when an organization's policies or operational practices discriminate against individuals with disabilities.

A public entity, as an employer and an organization operating public services, has an opportunity to dispel attitudinal barriers. Through supervisory and employee training and granting citizens' accommodation requests, a public entity can provide education on its obligations under the law and information concerning reasonable accommodations.

The Department of Justice adopted physical structure accessibility design standards, 2010 ADA Standards for Accessible Design (2010 Standards). The 2010 Standards set



minimum scoping and technical requirements for newly designed and constructed or altered state and local government facilities after March 15, 2012. The 2010 Standards is comprised of the Title II regulations for new construction and alterations, 28 C.F.R. Section 35.151, and the 2004 ADA Accessibility Guidelines (ADAAG) codified at 36 C.F.R. Part 1191. The scoping and technical requirements address accessibility to sites, facilities, buildings, and interior elements.

Public entities are integrating the use of technology both as a means of communicating information and as a way to provide programs, activities, and services. During the development and implementation of any technology, public entities must be mindful of the end user. Care must be taken to ensure that technology does not frustrate an individual's access to a public entity's programs, activities, or services.

Communication, whether presented aurally or visually, must be available in alternative formats that permit the effective exchange of information for individuals with disabilities. Methods of effective communication may require providing any number of auxiliary aids or services and may include modification of equipment or devices. (28 C.F.R. Section 35.104.)

A public entity has a duty to make reasonable modifications to its policies, practices, and procedures to ensure access to its services, programs, and activities unless the modification would fundamentally alter the nature of the service, program, or activity. (28 C.F.R. Section 35.130 (b) (7) (i).)

Program accessibility may be achieved by either structural or non-structural methods. Structural methods include altering existing facilities or acquiring or constructing new facilities. A public entity may prefer to choose non-structural methods to achieve program accessibility. Non-structural methods include but are not limited to acquiring or redesigning equipment, using assistive aids, or providing services in an alternative format. (Technical Assistance Manual II-5.2000.) When determining and selecting a method of providing program access, the County will give priority to the method that will result in the most integrated setting appropriate to encourage interaction among all users, including individuals with disabilities.

2.0 Requirements of a Transition Plan

The federal regulation implementing the ADA in state and local government services sets forth specific requirements for an acceptable transition plan. The elements of the plan should include:

- The name of the individual responsible for the plan's implementation;



- A list of the physical barriers preventing or limiting accessibility to the public entity's facilities;
- A detailed description of the methods to be used to make the facilities accessible;
- A schedule for taking the steps necessary to achieve program accessibility compliance;
- A schedule for providing curb ramps, if applicable; and
- Opportunity for interested parties to participate in the development of the plan.

2.1 Transition Plan

Doña Ana County's goal is to ensure full compliance with the ADA. The County believes that in order to provide services to all, the County's programs, activities and services must be accessible. Doña Ana County is committed to making changes to remove any barriers to access.

28 CFR Part 35 § 35.105 Self-evaluation. (a) A public entity shall, within one year of the effective date of this part, evaluate its current services, policies, and practices, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.

28 CFR Part 35 § 35.105 Self-evaluation. (c) A public entity that employs 50 or more persons shall, for at least three years following completion of the self-evaluation, maintain on file and make available for public inspection.

As a public entity, Doña Ana County periodically reviews policies and procedures. While reviewing policies and procedures, the County determined that it would conduct another self- evaluation to update the ADA Transition Plan.

On November 8, 2011, through resolution 2011-72, the Board of County Commissioners of Doña Ana County re-established the Doña Ana County Advisory Committee on the Americans with Disabilities Act (ADAAC) which had previously been established through resolution 2001- 74 on August 14, 2001. The advisory committee focused its efforts on planning and executing the self-evaluation of the County's programs, activities, and services. The committee typically met once per month and public input was encouraged.

Doña Ana County completed this self-evaluation of all County facilities, including the public right-of-way, current services, policies, and practices. Information obtained through the self- evaluation and continued input will be used to update Doña Ana County's ADA Transition Plan as appropriate.



The self-evaluation included the following:

- 1) Facilities Audit- ADA Checklists were completed for all County owned buildings that are open to the public;
- 2) Review and update of the Doña Ana County ADA grievance procedure;
- 3) Review and update of all policies and practices that govern the administration of the County's programs, activities, and services;
- 4) Identification of current County programs, activities, and services;
- 5) Soliciting feedback from the community, especially persons with disabilities, and advocacy groups in identifying and offering corrective measures to ensure accessibility.
- 6) Review of all County-owned roads.

Doña Ana County last revised the transition in December 2017. It is the County's intent to be in compliance with the ADA and to continue reviewing access to County programs, activities, and services.

