



The Americans with Disabilities Act: The Federal Transit Administration's Letters of Findings and Compliance Assessments

DETAILS

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The Americans with Disabilities Act: The Federal Transit Administration's Letters of Findings and Compliance Assessments

TRANSPORTATION RESEARCH BOARD
OF THE NATIONAL ACADEMIES

The Problem and
Its Solution

July 2007

Applications

This report was prepared under TCRP Project J-5, "Legal Aspects of Transit and Intermodal Transportation Programs," for which the Transportation Research Board is the agency coordinating the research. The report was prepared by Shelly Brown, Shelly Brown Associates, Seattle, Washington. James B. McDaniel, TRB Counsel for Legal Research Projects, was the principal investigator and content editor.

Foreword

Table of Contents

Regional Letters
of Findings

Compliance Assessment
Final Reports

Alphabetical List of
ADA Decisions

Subject and Issue Index

Compliance Assessments

Acknowledgments

Findings

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THE PROBLEM AND ITS SOLUTION

The nation's transit agencies need to have access to a program that can provide authoritatively researched, specific, limited-scope studies of legal issues and problems having national significance and application to their businesses. The TCRP Project J-5 is designed to provide this insight.

The intermodal approach to surface transportation requires a partnership between transit and other transportation modes.

Transit attorneys have noted that they particularly need information in several areas of transportation law, including environmental requirements; construction and procurement contract procedures and administration; civil rights and labor standards; and tort liability, risk management, and system safety.

In other areas of the law, transit programs may involve legal problems and issues that are not shared with other modes; as, for example, compliance with transit equipment and operations guidelines, Federal Transit Administration (FTA) financing initiatives, and labor or environmental standards.

APPLICATIONS

Congress enacted the Americans with Disabilities Act of 1990, 42 U.S.C § 1201 *et seq.*, to prevent discrimination against and enhance accessibility to public accommodation for an estimated 43 million Americans with disabilities. The Act consists of three parts pertaining to employment, government programs, and public accommodations, including transportation. As with any statute, regulations, administrative interpretations, and court decisions help determine the breadth and reach of the legislation.

While the Act and previous publications clarify that the attorney general for the United States, as well as private individuals, may bring suit to enforce Part III, which pertains to public accommodations and transportation, the FTA has a considerable role in interpreting Part III requirements as part of the grant administration process.

FTA interpretations can be found in letter findings, decisions on complaints, and compliance assessments. The committee was urged to categorize, index, and publish these decisions in an organized format. The results of this effort should be helpful to administrators, attorneys, financial officials, human resources personnel, and public transportation planners.

FOREWORD

USE OF INDEXES TO LOCATE THE DESIRED LETTER, FINDING, DECISION, OR COMPLIANCE ASSESSMENT

This compilation consists of findings, decisions, and five compliance assessments interpreting or pertaining to the Americans with Disabilities Act (ADA). Included are findings and decisions from June 1996 through December 2004. The five compliance assessments are included because they have not been posted on the Federal Transit Administration's Web site. Other compliance assessments are available at http://www.ft.dot.gov/civilrights/ada/civil_rights_3899.html. This compilation has been arranged so that documents can be found according to the region, by alphabetical order, or by subject and issue. The user should refer to the Table of Contents, which will aid in locating the most relevant document.

The index will include the page on which cases can be found. Use the Regional Index if you need to research decisions pertaining to transit agencies within a particular region. You will find the Subject and Issue Index more useful if you wish to determine how the United States Department of Transportation has resolved particular issues. If you know the name of the certification, determination, or policy letter for which the search is being conducted, use the Alphabetical List of ADA Decisions.

TABLE OF CONTENTS

REGIONAL	I-5
LETTERS OF FINDINGS.....	I-5
REGION I—BOSTON	I-5
REGION II—NEW YORK.....	I-6
REGION III—PHILADELPHIA.....	I-7
REGION IV—ATLANTA	I-12
REGION V—CHICAGO	I-16
REGION VI—DALLAS/FORT WORTH	I-19
REGION VII—KANSAS CITY	I-21
REGION VIII—DENVER.....	I-21
REGION IX—SAN FRANCISCO	I-22
REGION X—SEATTLE	I-28
COMPLIANCE ASSESSMENT FINAL REPORTS	I-30
REGION IV—ATLANTA	I-30
REGION V—CHICAGO	I-30
ALPHABETICAL LIST OF ADA DECISIONS	I-31
LETTERS OF FINDINGS.....	I-31
COMPLIANCE REVIEW FINAL REPORTS	I-55
SUBJECT AND ISSUE INDEX	I-56
LETTERS OF FINDINGS.....	I-56
ACCESSIBLE FACILITIES AND EQUIPMENT	I-56
ACCESSIBLE INFORMATION	I-56
ADA COORDINATOR.....	I-57
ALCOHOLISM	I-57
ANXIETY ATTACKS	I-57
ASSISTANCE WITH PERSONAL ITEMS.....	I-57
BICYCLES	I-57
BUS SHELTERS AND STOPS.....	I-57
CAPACITY CONSTRAINTS.....	I-58
COMMUTER BUS SERVICE.....	I-58
COMMUTER RAIL SERVICE	I-59
COMPANION RIDES	I-59
COMPLAINTS	I-59
<i>Timeliness</i>	I-59
COMPLIANCE ASSESSMENTS	I-60
CONTRACTED SERVICE.....	I-65
COORDINATED SERVICE.....	I-66
CURB CUTS	I-66
DAMAGES	I-66
DEFINITION OF COMMON WHEELCHAIR.....	I-66
DEFINITION OF COMPLEMENTARY PARATRANSIT SERVICE	I-67
DEFINITION OF DISABILITY.....	I-67
DEMAND RESPONSE SERVICE.....	I-68
DISCRIMINATION	I-68
DISRUPTIVE BEHAVIOR	I-68
DRIVER/DISPATCHER BEHAVIOR AND TRAINING.....	I-68
ELECTRIC SCOOTERS	I-74
ELEVATORS	I-74

EMERGENCY EXIT GATES.....	I-75
EQUIPMENT AND FACILITIES FAILURES	I-75
FARES	I-77
FIRST AID	I-78
HEARING IMPAIRMENT.....	I-78
HIV/AIDS	I-78
INFORMATION REGARDING TRANSPORTATION SERVICES	I-78
KEY RAIL STATIONS	I-79
LATE OR EARLY PICKUPS	I-80
LIFT-EQUIPPED VEHICLES.....	I-82
LOCAL JURISDICTION.....	I-82
MEDICAL EMERGENCY.....	I-83
MISSED OR PASSED UP RIDES.....	I-83
OBESITY.....	I-84
ONE CAR PER TRAIN RULE.....	I-84
ORIGIN TO DESTINATION SERVICE	I-84
OVER THE ROAD BUSES	I-85
PARATRANSIT ELIGIBILITY.....	I-85
<i>Appeals</i>	I-86
<i>Conditional Eligibility</i>	I-86
<i>Denials</i>	I-86
<i>Recertification</i>	I-87
<i>Suspensions</i>	I-88
<i>Temporary Eligibility</i>	I-88
<i>Three-Quarter Mile Corridor</i>	I-88
<i>Visitor Policies</i>	I-89
PARATRANSIT PLANS.....	I-89
PARATRANSIT NO SHOWS.....	I-89
PARATRANSIT SERVICE RESPONSE TIMES AND SCHEDULING	I-90
<i>One Hour Before or After Desired Trip</i>	I-90
<i>14 Days in Advance</i>	I-90
<i>Next Day Service</i>	I-90
<i>Same Day Service</i>	I-91
<i>Subscription Service</i>	I-91
<i>Telephone Reservations</i>	I-92
<i>Wheelchair Priority</i>	I-92
PARKING.....	I-92
PERSONAL CARE ATTENDANTS	I-92
PRIORITY BOARDING	I-93
PRIORITY SEATING.....	I-93
PRIVATE ENTITIES	I-94
PUBLIC HEARINGS	I-94
RAIL STATIONS AND PLATFORMS	I-94
REDUCTION IN SERVICE—Also See LOCAL JURISDICTION	I-95
RESTROOMS	I-95
RETALIATION	I-95
RETROFITTING	I-96
ROUTE ELIMINATION—Also see LOCAL JURISDICTION	I-96
SAFETY	I-96
SECUREMENT SYSTEMS	I-96
<i>Driver Assistance</i>	I-96
<i>Securement Location</i>	I-98
<i>Side-Facing Wheelchairs</i>	I-98

