

ADOPTING THE AMERICANS WITH DISABILITIES ACT (“ADA”) AND

SECTION 504 OF THE REHABILITATION ACT (“SECTION 504”) COMPLIANCE POLICY

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

**SCHEDULE “A”**

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

**POLICY STATEMENT**

As provided by Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, as amended (ADAAA) and ADA Title II Regulations (hereinafter referred jointly as the “Act”):

**A. MONTGOMERY COUNTY Programs, Services and Activities**

1. MONTGOMERY COUNTY, New York (“MONTGOMERY 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. MONTGOMERY 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. MONTGOMERY 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. MONTGOMERY COUNTY shall generally permit the use of a service animal by an individual with a disability, except that:
  - a) MONTGOMERY 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 MONTGOMERY 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) MONTGOMERY COUNTY shall not be responsible for the care or supervision of a service animal.
  - c) MONTGOMERY 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. MONTGOMERY COUNTY may ask (1) if the animal is required because of a disability and (2) what work or task the animal has been trained to perform. MONTGOMERY COUNTY shall not require documentation, such as proof that the

animal has been certified, trained, or licensed as a service animal. Generally, MONTGOMERY 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 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) MONTGOMERY 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 MONTGOMERY 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) MONTGOMERY 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) MONTGOMERY 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 MONTGOMERY 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 MONTGOMERY COUNTY Legislature.

c) MONTGOMERY 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) MONTGOMERY COUNTY may ask a person using another power-driven mobility device to provide a credible assurance that the mobility device is required because of the person's disability.

e) If MONTGOMERY 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, MONTGOMERY 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 car 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.

6. All MONTGOMERY 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. MONTGOMERY 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. MONTGOMERY 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) MONTGOMERY 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, MONTGOMERY 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 of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

b) MONTGOMERY 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, MONTGOMERY 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 MONTGOMERY COUNTY Executive 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, MONTGOMERY 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 MONTGOMERY COUNTY.

10. a) MONTGOMERY 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) MONTGOMERY 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.

### **MONTGOMERY COUNTY Employment**

MONTGOMERY 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.

### **MONTGOMERY COUNTY Administration of Section 504 Contracts**

All MONTGOMERY 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 Act requirements applicable to governments. The contracting county department shall monitor respective contracts for compliance with the Act.

### **Word/Phrase Meaning**

For our purposes, a person with a disability is defined as one who:

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.

### **ORGANIZATION AND SECTION 504/ADA COORDINATOR'S RESPONSIBILITIES**

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

The Personnel Officer for MONTGOMERY COUNTY, 20 Park Street Fonda, NY 12068, acts as the MONTGOMERY COUNTY ADA Coordinator and coordinates ADA compliance activities, inquiries, accommodation requests, and complaints.

The Personnel Officer also acts as the overall Section 504 Coordinator for the MONTGOMERY COUNTY. Additionally, 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 within the Department and with the Personnel Officer.

The Personnel Officer for MONTGOMERY COUNTY, Human Resources Department, 20 Park Street Fonda, NY 12068, 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, MONTGOMERY COUNTY (hereinafter referred to in this section as "Section 504/ADA") will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs or activities. MONTGOMERY COUNTY does not discriminate on the basis of disability in its hiring or employment practices. MONTGOMERY COUNTY departments administering Section 504 contracts shall require the contractors to comply with Section 504/ADA regulations applicable to governments. MONTGOMERY 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:

Personnel Officer County of Montgomery, New York 20 Park Street Fonda, NY 12068, (518) 853-8363

Office Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m. (July & August 8:00 a.m. to 4:00 p.m.)

Questions, complaints or requests for additional information or accommodation regarding the ADA and employment matters may be forwarded to the Personnel Officer for MONTGOMERY COUNTY:

Personnel Officer MONTGOMERY COUNTY Human Resources Department 20 Park Street Fonda, NY 12068, (518) 853-8363

Office Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m. (July & August 8:00 a.m. to 4:00 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 MONTGOMERY COUNTY Executive:

MONTGOMERY COUNTY Executive County of Montgomery, New York 20 Park Street Fonda, NY 12068, (518) 853-4303

Office Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m. (July & August 8:00 a.m. to 4:00 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 MONTGOMERY 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 MONTGOMERY 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 MONTGOMERY COUNTY is not accessible to persons with disabilities should be directed to the ADA Coordinator.

MONTGOMERY 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

MONTGOMERY COUNTY will complete the self-evaluation required by 504/ADA as follows:

A. MONTGOMERY 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, MONTGOMERY COUNTY shall proceed to make the necessary

##### **Modifications**

B. MONTGOMERY 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. MONTGOMERY 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:

Personnel Officer, County of Montgomery, New York 20 Park Street Fonda, NY 12068, (518) 853-8363

Office Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m. (July & August 8:00 a.m. to 4:00 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 MONTGOMERY COUNTY Executive:

MONTGOMERY COUNTY Executive County of Montgomery, New York 20 Park Street Fonda, NY 12068, (518) 853-4303

Office Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m. (July & August 8:00 a.m. to 4:00 p.m.)

C. In the case of employment complaints, to the Personnel Officer:

Personnel Officer MONTGOMERY COUNTY Human Resources Department 20 Park Street Fonda, NY 12068, (518) 853-8363

Office Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m. (July & August 8:00 a.m. to 4:00 p.m.)

For all complaints, within 15 calendar days after receipt of the complaint, the ADA/Section 504 Coordinator/Personnel Officer 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/Personnel Officer 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 MONTGOMERY COUNTY and, if appropriate, offer options for substantive resolution of the complaint.

If the response by the ADA/Section 504 Coordinator or the Personnel Officer 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 Executive of MONTGOMERY COUNTY or his/her designee. Within 15 calendar days after receipt of the appeal, the County Executive and/or his/her designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the MONTGOMERY COUNTY Executive and/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 MONTGOMERY COUNTY Executive or his/her designee, and responses from these two offices will be retained by MONTGOMERY 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 MONTGOMERY COUNTY should contact the ADA Coordinator as soon as possible but no later than 48 hours before the scheduled event:

Personnel Officer County of Montgomery, New York 20 Park Street Fonda, NY 12068, (518) 853-8363

Office Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m. (July & August 8:00 a.m. to 4:00 p.m.)

## VII. ASSURANCES

Pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794),