28 CFR Part 35.150 Existing Facilities (d) (3) Transition plan states: "The plan shall, at a minimum –

(i) Identify physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities;

(ii) Describe in detail the methods that will be used to make the facilities accessible;

(iii) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(iv) Indicate the official responsible for implementation of the plan.

In 2011, Doña Ana County started the process of conducting a self-evaluation. The process continued until 2017. Based on the self-evaluation, an extensive revision to the transition plan had been completed in 2017.

The transition plan is a document that will be updated periodically as information becomes available.



2.2 Review of Doña Ana County ADA Grievance Procedure

The Doña Ana County Americans with Disabilities Act Advisory Committee (ADAAC) reviewed the County's current ADA grievance procedure and proposed version on February 20, 2014, at a regularly scheduled ADAAC meeting. County staff had attended a National ADA Symposium and received a Department of Justice approved format which led Doña Ana County to review and revise the grievance procedure. The ADAAC approved the proposed version along with the existing grievance form. (Appendix F) As the procedure indicates, the grievance form is available upon request. However, "Failure to use this form in no way compromises the grievance procedure".

2.3 Review and update of all policies and practices that govern the administration of the County's programs, activities, and services

The ADAAC reviewed the County's current Americans with Disabilities Act Notice to the Public and a proposed version on February 20, 2014, at a regularly scheduled ADAAC meeting. The ADAAC approved the proposed version which is currently available to the public. (Appendix G)

Doña Ana County Board of County Commissioners adopted a human resources policy ordinance that mandates fair treatment and equal employment opportunity and prohibits discrimination or harassment.⁸ Under the ordinance, the Board vests the authority to administer a human resources system in the Human Resources Director under the supervision of the County Manager and with the consent of the Board.⁹

The Human Resources Policies and Procedures express and define the County's commitment to equal employment opportunities; a workplace free of discrimination; and an environment free of retaliation.¹⁰ The last amendment to the Human Resources Policies and Procedures manual was on November 12, 2019.

⁸ Doña Ana County, N.M., Code of Doña Ana County (The Code of Doña Ana County), Human Resources, Ch. 45, Sections 45-2. B. and 45-5 (2011) at <http://www.ecode360.com/D02860>.

⁹ Doña Ana County, N.M., Code of Doña Ana County (The Code of Doña Ana County), Human Resources, Ch. 45, Sections 45-6 (2011) at <http://www.ecode360.com/D02860>.

¹⁰ Doña Ana County Human Resources Policies and Procedures Adopted May 28, 2008, Amended December 9, 2014, Sections 2-1, 2-2, 2-3.



2.4 ADA Coordinator

28 CFR Part 35 § 35.107 (a) Designation of responsible employee. A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by this part. The public entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to this paragraph.

The duties and responsibilities of Doña Ana County's ADA Coordinator include the following:

- Performs professional, administrative, analytical and employee relations work of moderate difficulty in developing and implementing the County equal opportunity policy;
- Point of contact for Doña Ana County and the general public for ADA and processes requests for reasonable accommodations and modifications under the Americans with Disabilities Act and participates in the training and applicant processing functions of the Human Resources Department;
- Interprets equal employment and discrimination/harassment policies and related Federal and State regulations;
- Conducts prompt and thorough investigation of external discrimination and/or harassment complaints;
- Develops official position statements to respond to complaints received from the ADA and/or HRD;
- Participates on behalf of the County in HRD/ADA mediations;
- Act as internal point of contact for employees wishing to discuss HRD/ADA issues;
- Identifies needs and develops and implements and/or contracts with outside providers for DAC county-wide training on HRD/ADA and other Human Resources issues in the workplace;
- Schedules refresher training needs for all employees and volunteers;
- Participates in new employee orientation to provide HRD/ADA training and explains processes;



- Processes requests for reasonable accommodations and/or reasonable modifications under the Americans with Disabilities Act ;
- Completes and updates the ADA Transition Plan as required by regulations; and
- Researches available materials, supplies and services and makes recommendations for use to promote accessibility in accordance with the ADA.

Anai Igoche, serves as the ADA Coordinator for Doña Ana County. Information pertaining to Anai Igoche as the County's ADA Coordinator can be found on the Doña Ana County Website (www.donaanacounty.org) under the ADA Office and under the Human Resources Department. To contact Anai Igoche:

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2.5 Public Review and Comment

28 CFR Part 35 § 35.150 (d) (1) Transition Plan. In part states: "...A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments. A copy of the transition plan shall be made available for public inspection.