<i>Wheelchair Tie Downs</i>	I-98
SERVICE ANIMALS.....	I-99
SERVICE CHANGES AND REDUCTIONS.....	I-99
SCHOOL BUS SERVICE.....	I-100
SEATBELTS	I-100
SETTLEMENT AGREEMENTS	I-100
SIGNAGE.....	I-100
SMOKING POLICIES.....	I-100
STANDBYS	I-101
STOP ANNOUNCEMENTS	I-101
SPECIAL ACCOMMODATION	I-102
SPECIALIZED TRANSPORTATION	I-102
TAXICABS	I-102
TRANSFERS.....	I-103
TRANSIT BOARD MEMBERSHIP.....	I-103
TRAVEL TRAINING.....	I-103
TRIP DENIALS	I-103
TRIP LENGTH	I-104
TRIP PURPOSE	I-104
TROLLEYS	I-104
VISUAL IMPAIRMENT.....	I-104
COMPLIANCE ASSESSMENTS	I-105
Central Florida Regional Transportation Authority, FL, May 25–28, 1999	I-105
Issues: Stop Announcements, Vehicle/Passenger Identification, Visual Impairment	
Central Midlands Council of Governments, SC, July 13–16, 1999	I-105
Issues: Paratransit Service Assessment	
Chicago Transit Authority, IL, July 31, 2000.....	I-105
Issues: Paratransit Service Assessment	
Jacksonville Transportation Authority, FL, May 30, 2000.....	I-105
Issues: Paratransit Service Assessment	
Miami-Dade Transit Authority, FL, September 26, 1998.....	I-105
Issues: Stop Announcements, Route Identification	

REGIONAL LETTERS OF FINDINGS

REGION I—BOSTON

Cape Cod Regional Transit Authority, MA, Complaint No. 95091, September 4, 2003	1428
Cape Cod Transit Authority, MA, Complaint No. 95090, November 13, 2003.....	1441
Connecticut Transit Authority, CT, Complaint No. 98242, July 23, 1999	577
Greater Hartford Transit, CT, Complaint No. 99055, July 10, 2001	1059
Greater New Haven Transit District, CT, Complaint No. 99223, September 16, 2002.....	1324
Greater Waterbury Transit District, CT, Complaint No. 97012, August 6, 1997	213
Martha's Vineyard Transit Authority, MA, Complaint No. 95096, February 26, 1997.....	88
Martha's Vineyard Transit Authority, MA, Complaint No. 95090, November 13, 2003	1441
Massachusetts Bay Transit Authority, MA, Complaint No. 98112, June 28, 2001	1051
Massachusetts Bay Transportation Authority, MA, Complaint No. 00-048, February 5, 2003.....	1380
Massachusetts Bay Transportation Authority, MA, Complaint No. 02-0009, January 22, 2002	1124
Massachusetts Bay Transportation Authority, MA, Complaint No. 02-0009, November 8, 2004 ...	1553
Massachusetts Bay Transportation Authority, MA, Complaint No. 96169, March 27, 1997.....	117
Massachusetts Bay Transportation Authority, MA, Complaint No. 96142, March 27, 1998.....	421
Massachusetts Bay Transportation Authority, MA, Complaint No. 97153, May 8, 1998	444
Massachusetts Bay Transportation Authority, MA, Complaint No. 98118, December 30, 1999.....	644
New Hampshire Department of Transportation, NH, Complaint No. 95007, February 27, 1997	91
Pioneer Valley Transit Authority, MA, Complaint No. 96115, December 1, 1996.....	37
Pioneer Valley Transit Authority, MA, Complaint No. 98139, June 27, 2001	980
Pioneer Valley Transit Authority, MA, Complaint No. 99296, February 2, 2000.....	680
Pioneer Valley Transit Authority, MA, Complaint No. 01-0186, January 9, 2002	1070
Rhode Island Public Transit Authority, RI, Complaint No. 01-0225, January 28, 2003.....	1373

Worcester Regional Transit Authority, MA, Complaint No. 99035, June 17, 1999	572
Worcester Regional Transportation Authority, MA, Complaint No. 00038, August 12, 2002	1272
Worcester Regional Transportation Authority, MA, Complaint Nos. 96196 and 96197, February 29, 2000.....	700

REGION II—NEW YORK

Capital District Transportation Authority, NY, Complaint No. 97253, May 21, 1998	467
Capital District Transportation Authority, NY, Complaint No. 98140, October 13, 1999	633
Long Island Railroad, NY, Complaint No. 00049, June 27, 2001.....	956
Long Island Railroad, NY, Complaint No. 92078, March 31, 1997	120
Long Island Railroad, NY, Complaint No. 97091, October 27, 1997.....	269
Long Island Railroad, NY, Complaint No. 99080, February 28, 2002	1214
Long Island Railroad, NY, Complaint No. 99198, June 28, 2001.....	1049
Metro-North Railroad, NY, Complaint No. 92080, March 4, 1998.....	397
Metro-North Railroad, NY, Complaint No. 99093, May 9, 2002	1244
Metro-North Railroad, NY, Complaint No. 99276, January 24, 2002.....	1150
Metropolitan Transportation Authority, NY, Complaint No. 00-0239, January 22, 2002	1122
Metropolitan Transportation Authority, NY, Complaint No. 94213, September 11, 1996.....	21
Metropolitan Transportation Authority, NY, Complaint No. 96120, September 13, 1996.....	25
Metropolitan Transportation Authority, NY, Complaint No. 99108, September 23, 1999.....	613
New Jersey Transit Corporation, NJ, Complaint No. 95069, September 3, 1998.....	479
New Jersey Transit Corporation, NJ, Complaint No. 99006, December 30, 1999	640
New Jersey Transit Corporation, NJ, Complaint No. 99076, December 30, 2000	850
New Jersey Transit Corporation, NJ, Complaint No. 95165, February 12, 1998	367
New Jersey Transit, NJ, Complaint No. 97027, February 10, 1998	365
New York City Transit Authority, NY, Complaint No. 00052, April 4, 2000	718
New York City Transit Authority, NY, Complaint No. 01-0142, February 4, 2002.....	1159

New York City Transit Authority, NY, Complaint No. 010142, February 26, 2002.....	1200
New York City Transit Authority, NY, Complaint No. 94215, March 10, 1998.....	404
New York City Transit Authority, NY, Complaint No. 96026, April 10, 1997.....	137
New York City Transit Authority, NY, Complaint No. 97126, December 24, 1997.....	314
New York City Transit Authority, NY, Complaint No. 99039, February 28, 2001.....	884
New York City Transit Authority, NY, Complaint No. 99064, June 9, 1999.....	570
New York City Transit Authority, NY, Complaint No. 99274, January 22, 2002.....	1138
New York City Transit Authority, NY, Complaint No. 97056, December 11, 1998.....	510
New York Metropolitan Transportation Authority, Long Island Bus, NY, Complaint No. 00060, May 31, 2000.....	737
Niagara Frontier Transportation Authority, NY, Complaint No. 00012, May 31, 2000.....	747
Niagara Frontier Transportation Authority, NY, Complaint No. 97049, February 12, 1998.....	373
South Town Wheelchair Services, NY, Complaint No. 03-0238, December 9, 2004.....	1567
Suffolk County Accessible Transit, NY, Complaint No. 99044, June 28, 2001.....	1025
Suffolk County Transit, NY, Complaint No. 98244, July 1, 2003.....	1414
Suffolk County Transit, NY, Complaint No. 99018, April 27, 2000.....	720

REGION III—PHILADELPHIA

Black and White Cabs, VA, Complaint No. 96123, March 5, 1997.....	97
Centre Area Transportation Authority, PA, Complaint No. 99088, June 28, 2001.....	1043
Corridor Transportation and Howard Area Transit Service, MD, Complaint No. 01-0188, June 16, 2004.....	1513
County of Lebanon Transit Authority, PA, Complaint No. 000333, May 15, 2002.....	1249
Ellwood City, PA, Complaint No. 96187, August 8, 1997.....	218
Kanawha Valley Regional Transportation Authority, WV, Complaint No. 98207, May 14, 1999.....	542
Lehigh and Northampton Transportation Authority, PA, Complaint No. 99208, February 2, 2000.....	676
Maryland Transit Administration, MD, Complaint No. 01-0007, February 28, 2002.....	1210