The Transition Plan was available for public review and comment from November 29, 2017 through December 14, 2017 during the self evaluation. Public comments received were considered and incorporated into the final Transition Plan as appropriate. The Transitional Plan will continue to be available for public review and comment. Any comments received will be consider and incorporated into future updates to the Transition Plan as appropriate.

The Transition Plan is available to review on the ADA Office Website; as well as a hard copy is available in the Human Resources Office to review upon request.



2.6 Ongoing Improvement Projects for Barrier Removal

In accordance with Title II requirements for ADA, a public entity with more than 50 employees must provide an opportunity to interested persons, including individuals with disabilities, to participate in the development of the transition plan by submitting comments. Both members of the community and from key community organizations are encouraged to submit their comments after reviewing the transition plan. The ADA Transition plan has been published to the Doña Ana County website. Doña Ana County continues to invite comments and questions from the public. Subsequent staff review, public involvement, and plan updates will be ongoing.

2.7 The Roads and Engineer department

The Roads department has worked on various projects to ensure accessibility as shown in table 1 and 2.

Table 1: Trails

Location	Interval	Length	Width and Material
Lisa Drive	Chaparral Drive to Countyline Drive	10,550'	8' Asphalt
County Line Drive	Lisa Drive to Sunrise Elementary	3,080'	8' Asphalt
Prescott Anthony	Lisa Drive to DABCC	2,580'	8' Asphalt
Elks Road	Columbia Elementary to Doña Ana School Road	5,960'	8' Asphalt
Airport Road	Santa Teresa H West Driveway to McNutt Road	2,540'	8' Asphalt

Table 2: Sidewalks

Location	Interval	Length	Width and Material
Ledesma Road	Romero to Werthiem	3,070'	5' Concrete
Werthiem	Ledesma to Garcia	320'	5' Concrete
Doña Ana School Road	DA Elementary to Elks Road	1,600'	5' Concrete

The Roads department continue to work on ensuring accessibility and are currently working on the projects listed in table 3.

Table 3: Under Design/Construction

Location	Interval	Length	Width and Material
Paseo Real Drive	McCombs to Countyline Drive	9,880'	8' Asphalt
Countyline Drive	Paseo Real to Lisa Drive	5,280'	8' Asphalt
Elks Road	Doña Ana School Road to El Camino Real	1,250'	5' Concrete

The Roads department's total installation thus far is 29,770ft and has 16,410ft left to install.



2.8 The Facilities Department

The DAC Facilities Department is responsible for all county buildings, parks, ballparks, community centers, health centers, and the Southern New Mexico State Fairgrounds and Rodeo. The buildings included in this report provide full or partial public access. The following table is a cost summary for barrier removal that has occurred since 2020.

2020:

Remove & replace 2 lavatories @ Organ Community Center	\$882.09
ADA Improvements at Fairgrounds Office	\$13,406.37
Remove and replace water faucet, lavatory & toilet	\$5,051.23
ADA Improvement to bathroom @ Del Cerro Community Center	\$2,914.69
ADA Improvements @ Del Cerro Community Center	\$3,021.49
ADA Improvements @ S. Valley Health Complex	\$6,527.76
Bathroom ADA Improvements @ S. Valley Complex	\$3,068.92
Labor & Material for various repairs @ 2025 Griggs	\$2,016.83
ADA Ramp @ Delores Wright Community Center	\$3,452.30
Handicap Signs	\$600.25
Replace men's bathroom @ Doña Ana Community Center	\$944.71
Total	\$41,886.64

2021:

ADA Ramps, landings & hand rails @ Fairgrounds	\$12,189.26
ADA Parking lot improvements @ Mesquite BB PRK	\$8,394.39
ADA Parking lot improvements @ Colquitt PRK	\$6,848.82
DACGC DASO Access Control @ Entrance	\$6,253.87
ADA Operator Access Control repair @ DAC NORTH ENTRANCE	\$ 3,911.24
ADA Concrete ramp at GOV CEN	\$3,898.37
ADA Improvements @ DAC CC	\$4,470.09
R&R Lavatory faucets @ Public Health	\$2,771.89
Total	\$48,737.93

2022:

Organ Community Center ADA ramp repair	\$10,675.79
Total	\$10,675.79

2023:

ADA Concrete work @ Placitas Community Center	\$6,551.47
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Doña Ana County

ADA Transition Plan

	Total	\$6,551.47
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The departments continue to maintain a budget line to address ongoing barriers to accessibility. New projects are reviewed to ensure that ADA guidelines are being followed before the start of the project. The departments have indicated a time line of 5 years to address any previous barriers indicated as they will be worked in with the new builds and projects. The departments have a budget line assigned specifically to address ADA barriers and will be evaluated annually to ensure barriers are addressed.