Maryland Transit Administration, MD, Complaint No. 02-0090, January 28, 2004.....	1478
Maryland Transit Administration, MD, Complaint No. 04-0033, September 8, 2004.....	1538
Maryland Transit Administration, MD, Complaint No. 95168, December 29, 2003	1460
Maryland Transit Administration, MD, Complaint No. 99096, December 31, 2003	1470
Maryland Transit Administration, MD, Complaint No. 00017, February 13, 2002	1179
Maryland Transit Administration, MD, Complaint No. 00020, January 15, 2002.....	1094
Maryland Transit Administration, MD, Complaint No. 000297, January 15, 2002.....	1096
Maryland Transit Administration, MD, Complaint No. 000298, January 15, 2002.....	1098
Maryland Transit Administration, MD, Complaint No. 000299, January 15, 2002.....	1100
Maryland Transit Administration, MD, Complaint No. 000407, January 15, 2002.....	1102
Maryland Transit Administration, MD, Complaint No. 010061, January 15, 2002.....	1104
Maryland Transit Administration, MD, Complaint No. 010086, January 15, 2002.....	1106
Maryland Transit Administration, MD, Complaint No. 02-0015, March 10, 2004.....	1492
Maryland Transit Administration, MD, Complaint No. 03-0207, March 17, 2004.....	1494
Maryland Transit Administration, MD, Complaint No. 98210, December 2, 2003	1452
Maryland Transit Administration, MD, Complaint No. 99218, October 14, 2003.....	1436
Maryland Transit Administration, MD, Complaint No. 00-0300, May 30, 2001	930
Maryland Transit Administration, MD, Complaint No. 02-0015, April 22, 2002	1234
Maryland Transit Administration, MD, Complaint No. 97069, September 24, 1997	251
Maryland Transit Administration, MD, Complaint No. 99235, May 30, 2001	932
Montgomery County Ride On, MD, Complaint No. 020097, March 29, 2004.....	1503
Port Authority of Allegheny County, PA, Complaint No. 95134, April 7, 1998	430
Port Authority of Allegheny County, PA, Complaint No. 00-0215, June 30, 2000.....	755
Port Authority of Allegheny County, PA, Complaint No. 00-0322, February 28, 2001	890
Port Authority of Allegheny County, PA, Complaint No. 00062, May 23, 2002.....	1265
Port Authority of Allegheny County, PA, Complaint No. 02-0006, March 19, 2004	1499
Port Authority of Allegheny County, PA, Complaint No. 96183, April 24, 1997	165

Port Authority of Allegheny County, PA, Complaint No. 98095, March 31, 2000	708
Port Authority of Allegheny County, PA, Complaint No. 99102, February 4, 2000	682
Port Authority of Allegheny County, PA, Complaint No. 97093, January 2, 1998	327
Prince George's County Department of Public Works and Transportation, MD, Complaint No. 98283, December 5, 2002	1346
Shore Transit, MD, Complaint No. 04-0107, July 21, 2004.....	1524
Southeastern Pennsylvania Transit Authority, PA, Complaint No. 00045, July 30, 2000	769
Southeastern Pennsylvania Transit Authority, PA, Complaint No. 000345, May 3, 2002	1239
Southeastern Pennsylvania Transit Authority, PA, Complaint No. 00-004, September 16, 2002	1322
Southeastern Pennsylvania Transit Authority, PA, Complaint No. 010033, May 9, 2002	1242
Southeastern Pennsylvania Transit Authority, PA, Complaint No. 99194, December 11, 2001.....	1066
Southeastern Pennsylvania Transit Authority, PA, Complaint No. 99084, February 19, 2002	1189
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 96164, March 19, 1997	105
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 92209, March 31, 1997	124
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 96150, March 31, 1997	132
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 92219, April 23, 1997.....	145
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 94130, May 6, 1997	181
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 95106, May 6, 1997	184
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 92225, June 13, 1997	197
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 96159, August 14, 1997	220
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 92230, December 15, 1997.....	309

Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 96175, January 15, 1998	339
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 97273, January 15, 1998	341
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 040014, October 14, 2004	1546
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 92226, May 8, 1997	187
Transportation District Commission of Hampton Roads, VA, Complaint No. 98164, June 28, 2001	982
Transportation District Commission of Hampton Roads, VA, Complaint No. 98184, June 28, 2001	1019
Transportation District Commission of Hampton Roads, VA, Complaint No. 98194, June 28, 2001	1021
Transportation District Commission of Hampton Roads, VA, Complaint No. 98182, February 4, 2002	1161
Transportation District Commission of Hampton Roads, VA, Complaint No. 98170, June 28, 2001	995
Transportation District Commission of Hampton Roads, VA, Complaint No. 98183, June 28, 2001	1016
Transportation District Commission of Hampton Roads, VA, Complaint No. 98166, June 28, 2001	986
Transportation District Commission of Hampton Roads, VA, Complaint No. 98167, June 28, 2001	988
Transportation District Commission of Hampton Roads, VA, Complaint No. 98168, June 28, 2001	991
Transportation District Commission of Hampton Roads, VA, Complaint No. 98169, June 28, 2001	993
Transportation District Commission of Hampton Roads, VA, Complaint No. 98171, June 28, 2001	998
Transportation District Commission of Hampton Roads, VA, Complaint No. 98172, June 28, 2001	1000
Transportation District Commission of Hampton Roads, VA, Complaint No. 98173, June 28, 2001	1002
Transportation District Commission of Hampton Roads, VA, Complaint No. 98174, June 28, 2001	1004

Transportation District Commission of Hampton Roads, VA, Complaint No. 98175, June 28, 2001	1006
Transportation District Commission of Hampton Roads, VA, Complaint No. 98176, June 28, 2001	1008
Transportation District Commission of Hampton Roads, VA, Complaint No. 98177, June 28, 2001	1010
Transportation District Commission of Hampton Roads, VA, Complaint No. 98178, June 28, 2001	1012
Transportation District Commission of Hampton Roads, VA, Complaint No. 98180, June 28, 2001	1014
Washington Metropolitan Area Transit Authority, DC, Complaint No. 95183, July 25, 1997	203
Washington Metropolitan Area Transit Authority, DC, Complaint No. 96087, October 30, 2000	795
Washington Metropolitan Area Transit Authority, DC, Complaint No. 96153, March 17, 1997	100
Washington Metropolitan Area Transit Authority, DC, Complaint No. 97076, September 24, 1997	253
Washington Metropolitan Area Transit Authority, DC, Complaint No. 96055, March 27, 1998	426
Washington Metropolitan Area Transit Authority, DC, Complaint No. 99164, February 29, 2000.....	693
Washington Metropolitan Area Transit Authority, DC, Complaint No. 97157, October 30, 2000	798
Washington Metropolitan Area Transit Authority, DC, Complaint No. 98105, October 30, 2000	801
Washington Metropolitan Area Transit Authority, DC, Complaint No. 99304, October 30, 2000	808
Washington Metropolitan Area Transit Authority, DC, Complaint No. 99169, December 28, 2000.....	826
Washington Metropolitan Area Transit Authority, DC, Complaint No. 99263, January 31, 2001	855
Washington Metropolitan Area Transit Authority, DC, Complaint No. 00-0328, February 6, 2001.....	878

Washington Metropolitan Area Transit Authority, DC, Complaint No. 010150,
June 28, 2002 1031

Washington Metropolitan Area Transit Authority, DC, Complaint No. 01-0243,
January 22, 2002 1126

Washington Metropolitan Area Transit Authority, DC, Complaint No. 01-0244,
January 22, 2002 1130

Washington Metropolitan Area Transit Authority, DC, Complaint No. 97095,
October 2, 2002 1340

Washington Metropolitan Area Transit Authority, DC, Complaint No. 01-0248,
March 7, 2003 1383

Washington Metropolitan Area Transit Authority, DC, Complaint No. 99149,
September 2, 1999 593

Washington Metropolitan Area Transit Authority, DC, Complaint No. 99040, June 30, 2000 751

REGION IV—ATLANTA

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0012,
January 15, 2002 1076

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0013,
January 15, 2002 1078

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0020,
January 15, 2002 1080

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0027,
January 15, 2002 1082

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0028,
January 15, 2002 1084

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0031,
January 15, 2002 1086

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0146,
January 15, 2002 1088

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0059,
January 15, 2002 1090

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0083,
January 15, 2002 1092

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0146,
May 23, 2002 1255

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 98250, August 26, 2002	1295
Birmingham-Jefferson County Transit Authority, AL, Complaint No. 02-00013, September 16, 2002	1330
Birmingham-Jefferson County Transit Authority, AL, Complaint No. 02-00012, December 19, 2002.....	1356
Broward County Division of Mass Transit, FL, Complaint No. 99211, March 31, 2000	716
Broward County Transit, FL, Complaint No. 01-0179, September 10, 2002	1307
Central Florida Regional Transportation Authority, FL, Complaint No. 000372, January 16, 2002	1111
Central Florida Regional Transportation Authority, FL, Complaint No. 00-0305, December 30, 2000	853
Central Florida Regional Transportation Authority, FL, Complaint No. 99170, April 28, 2000	728
Central Florida Regional Transportation Authority, FL, Complaint No. 00-0302, October 30, 2000	818
Central Florida Regional Transportation Authority, FL, Complaint No. 00053, June 27, 2001	936
Central Florida Regional Transportation Authority, FL, Complaint No. 97048, June 27, 2001	952
Central Florida Regional Transportation Authority, FL, Complaint No. 97040, June 28, 2001	1033
Central Florida Regional Transportation Authority, FL, Complaint No. 00-0380, August 22, 2002	1292
Central Florida Regional Transportation Authority, FL, Complaint No. 01-0034, December 23, 2002.....	1361
Central Midlands Council of Governments, SC, Complaint No. 99168, April 27, 2001	914
Central Midlands Council of Governments, SC, Complaint No. 98252, April 27, 2001	917
Central Midlands Council of Governments, SC, Complaint No. 00-0234, June 27, 2001.....	954
Central Midlands Council of Governments, SC, Complaint No. 92011, June 27, 2001.....	934
Central Midlands Council of Governments, SC, Complaint No. 94146, June 27, 2001.....	973
Charleston Area Regional Transportation Authority, SC, Complaint No. 04-0059, March 17, 2004	1496
Chatham Area Transit Authority, GA, Complaint No. 00-0319, February 19, 2002.....	1185
Chattanooga Area Regional Transit Authority, TN, Complaint No. 98048, November 3, 1998	489

City of Gainesville Regional Transit Authority, FL, Complaint No. 00039, December 16, 2002.....	1350
City of Gainesville Regional Transit Authority, FL, Complaint No. 00023, August 19, 2002	1284
City of Gainesville Regional Transit Authority, FL, Complaint No. 00-024, August 19, 2002	1286
City of Gainesville Regional Transit Authority, FL, Complaint No. 99220, August 19, 2002	1288
City of Greensboro Transit Authority, NC, Complaint No. 99151, July 31, 2000.....	764
City of Hickory Transit, NC, Complaint No. 03-0163, July 15, 2004.....	1521
Coastal Rapid Public Transit Authority, SC, Complaint No. 99298, February 4, 2002	1173
Cobb County Community Transit, GA, Complaint No. 97131, February 12, 1998.....	377
Cobb County Transit, GA, Complaint No. 99095, December 30, 1999	649
Columbus Metro Transit, GA, Complaint Nos. 00046 and 000304, May 15, 2002	1252
East Volusia Transportation Authority, FL, Complaint No. 96200, July 3, 1997	200
Eastern Tennessee Human Resource Agency, TN, Complaint No. 00-0267, February 13, 2002.....	1181
Greyhound Bus Lines, FL, Complaint No. 96075, January 8, 1997	65
Jackson Transit Authority, TN, Complaint No. 01-0185, December 19, 2002	1358
Jacksonville Transportation Authority, FL, Complaint No. 02-0084, March 12, 2003	1387
Johnson City Transit, TN, Complaint No. 010154, June 28, 2001.....	984
Lee County Transit, FL, Complaint No. 97250, December 18, 1997	312
Manatee County Area Transit, FL, Complaint No. 98037, November 15, 1999	637
Memphis Area Transit Authority, TN, Complaint No. 99090, December 28, 2000	845
Memphis Area Transit Authority, TN, Complaint No. 00-0401, February 19, 2002	1183
Memphis Area Transit Authority, TN, Complaint No. 00-0406, June 28, 2001	1039
Memphis Area Transit Authority, TN, Complaint No. 97255, December 28, 2000	837
Memphis Area Transit Authority, TN, Complaint No. 98089, June 28, 2001.....	1047
Memphis Area Transit Authority, TN, Complaint No. 99180, January 31, 2001.....	861
Memphis Area Transit Authority, TN, Complaint No. 99243, June 28, 2001.....	1035
Metro-Dade Transit Authority, FL, Complaint No. 96133, March 3, 1997	94

Metro-Dade Transit Authority, FL, Complaint No. 99118, February 10, 2000	687
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 96094, October 24, 1996.....	32
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 96057, August 6, 1997.....	209
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 98245, November 25, 1998.....	501
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 99159, June 27, 2001.....	948
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 00006, February 28, 2002	1208
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 010152, October 2, 2002.....	1338
Metropolitan Bus Authority, PR, Complaint No. 99228, April 27, 2000	722
Metropolitan Transit Authority, TN, Complaint No. 01-0026, April 15, 2003.....	1396
Metropolitan Transit Authority, TN, Complaint No. 95006, February 6, 1998	362
Metropolitan Transit Authority, TN, Complaint No. 98099, May 21, 1998	465
Miami-Dade Transit Authority, FL, Complaint No. 96051, June 28, 2001	1023
Palm Beach County Surface Transportation Department, FL, Complaint No. 96136, June 27, 2001	938
Palm Beach County Surface Transportation Department, FL, Complaint No. 96137, June 27, 2001	940
Palm Beach County Surface Transportation Department, FL, Complaint No. 96138, June 27, 2001	942
Palm Beach County Surface Transportation Department, FL, Complaint No. 96139, June 27, 2001	944
Palm Beach County Surface Transportation Department, FL, Complaint No. 96140, June 27, 2001	946
Palm Beach County Surface Transportation Department, FL, Complaint No. 02-0017, May 23, 2002.....	1263
Pinellas Suncoast Transit Authority, FL, Complaint No. 96058, December 1, 1996.....	52
Pinellas Suncoast Transit Authority, FL, Complaint No. 97060, February 6, 1998.....	355
Pinellas Suncoast Transit Authority, FL, Complaint No. 97141, November 13, 1998	493
Pinellas Suncoast Transit Authority, FL, Complaint No. 99054, May 14, 1999.....	546
Regional Transit System, FL, Complaint No. 00039, December 16, 2002.....	1350
Regional Transit System, FL, Complaint No. 97170, December 11, 1997.....	303

Space Coast Area Transit, FL, Complaint No. 97064, May 7, 1998.....	440
Space Coast Area Transportation, FL, Complaint No. 98212, May 27, 1999.....	555
Town of Chapel Hill, NC, Complaint No. 99001, December 30, 1999.....	659
Transit Authority of Northern Kentucky, KY, Complaint No. 96107, September 17, 1996.....	27
Transit Authority of Northern Kentucky, KY, Complaint No. 98019, February 12, 1998	371
Transit Authority of Northern Kentucky, KY, Complaint No. 98020, March 13, 1998.....	412
Transit Authority of River City, KY, Complaint No. 96054, November 29, 1997	291
Transit Authority of River City, KY, Complaint No. 96203, March 20, 1997	109
Transit Authority of River City, KY, Complaint No. 98057, August 5, 1998	469
Triangle Transit Authority, NC, Complaint No. 96105, January 8, 1997.....	62
Tri-County Commuter Rail Authority, FL, Complaint No. 97098, August 22, 2002.....	1290
Tri-County Commuter Rail Authority, FL, Complaint No. 99049, September 10, 2002.....	1313