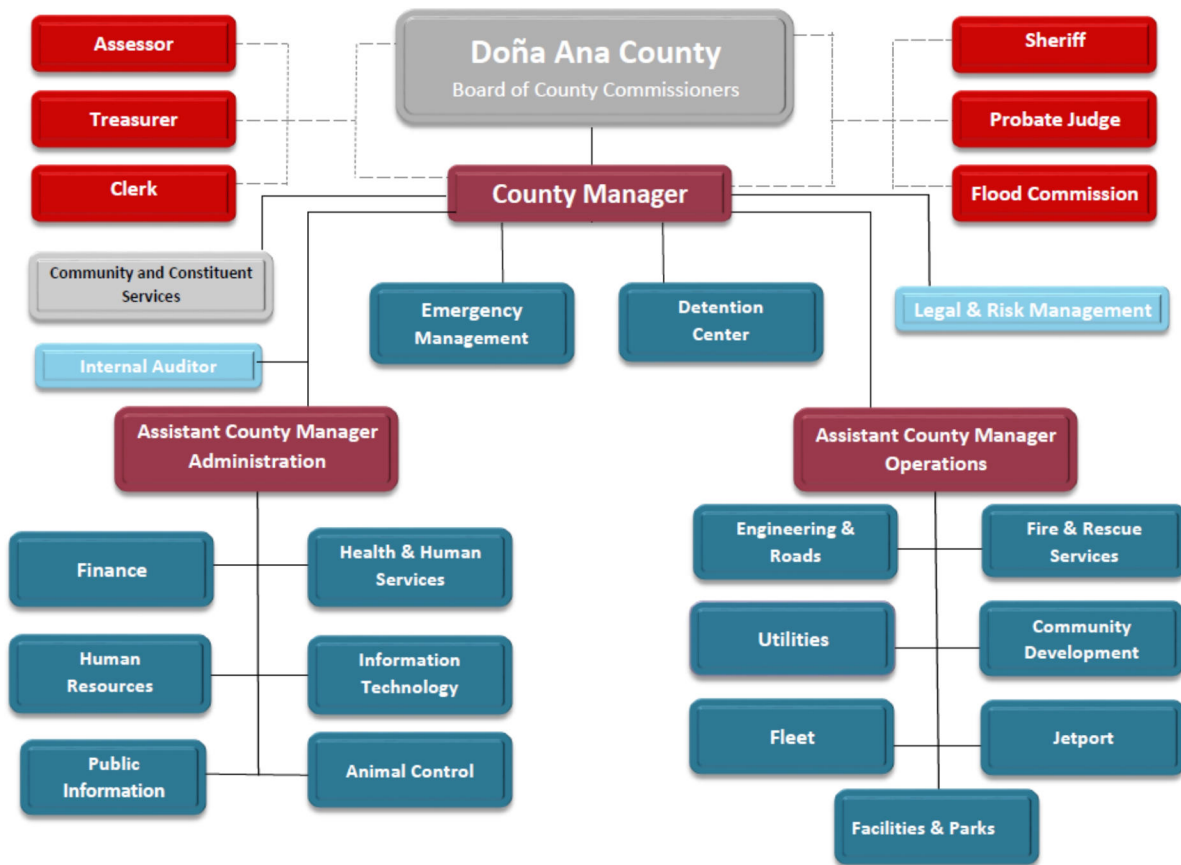
Appendix A

State of New Mexico Map of Counties



Appendix B

Doña Ana County Organizational Chart



Doña Ana County Organizational Chart



Appendix C

Code of Doña Ana County, Chapter 45: Human Resources



Code of Doña Ana County

Part I: Administrative Legislation

Chapter 45: Human Resources

§ 45-1 Short title.

This chapter may be cited as the "Doña Ana County Human Resources Policies."

§ 45-2 Purpose and policy.

- A. The purpose of this chapter is to establish a merit system for hiring, promotion, discharge and general regulation of County employees, elected officials, volunteers and other County agents. All rules and regulations drawn pursuant to this chapter shall be promulgated by resolution of the Board of County Commissioners except as otherwise provided.
- B. Decisions affecting the employment relationship will be made based on merit principles designed to recruit, hire and advance employees on the bases of ability, knowledge and skill; provide equitable and adequate compensation; retain employees on the basis of performance and separate employees whose inadequate performance cannot be corrected; assure fair treatment and equal employment opportunity in all aspects of personnel administration without regard to political affiliation or protected class; and assure that employees are not coerced to support or oppose particular candidates or electoral issues.
- C. Positions having similar duties and responsibilities will be classified and compensated on an equitable basis, consistent with any compensation plan adopted by the Board of County Commissioners. Seniority or experience may justify reasonable deviation in the level of compensation between two employees in the same pay range. [Amended 9-27-2011 by Ord. No. 235-2011]
- D. Consideration shall be given to the rights and interests of employees, consistent with the best interest of the public, the County as a body politic and corporate, and consistent with all state and federal laws relating to the employment relationship.