REGION V—CHICAGO

Bloomington Public Transportation Corporation, IN, Complaint No. 97078, March 2, 1998	395
Capital Area Transit Authority, MI, Complaint No. 03-0119, August 9, 2004	1529
Capital Area Transit Authority, MI, Complaint No. 94016, February 28, 2002.....	1222
Chicago Transit Authority, IL, Complaint No. 00-0225, June 27, 2001	950
Chicago Transit Authority, IL, Complaint No. 00-044, September 4, 2003	1433
Chicago Transit Authority, IL, Complaint No. 010149, May 21, 2003	1405
Chicago Transit Authority, IL, Complaint No. 02-0007, August 16, 2004	1534
Chicago Transit Authority, IL, Complaint No. 02-0019, September 10, 2002	1305
Chicago Transit Authority, IL, Complaint No. 95172, February 13, 1997	79
Chicago Transit Authority, IL, Complaint No. 98147, December 4, 2003.....	1457
Chicago Transit Authority, IL, Complaint No. 98249, October 30, 2000.....	814
Chicago Transit Authority, IL, Complaint No. 98260, November 13, 2003	1444

Chicago Transit Authority, IL, Complaint No. 98278, January 25, 2002.....	1153
City of Detroit Department of Transportation, MI, Complaint No. 96047, June 27, 2001.....	977
City of Detroit Department of Transportation, MI, Complaint No. 00040, July 10, 2001.....	1057
City of Detroit Department of Transportation, MI, Complaint No. 010095, September 18, 2001	1064
City of Detroit Department of Transportation, MI, Complaint No. 05-0039, February 22, 2005.....	1569
City of Detroit Department of Transportation, MI, Complaint No. 96047, July 31, 2000.....	774
City of Galesburg, IL, Complaint No. 00-0071, January 31, 2001	875
Duluth Transit Authority, MN, Complaint No. 97265, December 15, 1997	307
Gary Public Transit Corporation, IN, Complaint No. 01-0249, October 13, 2004	1542
Greater Cleveland Regional Transit Authority, OH, Complaint No. 98017, June 27, 2001	964
Loveland, OH, Case No. 00008, February 29, 2000	704
Madison Metro Transit System, WI, Complaint No. 000313, August 21, 2001	1062
Madison Metro Transit System, WI, Complaint No. 97023, January 13, 1998	332
Madison Metro Transit System, WI, Complaint No. 98144, February 10, 1999.....	522
Madison Metro, WI, June 4, 1996.....	1
Mass Transportation Authority of Flint, MI, Complaint No. 96095, January 30, 1997	72
Metro Regional Transit Authority, OH, Complaint No. 01-0138, May 3, 2002.....	1236
Metro Regional Transit Authority, OH, Complaint No. 97252, April 8, 2002.....	1226
Metropolitan Council Transit Operations, MN, Complaint No. 96228, August 14, 1997.....	233
Metropolitan Council Transit Operations, MN, Complaint No. 96089, September 11, 1996	23
Metropolitan Council, MN, Complaint No. 98206, December 30, 1999	666
Metropolitan Evansville Transit System, IN, Complaint No. 010158, February 27, 2002	1204
Miami Valley Regional Transit Authority, OH, Complaint No. 99197, February 25, 2002	1197
Midway Municipal Airport, IL, Complaint No. 97272, January 12, 1998	330
Milwaukee County Transit System, WI, Complaint No. 99043, July 31, 2000.....	777
Milwaukee County Transit System, WI, Complaint No. 000228, February 26, 2002.....	1202

Milwaukee County Transit System, WI, Complaint No. 98267, February 28, 2002.....	1212
Milwaukee County Transit System, WI, Complaint Nos. 99137-99140, February 28, 2002.....	1217
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97284, December 31, 1997.....	325
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97127, March 19, 1997	103
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97073, June 10, 1997	195
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97120, August 14, 1997	235
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97148, August 28, 1997	245
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 98052, May 7, 1998	438
Northwestern Indiana Commuter Transit District, IN, Complaint No. 97052, January 13, 1998	335
PACE Suburban Bus Division, IL, Complaint No. 00-0324, January 31, 2001	865
PACE Suburban Bus Division, IL, Complaint No. 95041, November 13, 1996	34
PACE Suburban Bus Division, IL, Complaint No. 97108, March 13, 1998.....	410
PACE Suburban Bus Division, IL, Complaint No. 99289, April 28, 2000	725
Regional Transportation Authority, IL, Complaint No. 00-0397, January 31, 2001	859
Regional Transportation Authority, IL, Complaint No. 98213, August 19, 1999	584
South Bend Public Transportation Corporation, IN, Complaint No. 00-0237, May 23, 2002	1259
Southwest Ohio Regional Transit Authority, OH, Complaint No. 97145, May 7, 1998	442
Southwest Ohio Regional Transit Authority, OH, Complaint No. 98113, November 24, 1998.....	498
Suburban Mobility Authority for Regional Transportation, MI, Complaint No. 00-0016, June 9, 2005	1573
Suburban Mobility for Regional Transport, MI, Complaint No. 00035, July 11, 2002	1269
Toledo Area Regional Transit Administration, OH, Complaint No. 97128, December 15, 1997	305
Toledo Area Regional Transit Authority, OH, Complaint No. 02-0017, September 10, 2002	1309

Toledo Area Regional Transit Authority, OH, Complaint No. 99265, April 11, 2001.....	905
Toledo Area Regional Transit Authority, OH, Complaint No. 99266, April 11, 2001.....	908
Toledo Area Regional Transit Authority, OH, Complaint No. 99267, August 28, 2000	786
Toledo Area Regional Transit Authority, OH, Complaint No. 99268, April 11, 2001.....	911
Toledo Area Regional Transit Authority, OH, Complaint No. 99270, May 16, 2001.....	922
Toledo Area Transit Authority, OH, Complaint No. 02-0099, September 10, 2002.....	1316
Twin Cities Area Transportation Authority, MI, Complaint No. 97094, March 16, 1998.....	416

REGION VI—DALLAS/FORT WORTH

Albuquerque Transit Department, NM, Complaint No. 98265, December 10, 1998	503
Albuquerque Transit Department, NM, Complaint No. 03-0236, April 29, 2004	1507
Albuquerque Transit Department, NM, Complaint No. 04-0032, June 3, 2004	1510
Brazos Transportation, TX, Complaint No. 97151, September 24, 1997.....	255
Brazos Transit District, TX, Complaint No. 01-0066, April 8, 2002	1228
Brazos Transit District, TX, Complaint No. 99104, November 9, 1999.....	635
Brownsville Urban System, TX, Complaint No. 98097, December 22, 1998	516
Capital Metropolitan Transit Authority, TX, Complaint No. 97024, February 17, 1998.....	384
Capital Metropolitan Transportation Authority, TX, Complaint Nos. 95042 and 96014, December 22, 1998.....	513
Central Oklahoma Transportation and Parking Authority, OK, Complaint No. 00-0329, February 4, 2002.....	1163
City Transit Management, Incorporated, TX, Complaint No. 99019, May 14, 1999	552
Dallas Area Rapid Transit, TX, Complaint No. 00-0212, February 4, 2002.....	1165
Dallas Area Rapid Transit, TX, Complaint No. 00-0269, April 3, 2001.....	901
Dallas Area Rapid Transit, TX, Complaint No. 94194, February 17, 1998.....	379
Dallas Area Rapid Transit, TX, Complaint No. 95037, April 23, 1997.....	148
Dallas Area Rapid Transit, TX, Complaint No. 95200, February 20, 1997.....	82
Dallas Area Rapid Transit, TX, Complaint No. 96023, March 27, 1997.....	114

Dallas Area Rapid Transit, TX, Complaint No. 96065, December 24, 1997	316
Dallas Area Rapid Transit, TX, Complaint No. 96212, April 24, 1997	157
Dallas Area Rapid Transit, TX, Complaint No. 96213, April 24, 1997	160
Dallas Area Rapid Transit, TX, Complaint No. 96214, April 24, 1997	163
Dallas Area Rapid Transit, TX, Complaint No. 97041, December 24, 1997	323
Dallas Area Rapid Transit, TX, Complaint No. 98022, December 30, 1999	651
Dallas Area Rapid Transit, TX, Complaint No. 98023, May 13, 1998	447
Dallas Area Rapid Transit, TX, Complaint No. 98288, February 25, 2002	1195
Dallas Area Rapid Transit, TX, Complaint No. 99111, June 27, 2001	971
Island Transit, Galveston, TX, Complaint No. 02-0199, December 2, 2004	1558
LaFayette Consolidated Government, LA, Complaint No. 96208, May 21, 1998	454
Louisiana Consolidated Government, LA, Complaint No. 96208, May 21, 1998	456
Louisiana Consolidated Government, LA, Complaint No. 97104, April 13, 1999	536
Lower Rio Grande Valley Development Council/McAllen Express, TX, Complaint No. 01-0250 January 28, 2003	1370
Metropolitan Transit Authority, TX, Complaint No. 96074, July 24, 1996	14
Metropolitan Transit Authority, TX, Complaint No. 97274, July 23, 1999	574
Metropolitan Transit Authority, TX, July 24, 1996	13
Metropolitan Tulsa Transit Authority, OK, Complaint No. 00040, May 31, 2000	744
Metropolitan Tulsa Transit Authority, OK, Complaint No. 98276, March 31, 2000	712
Regional Transit Authority, LA, Complaint No. 99081, January 17, 2002	1115
Regional Transit Authority, LA, Complaint No. 01-0024, August 12, 2002	1280
Tulsa Transit Authority, OK, Complaint No. 00040, May 31, 2000	744
VIA Metropolitan Transit, TX, Complaint No. 95131, August 14, 1997	229
VIA Metropolitan Transit, TX, Complaint No. 96155, January 20, 1998	343
VIA Metropolitan Transportation, TX, Complaint No. 95202, March 26, 2001	896

REGION VII—KANSAS CITY

Adams County Senior Services, NE, Complaint No. 99236, April 28, 2000	734
Bi-State Development Agency, MO, Complaint No. 98211, September 23, 1999	615
Bi-State Development Agency, MO, Complaint No. 02-0016, September 10, 2002	1298
Bi-State Development Authority, MO, Complaint No. 000378, January 15, 2002	1074
Bi-State Development Authority, MO, Complaint No. 000385, January 16, 2002	1109
Bi-State Development Authority, MO, Complaint No. 000398, January 16, 2002	1113
Bi-State Development Authority, MO, Complaint No. 010183, February 13, 2002	1177
City of Davenport, IA, Complaint No. 96008, April 10, 1997	140
City of Davenport, IA, Complaint No. 96008, August 21, 1997	237
City of Davenport, IA, Complaint No. 96008, February 26, 1997	85
City of Lawrence Transit, KS, Complaint No. 010237, July 11, 2002	1267
City of Tecumseh, NE, Complaint No. 97197, February 10, 1999	520
City Transit System, IA, Complaint No. 00-0284, February 28, 2001	894
Five Seasons Transportation, IA, Complaint No. 98047, August 8, 2003	1423
Kansas City Area Transportation Authority, MO, Complaint No. 00-0280, January 24, 2002	1144
Kansas City Area Transportation Authority, MO, Complaint No. 94237, September 21, 1999	607
METRO, MO, Complaint No. 04-0029, March 3, 2005	1571

REGION VIII—DENVER

City of Colorado Springs, CO, Complaint No. 97281, June 1, 1999	567
City of Loveland Transit, CO, Complaint No. 010280, April 7, 2002	1224
Greater Colorado Springs Transportation Company, CO, Complaint No. 94157, May 2, 1997	175
Missoula Urban Transit District, MT, Complaint No. 92096, August 14, 1997	222
Regional Transportation District, CO, Complaint No. 96060, July 24, 1996	16
Regional Transportation District, CO, Complaint No. 97026, May 23, 2001	927

Regional Transportation District, CO, Complaint No. 00063, June 28, 2001 1037

RIDE Transit Services, CO, Complaint No. 98092, August 18, 1998 475

Springs Transit, CO, Complaint No. 97103, July 29, 2003..... 1419

Utah Transit Authority, UT, Complaint No. 00-0263, January 31, 2001..... 868

Utah Transit Authority, UT, Complaint No. 00047, December 28, 2000 821

Utah Transit Authority, UT, Complaint No. 01-0088, January 24, 2002..... 1147

Utah Transit Authority, UT, Complaint No. 99292, February 2, 2000 674

REGION IX— SAN FRANCISCO

Access Services Incorporated, CA, Complaint No. 00-0312, September 10, 2002..... 1301

Access Services Incorporated, CA, Complaint No. 01-0143, September 16, 2002..... 1332

Access Services Incorporated, CA, Complaint No. 96086, September 17, 1996 29

Access Services Incorporated, CA, Complaint No. 96177, March 31, 1997 127

Access Services Incorporated, CA, Complaint No. 97198, December 5, 1997 297

Access Transportation Systems Incorporated, PA, Complaint No. 97093, January 2, 1998..... 327

Access Services Incorporated, CA, Complaint No. 00011, October 30, 2000 812

Access Services Incorporated, CA, Complaint No. 00-0258, December 28, 2000 831

Access Services Incorporated, CA, Complaint No. 00030, October 30, 2000 804

Access Services Incorporated, CA, Complaint No. 00-0309, February 28, 2002 1219

Access Services Incorporated, CA, Complaint No. 00-0323, February 25, 2002 1191

Access Services Incorporated, CA, Complaint No. 00-0373, February 25, 2002 1192

Access Services Incorporated, CA, Complaint No. 00-0375, February 25, 2002 1193

Access Services Incorporated, CA, Complaint No. 00-0229, February 25, 2002 1194

Access Services Incorporated, CA, Complaint No. 00-0402, June 28, 2001..... 1045

Access Services Incorporated, CA, Complaint No. 00-0403, June 28, 2001..... 1041

Access Services Incorporated, CA, Complaint No. 01-0093, January 22, 2002..... 1128

Access Services Incorporated, CA, Complaint No. 01-0135, September 10, 2002..... 1311

Access Services Incorporated, CA, Complaint No. 01-0182, January 17, 2002	1117
Access Services Incorporated, CA, Complaint No. 01-0239, January 27, 2003	1364
Access Services Incorporated, CA, Complaint No. 01-0246, September 10, 2002.....	1303
Access Services Incorporated, CA, Complaint No. 02-0092, September 26, 2002.....	1334
Access Services Incorporated, CA, Complaint No. 02-0094, September 26, 2002.....	1336
Access Services Incorporated, CA, Complaint No. 96001, February 19, 1998	390
Access Services Incorporated, CA, Complaint No. 96121, February 2, 1998	353
Access Services Incorporated, CA, Complaint No. 96146, April 29, 1997.....	169
Access Services Incorporated, CA, Complaint No. 96173, April 29, 1997.....	172
Access Services Incorporated, CA, Complaint No. 96178, May 18, 1998.....	451
Access Services Incorporated, CA, Complaint No. 96189, May 27, 1999.....	562
Access Services Incorporated, CA, Complaint No. 97043, March 15, 2000	706
Access Services Incorporated, CA, Complaint No. 97076, November 10, 1997	280
Access Services Incorporated, CA, Complaint No. 97195, December 24, 1997	319
Access Services Incorporated, CA, Complaint No. 97198, November 21, 1997	283
Access Services Incorporated, CA, Complaint No. 98006, May 13, 1999.....	539
Access Services Incorporated, CA, Complaint No. 98018, December 30, 1999	664
Access Services Incorporated, CA, Complaint No. 98193, December 11, 1998	508
Access Services Incorporated, CA, Complaint No. 98208, October 2, 2002	1342
Access Services Incorporated, CA, Complaint No. 98261, July 31, 2000.....	781
Access Services Incorporated, CA, Complaint No. 99280, October 30, 2000	816
Access Services, Incorporated, CA, Complaint No. 99015, February 27, 2001	880
Access Services Incorporated, CA, Complaint No. 99186, February 4, 2002	1175
Access Services Incorporated, CA, Complaint No. 99210, December 30, 1999	662
Access Services Incorporated, CA, Complaint No. 98018, December 30, 1999	664
Alameda-Contra Costa County Transit District, CA, Complaint No. 96077, July 24, 1996	18