§ 45-3 Applicability.

This chapter applies to all classified and unclassified County employees, whether or not subject to a collective bargaining agreement (CBA), to the extent that this chapter does not conflict with the CBA; elected officials; volunteers and other County agents. To the extent that this chapter does conflict with the CBA, the CBA will govern. The rights afforded by this chapter to unclassified employees, volunteers, and other County agents



are more limited in scope than those afforded to classified employees, which will be expressly set forth in the Human Resources Policies authorized by this chapter.[1]

[1] Editor's Note: The Human Resources Policies are available in the offices of the Human Resources Department.

§ 45-4 Binding effect.

It is the express intent of the Board of County Commissioners that the provisions outlined herein and the Human Resource Policies to be adopted pursuant to the authority granted herein will be binding on the operations of the Human Resources Department and other County departments relating to hiring, promotion, discharge, and general human resources management.

§ 45-5 Equal opportunity employer; discrimination and harassment prohibited.

A. The County is an equal opportunity employer. Discrimination by any employee is expressly prohibited. If such discriminatory acts occur, the person committing these acts is subject to dismissal from County employment or other appropriate disciplinary action.

B. It is declared unlawful:

(1) For any employee to give preference to, or to discriminate against, any person because of political affiliation, race, religion, age, national origin, color, sex, disability or any other legally protected status, unless based upon a bona fide occupational qualification.

(2) For any employee or applicant to be appointed, promoted, removed, or in any way favored or discriminated against because of race, sex, color, national origin, disability, age, political or religious affiliations or any other legally protected status.

(3) For any employee to harass any employee, especially when such conduct has the effect of interfering with an individual's work performance or has the effect of creating a hostile or offensive work environment. No employee shall make such conduct a condition of employment or use refusal to participate in such conduct a basis for employment decisions.

§ 45-6 Administration of human resources system.

A. Under the supervision of the County Manager, the Human Resources Director will administer the Doña Ana County Merit System set forth in this chapter, consistent with the Human Resources Policies to be adopted in accordance herewith, and in accordance with all future approved directives and administrative instructions.



B. The Human Resources Director will ensure that employment decisions, including, but not limited to, recruitment, selection, promotion, reassignment, corrective action, compensation and other conditions or privileges of employment, are based on the individual's ability to perform the essential functions of the job.

C. The Human Resources Director, under the supervision of the County Manager, will continue to establish programs to develop, implement, and maintain procedures for the conditions of employment, evaluation of work performance, employee conduct, leave usage, and other aspects of human resources management for County employees, in compliance with applicable laws and policies.

D. The Human Resources Director, under the supervision of the County Manager, will continue to establish programs to develop, implement, and maintain the County's compensation plan, including a salary schedule reflecting the pay ranges for each job classification and other pay policies.

§ 45-7 Classification of employees and County agents.

A. All paid positions in the County service are divided into classified and unclassified categories, except those held by elected officials, volunteers, including members of boards, commissions, committees, etc., appointed by County Commissioners or County staff, which are not included in either category.

B. Classified positions.

(1) A classified position is a regular, approved position. Employees in classified positions are covered by the Human Resources Policies and can be separated from the County only through the processes outlined in the Human Resources Policies after the employee has completed his/her initial probationary period.

(2) The classified service is comprised of all County employees except those who are specifically placed in the unclassified category by the terms of this chapter. The classified service also includes the Assistant County Manager and department directors for whom the County Manager is authorized to negotiate individual contracts specifying conditions of employment, excluding termination of employment which shall be governed by the Human Resources Policies adopted pursuant to this chapter.

C. Unclassified positions.

(1) Unclassified positions are comprised of the following:

[Amended 9-27-2011 by Ord. No. 235-2011]

(a) The County Manager, chief deputies of elected officials, and the Undersheriff and the Executive Secretary to the Sheriff.



- (b) The Executive Secretary to the Sheriff, probationary, and other temporary employees as defined in the Human Resources Policies adopted pursuant to this chapter.
- (2) Employees in unclassified positions are in an "at-will" status and serve at the pleasure of the County. These employees are not covered by the employment, discipline, and grievance provisions of Human Resources Policies but are governed by the other provisions.
- D. The specific terms and conditions of a classified or unclassified employee's employment are governed first by this chapter, and then by either the express terms of the Human Resources Policies adopted pursuant to this chapter, or by the terms of any employment contract. In the event of a conflict between an employment contract and the Human Resources Policies, the terms of the employment contract shall prevail.

§ 45-8 Human Resources Policies. [1]

- C. The Human Resources Director, with approval from the County Manager and the Board of County Commissioners by resolution, shall establish, maintain, and publish Human Resources Policies to facilitate implementation and maintenance of, and compliance with, the policies expressed within this chapter. The Human Resources Policies will be reviewed periodically and may be modified or discontinued at any time by the Board of County Commissioners by resolution. The Human Resources Policies shall not constitute a contract of employment.

[Amended 9-27-2011 by Ord. No. 235-2011]

- B. The procedures authorized to be implemented include, but are not limited to, the classification of all County positions based on the duties, authority and responsibilities of each position; provisions for reclassification, assignment, transfer, and layoff of any person whenever warranted by changed circumstances; methods for determining the qualifications of candidates for appointment or promotion; policies and procedures regulating corrective action, up to and including termination, of employees; the hours of work and attendance; regulations and provisions for benefits; policies regarding training and other programs; and other practices and procedures, including interpretation of applicable provisions of the policies necessary to administer same.
- C. Elected officials and department directors are authorized to promulgate operational policies and procedures specific to their department functions, subject to the review and approval by the County Manager, and provided such policies and procedures do not conflict with the terms of this chapter or the Human Resources Policies.



[1]Editor's Note: The Human Resources Policies are available in the offices of the Human Resources Department.

§ 45-9 Compensation plan.

- A. The compensation plan shall consist of wages; salaries, and all other benefits of value to an employee that result in a cost to the County.
- B. The Human Resources Director, with approval from the County Manager and the Board of County Commissioners by resolution, will establish, maintain, and publish a compensation plan. The compensation plan shall group all positions into classes, based on duty, responsibility, authority, and other qualifications required for satisfactory performance. Experience, education, licenses, certifications, skills, and other specifications shall be established for each class.
- C. The compensation plan will include a salary schedule consisting of pay grade ranges containing a minimum and maximum salary or grade and step range for each job, and factors for determining the appropriate rate of pay for each.
- D. The compensation plan may provide for periodic cost-of-living adjustments, merit increases, longevity, and other benefits that the Board of County Commissioners deems appropriate.
- E. The compensation plan, including the salary schedule, is subject to the availability of funds and the financial condition of the County.

§ 45-10 County Manager authority.

- A. The County Manager is the Chief Executive Officer of County government and is authorized to run County operations pursuant to policy established by the Board of County Commissioners.
- B. The County Manager is charged with:
 - (1) The exclusive authority to employ and discharge all County employees pursuant to this chapter and the Human Resources Policies adopted pursuant to this chapter.
 - (2) Recommending revisions to the personnel policies.
 - (3) Recommending the organizational structure and salary plan for the work force.
 - (4) Appointing a designee or designees to act on his behalf in carrying out these responsibilities.
 - (5) Formulating and implementing personnel rules, regulations and directives to carry out the intent of this chapter as long as said rules, regulations and directives are not in conflict with any personnel rules enacted by the Board of County Commissioners.



(6) Exercising discretion to review an individual's salary and compare it with other incumbents in comparable positions and salary grades, and to adjust a salary in the interest of parity or equity.

(7) Exercising discretion to offer an applicant a salary in excess of a salary grade, or in excess of an advertised amount, in order to ensure employment of a qualified candidate or acknowledge special credentials in excess of requirements.

(8) Exercising discretion to transfer or reassign any employee within the organization to permit the best use of skills, experience, and education for the benefit of the organization.

§ 45-11 Violations.

Any employee who violates or attempts to violate this chapter, the Human Resources Policies, or the compensation plan adopted pursuant hereto, shall be subject to disciplinary action, up to and including termination, depending upon the severity of the infraction.[1]

[1] Editor's Note: Former Section 12, Prohibition of political activity, which immediately followed this section, was repealed 6-9-2009.

§ 45-12 Conflict of interest.

No employee shall engage in any business or transaction or accept private employment or other public employment which is functionally or physically incompatible with the proper discharge of the employee's job responsibilities. All employees, volunteers, and other County agents shall comply with applicable state statutes prohibiting financial conflicts and requiring disclosure, as well as comply with other applicable ethical standards set forth in the Human Resources Policies.

§ 45-13 Preservation of confidentiality.

Doña Ana County employees, elected officials, volunteers, and other County agents may have access to confidential information in the course of their duties. This information may relate to Doña Ana County personnel matters, internal investigations, restricted computerized data, attorney work papers or other legally privileged information, and/or contract or financial negotiations. Unauthorized disclosure of confidential information could be very detrimental to the individuals involved and/or Doña Ana County. Unless required by the job, at no time should an employee, elected official, volunteer, or other County agent disclose confidential information or remove it from the County's premises. The negligent or intentional disclosure of confidential information is grounds for discipline, up to and including termination, depending upon the severity of the infraction.