Alameda-Contra Costa County Transit District, CA, Complaint No. 00055, February 28, 2001	887
Antelope Valley Transit Authority, CA, Complaint No. 99064, September 23, 1999	617
Bay Area Rapid Transit District, CA, Complaint No. 98102, March 2, 1999	524
Butte County Transit, CA, Complaint No. 99305, September 16, 2002	1327
City of Beaumont, CA, Complaint No. 99052, May 14, 1999	544
City and County of Honolulu, HI, Complaint No. 99036, February 2, 2000	678
City of Las Vegas, NV, Complaint No. 99285, December 28, 2000	829
City of Lompoc, CA, Complaint No. 98221, February 29, 2000	697
City of Oakland, CA, Complaint No. 96073, July 17, 1996	11
City of Oceanside, CA, Complaint No. 97004, March 31, 1997	135
City of Phoenix Public Transit, AZ, Complaint No. 01-0085, August 12, 2002	1276
City of Santa Monica Big Blue Bus, CA, Complaint No. 99066, September 2, 1999	596
City of Santa Monica Big Blue Bus, CA, Complaint No 97039, March 10, 1998	401
City of Tucson, AZ, Complaint No. 97171, May 31, 2000	740
City of Tucson, AZ, Complaint No. 98225, May 27, 1999	559
City of West Hollywood, CA, Complaint No. 96043, May 3, 1997	178
Coconino County Community Services Department, AZ, Complaint No. 97071, August 6, 1997	216
Coyote Run Transit, AZ, Complaint No. 98110, September 22, 1998	487
East Bay Paratransit Consortium, CA, Complaint No. 01-0055, April 3, 2001	898
East Bay Paratransit Consortium, CA, Complaint No. 01-0134, February 4, 2003	1375
East Bay Paratransit Consortium, CA, Complaint No. 98002, October 13, 1999	627
East Bay Paratransit Consortium, CA, Complaint No. 99153, February 18, 2000	690
Fresno Area Express, CA, Complaint No. 000230, February 28, 2002	1206
Fresno Area Express, CA, Complaint No. 97113, April 28, 2003	1401
Glendale Beeline Transit, CA, Complaint No. 97042, February 25, 1998	392
Humboldt Transit Authority, CA, Complaint No. 00-0376, September 16, 2002	1318
Guam Mass Transit Authority, Guam, Complaint No. 99025, June 27, 2001	975

Long Beach Transit, CA, Complaint No. 01-0025, June 28, 2001.....	1029
Long Beach Transit, CA, Complaint No. 96147, January 24, 1997	70
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 99057, September 23, 1999	619
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 01-0189, November 8, 2004	1549
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 95176, March 31, 1997	130
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 95040, January 23, 1998	346
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 97246, August 28, 2000	791
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 97028, January 24, 2002	1142
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 00007, May 9, 2002.....	1246
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 99002, May 23, 2002.....	1257
Metropolitan Transit District, CA, Complaint No. 97092, June 27, 2001	966
Metropolitan Transportation Commission and San Francisco Municipal Railway, CA, Complaint No. 98259, November 17, 2003.....	1447
Metropolitan Transportation Commission, CA, Complaint No. 98259, January 27, 2003.....	1367
Monterey-Salinas Transit, CA, Complaint No. 99207-TA, April 28, 2000	732
Mountain Area Regional Transit Authority, CA, Complaint No. 00056, January 22, 2002	1133
Mountain Area Regional Transit Authority, CA, Complaint No. 99264, August 25, 2000	784
OMNITRANS, CA, Complaint No. 97112, September 5, 1997.....	248
OMNITRANS, CA, Complaint No. 97129, February 2, 1998	350
OMNITRANS, CA, Complaint No. 99003, August 19, 1999.....	587
Orange County Transit Authority, CA, Complaint No. 98189, October 13, 1999.....	629
Orange County Transportation Authority, CA, Complaint No. 00-0238, February 4, 2002	1171

Orange County Transportation Authority, CA, Complaint No. 95111, March 26, 1997	111
Orange County Transportation Authority, CA, Complaint No. 96080, June 20, 1996	5
Orange County Transportation Authority, CA, Complaint No. 96098, June 26, 1996	7
Peninsula Corridor Joint Powers Board, CA, Complaint No. 97174, May 1, 1998	434
Peninsula Joint Powers Board, CA, Complaint No. 97178, October 15, 1997	267
Phoenix Transit System, AZ, Complaint No. 97057, February 12, 1998	375
Phoenix Transit System, AZ, Complaint No. 98230, September 8, 1999	599
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 97267, November 19, 1998	495
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 00-0405, December 28, 2000	834
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 00-0409, February 4, 2002	1167
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 010058, June 28, 2001	1053
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 01-0097, February 4, 2002	1169
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 98090, December 30, 1999	655
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 98215, October 6, 1999	624
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 99033, August 16, 1999	579
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 99050, December 19, 2002	1352
Riverside Transit Agency, CA, Complaint No. 00-0346, June 11, 2003	1409
Riverside Transit Agency, CA, Complaint No. 02-0018, January 28, 2004	1484
Riverside Transit Agency, CA, Complaint No. 02-0020, January 28, 2004	1486
Riverside Transit Agency, CA, Complaint No. 03-0038, January 28, 2004	1488
Riverside Transit Agency, CA, Complaint No. 03-0039, January 28, 2004	1490
Riverside Transit Authority, CA, Complaint No. 93583, November 10, 1997	273

Riverside Transit Authority, CA, Complaint No. 96141, June 2, 1997.....	192
Sacramento Regional Transit District, CA, Complaint No. 97193, May 21, 1998	461
Sacramento Regional Transit District, CA, Complaint No. 98031, March 23, 1999.....	529
Sacramento Regional Transit District, CA, Complaint No. 98038, July 10, 2001	1055
Sacramento Regional Transit District, CA, Complaint No. 98066, September 22, 1998	484
Sacramento Regional Transit District, CA, Complaint No. 99161, January 9, 2002.....	1072
San Diego Metropolitan Transit Development Board, CA, Complaint No. 99117, April 15, 2002.....	1230
San Diego Metropolitan Transit Development Board, CA, Complaint No. 01-0251, July 29, 2004	1527
San Francisco Bay Area Rapid Transit District, CA, Complaint No. 97088, February 17, 1998	382
San Francisco Municipal Railway, CA, Complaint No. 000374, June 27, 2001	978
San Francisco Municipal Railway, CA, Complaint No. 00317, January 22, 2002	1140
San Francisco Municipal Railway, CA, Complaint No. 01-0145, February 4, 2002	1157
San Francisco Municipal Railway, CA, Complaint No. 02-0003, January 28, 2004	1476
San Francisco Municipal Railway, CA, Complaint No. 02-0100, January 28, 2004	1480
San Francisco Municipal Railway, CA, Complaint No. 02-0102, January 28, 2004	1482
San Francisco Municipal Railway, CA, Complaint No. 96078, December 19, 1996.....	58
San Francisco Municipal Railway, CA, Complaint No. 98081, April 8, 1999.....	533
San Joaquin Regional Transit District, CA, Complaint No. 01-0176, December 13, 2002.....	1348
San Joaquin Regional Transit District, CA, Complaint No. 95038, January 31, 2001.....	872
San Joaquin Regional Transit District, CA, Complaint No. 99067, September 29, 1999.....	621
San Mateo County Transit District, CA, Complaint No. 95143, November 26, 1997	286
San Mateo County Transit District, CA, Complaint No. 97102, September 20, 1999	604
San Mateo County Transit District, CA, Complaint No. 97199, August 17, 1999.....	581
San Mateo County Transit District, CA, Complaint No. 99103, January 30, 2002.....	1155
Santa Barbara Metropolitan Transit District, CA, Complaint No. 00003, June 30, 2000	761
Santa Barbara Metropolitan Transit District, CA, Complaint No. 97008, October 4, 1997	262

Santa Barbara Metropolitan Transit District, CA, Complaint No. 98068, May 14, 1999	549
Santa Clara Valley Transportation Authority, CA, Complaint No. 96175, April 24, 1997	152
Santa Clara Valley Transportation Authority, CA, Complaint No. 97089, January 19, 2000.....	671
Santa Clara Valley Transportation District, CA, Complaint No. 95199, February 8, 1997.....	76
Santa Clara Valley Transportation District, CA, Complaint No. 95199, December 8, 1997.....	300
Santa Clarita Transit, CA, Complaint No. 97243, December 30, 1999	668
Santa Cruz Metropolitan Transit District, CA, Complaint No. 97092, June 27, 2001.....	966
Sun Tran, AZ, Complaint No. 99202, March 24, 2003	1392
Victor Valley Transit Authority, CA, Complaint No. 98185, May 27, 1999	557