§ 45-14 Dispute resolution.

A. It is the County's policy to provide its employees and certain volunteers the opportunity to present work-related complaints through dispute resolution or grievance procedures, and to appeal management decisions. The Human Resources Policies may provide distinct methods designed to resolve complaints and disputes in a prompt and efficient manner.

B. All actions taken at any stage of the grievance or complaint resolution processes shall be characterized by frankness, courtesy, and respect for the dignity of each individual involved without retaliation for having brought the issue to the attention of management.

C. The Human Resources Department shall provide training and support to supervisors and department directors/elected officials regarding processing of employee grievances and complaints.

§ 45-15 Prohibition against strikes and slow downs.

It is unlawful for any person to authorize or impliedly consent to a strike or slow down by one or more employees of the County of Doña Ana. It is unlawful for any employee of the County of Doña Ana to strike, or to cause, instigate, encourage, support, or participate in a strike, slow down, or sick out. A violation of this section shall constitute just cause for termination.

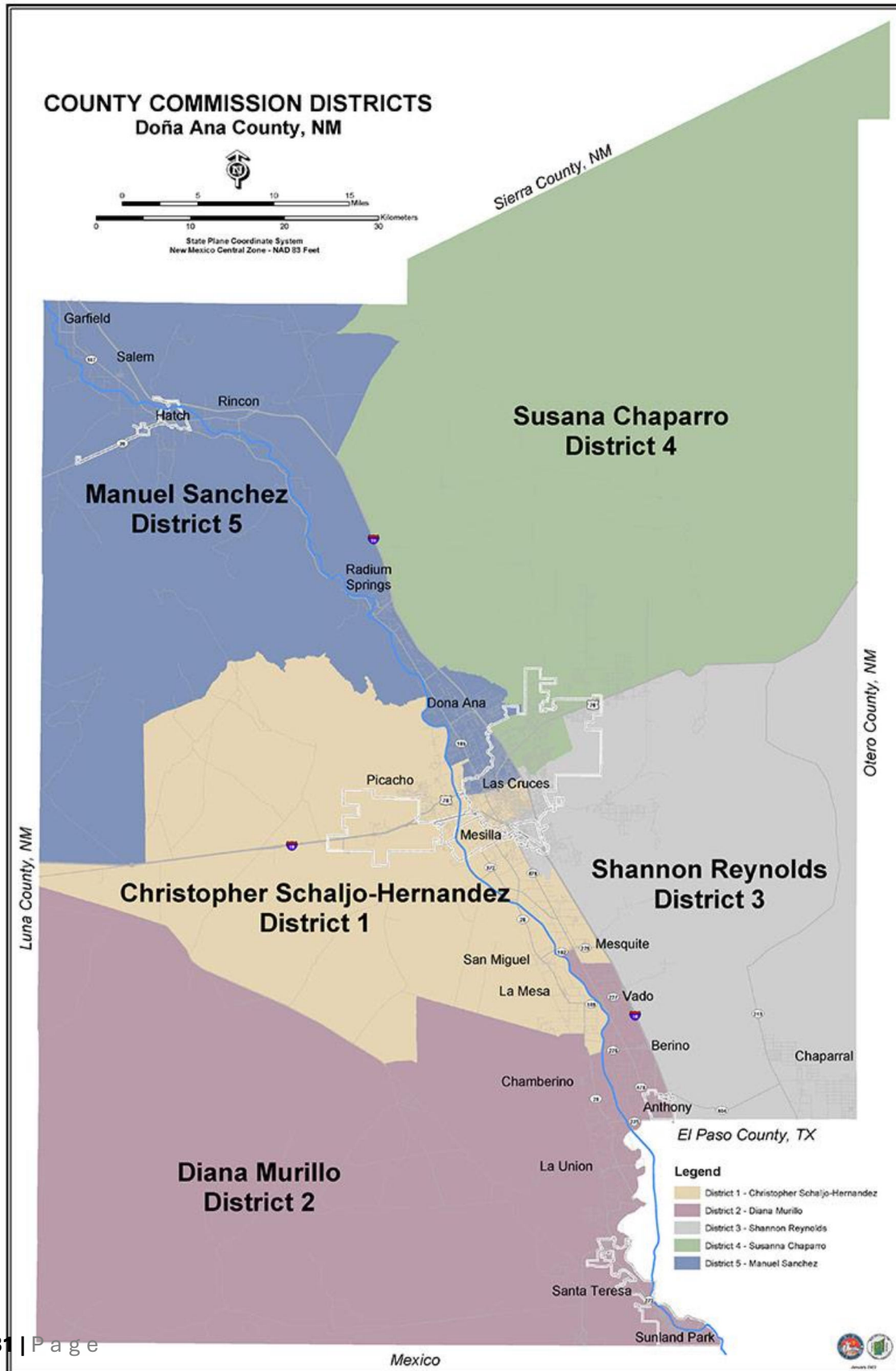
§ 45-16 Gender neutrality; headings.

The use of the singular masculine pronoun used in this chapter and in the Human Resources Policies authorized therein shall refer also to the feminine gender, and shall include the singular and plural, and the context of this chapter and the Human Resources Policies shall be read accordingly. The paragraph headings of this chapter and procedural guidelines are inserted only for reference and in no way define, limit, or describe the scope or intent of the section, nor affect its terms and provisions.



Appendix D

Doña Ana County Maps by District





Appendix E

Doña Ana County ADA Grievance Procedure



Doña Ana County Grievance Procedure Under The Americans with Disabilities Act

This grievance procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of a disability in the provision of services, activities, programs, or benefits by Doña Ana County. The County's Human Resources Policies and Procedures govern employment-related complaints of disability discrimination.

A grievance form is available, upon request. Failure to use this form in no way compromises the grievance procedure. 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 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 no later than 60 calendar days after the alleged violation to:

HR Department, ADA Coordinator, 845 N. Motel Blvd., Suite 2-190, Las Cruces, NM 88007

The County will acknowledge, in writing, receipt of the written grievance and notify the Doña Ana County Manager of said grievance. Within 15 calendar days after receipt of the complaint, the ADA Coordinator or his/her designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, the ADA Coordinator or his/her designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, braille, or audio tape. The response will explain the position of Doña Ana County and offer options for substantive resolution of the complaint.

If the response by the ADA Coordinator 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 Manager or his/her designee.

Within 15 calendar days after receipt of the appeal, the County 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 County Manager or his/her designee will provide final



resolution of the complaint in writing, and, where appropriate, in a format accessible to the complainant.

All written complaints received by the ADA Coordinator or his/her designee, appeals to the County Manager or his/her designee, and responses from these two offices will be retained by Doña Ana County for at least three years.

Alternative Grievance Procedures:

Nothing in this procedure prevents any individual(s) who believes they have a grievance under Title II of the ADA from taking other legal action to seek resolution.

Employees of Doña Ana County may also use the Grievance procedure established by the Human Resources Department for any ADA issues related to their specific employment.

Waivers:

Any time lines established in this procedure may be waived by written mutual consent.



Appendix F

Public Grievance Form



Doña Ana County

ADA Transition Plan



DOÑA ANA COUNTY AMERICANS WITH DISABILITIES ACT PUBLIC GRIEVANCE FORM

Please complete this form as completely as possible. If you need help filling out this form, we would be happy to help you.

Signed complaints should be sent to:

Human Resources

Doña Ana County

845 N. Motel Blvd.

Las Cruces, NM 88007

Phone: 575-647-7210 (voice)

575-647-7285 (TTY)

E-mail: EE0@donaanacounty.org

Your Name: _____

Your Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Alternate Phone Number: _____

If completing on behalf of someone:

Organization: _____

Contact Person: _____ Phone Number: _____

Describe in as much detail as possible what happened?

When did it happen? _____

Where did it happen? _____

Can you name anyone involved? _____



Doña Ana County

ADA Transition Plan

How would you like this resolved? What relief do you seek? _____

Signature: _____

Date: _____



Appendix G

Doña Ana County ADA Notice to the Public



DOÑA ANA COUNTY NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), Doña Ana County will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

Employment: Doña Ana County does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under Title I of the ADA.

Effective Communication: Doña Ana County will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in Doña Ana County's programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

Modifications to Policies and Procedures: Doña Ana County will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in Doña Ana County offices, even where pets are generally prohibited.

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 Doña Ana County, should contact the Doña Ana County ADA Coordinator, 845 N. Motel Blvd., Suite 2-190, Las Cruces, NM 88007, 575-647-7210 (voice), 575-525-5951 (TDD/TTY) at least two business days prior to the event at which an accommodation is needed.

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

Complaints that a program, service, or activity of Doña Ana County is not accessible to persons with disabilities should be directed to the Doña Ana County ADA Coordinator, 845 N. Motel Blvd., Suite 2-190, Las Cruces, NM 88007, 575-647-7210 (voice), 575-525-5951 (TDD/TTY).

Doña Ana 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.