REGION X—SEATTLE

Intercity Transit, WA, Complaint No. 95184, December 8, 1996.....	56
King County Department of Metropolitan Services, WA, Complaint No. 97035, July 29, 1997.....	206
King County Department of Metropolitan Services, WA, Complaint No. 97137, October 27, 1997	271
King County Department of Metropolitan Services, WA, Complaint No. 94001, March 16, 1998	414
King County Department of Metropolitan Services, WA, Complaint No. 99077, August 24, 1999	590
King County Department of Transportation Services, WA, Complaint No. 98274, June 30, 2000	758
Kitsap Transit, WA, Complaint No. 95171, March 20, 1997	107
North Slope Borough Department of Municipal Services, AK, Complaint No. 00-0327, January 31, 2001	857
North Slope Borough Department of Municipal Services, AK, Complaint No. 01-0067, January 19, 2002	1119
North Slope Boroughs, AK, Complaint No. 02-0093, June 16, 2004.....	1516
Pierce Transit, WA, Complaint No. 97032, February 19, 1998	388
Pierce Transit, WA, Complaint No. 99141, June 28, 2001	1027

Prosser Rural Transit, WA, Complaint No. 97165, March 13, 1998	408
Regional Transportation Council, WA, Complaint Nos. 98145 and 98253, December 30, 1999	647
Spokane Transit Authority, WA, Complaint No. 94172, December 24, 1997	321
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 01-0030, January 7, 2002	1068
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 97179, November 10, 1997	277
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 95047, February 6, 1998	357
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 97184, February 6, 1998	360
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 97259, December 11, 1998	505
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 96083, April 27, 2001	920
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 99277, August 12, 2002	1274
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 04-0069 December 2, 2004	1562
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 98251, February 19, 2002	1187
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 96061, July 16, 1996	9
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 95146 August 28, 1997	241
Valley Transportation, ID, Complaint No. 00058, January 16, 2002	1108
Washington State Ferries, WA, Complaint No. 98247, February 29, 2000	702
Whatcom Transit Authority, WA, Complaint No. 01-0136, April 3, 2001	903
Whatcom Transit Authority, WA, Complaint No. 97065, September 26, 1997	257
Whatcom Transit Authority, WA, Complaint No. 99078, September 20, 1999	602

COMPLIANCE ASSESSMENT FINAL REPORTS

REGION IV—ATLANTA

Central Florida Regional Transportation Authority, FL, May 25–28, 1999	1592
Central Midlands Council of Governments, SC, July 13–16, 1999	1664
Jacksonville Transportation Authority, FL, May 30, 2000.....	1623
Miami-Dade Transit Authority, FL, September 26, 1998.....	1575

REGION V—CHICAGO

Chicago Transit Authority, IL, July 31, 2000	1689
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ALPHABETICAL LIST OF ADA DECISIONS

LETTERS OF FINDINGS

Access Services Incorporated, CA, Complaint No. 00-0312, September 10, 2002.....	1301
Access Services Incorporated, CA, Complaint No. 01-0143, September 16, 2002.....	1332
Access Services Incorporated, CA, Complaint No. 96086, September 17, 1996	29
Access Services Incorporated, CA, Complaint No. 96177, March 31, 1997	127
Access Services Incorporated, CA, Complaint No. 97198, December 5, 1997	297
Access Services Incorporated, CA, Complaint No. 00011, October 30, 2000	812
Access Services Incorporated, CA, Complaint No. 00-0258, December 28, 2000	831
Access Services Incorporated, CA, Complaint No. 00030, October 30, 2000	804
Access Services Incorporated, CA, Complaint No. 00-0309, February 28, 2002	1219
Access Services Incorporated, CA, Complaint No. 00-0323, February 25, 2002	1191
Access Services Incorporated, CA, Complaint No. 00-0373, February 25, 2002	1192
Access Services Incorporated, CA, Complaint No. 00-0375, February 25, 2002	1193
Access Services Incorporated, CA, Complaint No. 00-0229, February 25, 2002	1194
Access Services Incorporated, CA, Complaint No. 00-0402, June 28, 2001.....	1045
Access Services Incorporated, CA, Complaint No. 00-0403, June 28, 2001.....	1041
Access Services Incorporated, CA, Complaint No. 01-0093, January 22, 2002.....	1128
Access Services Incorporated, CA, Complaint No. 01-0135, September 10, 2002.....	1311
Access Services Incorporated, CA, Complaint No. 01-0182, January 17, 2002.....	1117
Access Services Incorporated, CA, Complaint No. 01-0239, January 27, 2003.....	1364
Access Services Incorporated, CA, Complaint No. 01-0246, September 10, 2002.....	1303
Access Services Incorporated, CA, Complaint No. 02-0092, September 26, 2002.....	1334
Access Services Incorporated, CA, Complaint No. 02-0094, September 26, 2002.....	1336
Access Services Incorporated, CA, Complaint No. 96001, February 19, 1998	390
Access Services Incorporated, CA, Complaint No. 96121, February 2, 1998	353

Access Services Incorporated, CA, Complaint No. 96146, April 29, 1997.....	169
Access Services Incorporated, CA, Complaint No. 96173, April 29, 1997.....	172
Access Services Incorporated, CA, Complaint No. 96178, May 18, 1998.....	451
Access Services Incorporated, CA, Complaint No. 96189, May 27, 1999.....	562
Access Services Incorporated, CA, Complaint No. 97043, March 15, 2000	706
Access Services Incorporated, CA, Complaint No. 97076, November 10, 1997	280
Access Services Incorporated, CA, Complaint No. 97195, December 24, 1997	319
Access Services Incorporated, CA, Complaint No. 97198, November 21, 1997	283
Access Services Incorporated, CA, Complaint No. 98006, May 13, 1999.....	539
Access Services Incorporated, CA, Complaint No. 98018, December 30, 1999	664
Access Services Incorporated, CA, Complaint No. 98193, December 11, 1998	508
Access Services Incorporated, CA, Complaint No. 98208, October 2, 2002	1342
Access Services Incorporated, CA, Complaint No. 98261, July 31, 2000.....	781
Access Services Incorporated, CA, Complaint No. 99280, October 30, 2000	816
Access Services Incorporated, CA, Complaint No. 99015, February 27, 2001	880
Access Services Incorporated, CA, Complaint No. 99186, February 4, 2002	1175
Access Services Incorporated, CA, Complaint No. 99210, December 30, 1999	662
Access Services Incorporated, CA, Complaint No. 98018, December 30, 1999	664
Adams County Senior Services, NE, Complaint No. 99236, April 28, 2000	734
Alameda-Contra Costa Transit District, CA, Complaint No. 96077, July 24, 1996.....	18
Alameda-Contra Costa Transit District, CA, Complaint No. 00055, February 28, 2001	887
Albuquerque Transit Department, NM, Complaint No. 98265, December 10, 1998	503
Albuquerque Transit Department, NM, Complaint No. 03-0236, April 29, 2004	1507
Albuquerque Transit Department, NM, Complaint No. 04-0032, June 3, 2004	1510
Antelope Valley Transit Authority, CA, Complaint No. 99064, September 23, 1999	617
Bay Area Rapid Transit District, CA, Complaint No. 98102, March 2, 1999.....	524

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0012, January 15, 2002	1076
Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0013, January 15, 2002	1078
Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0020, January 15, 2002	1080
Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0027, January 15, 2002	1082
Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0028, January 15, 2002	1084
Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0031, January 15, 2002	1086
Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0146, January 15, 2002	1088
Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0059, January 15, 2002	1090
Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0083, January 15, 2002	1092
Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0146, May 23, 2002	1255
Birmingham-Jefferson County Transit Authority, AL, Complaint No. 98250, August 26, 2002	1295
Birmingham-Jefferson County Transit Authority, AL, Complaint No. 02-00013, September 16, 2002	1330
Birmingham-Jefferson County Transit Authority, AL, Complaint No. 02-00012, December 19, 2002.....	1356
Bi-State Development Agency, MO, Complaint No. 98211, September 23, 1999	615
Bi-State Development Agency, MO, Complaint No. 02-0016, September 10, 2002	1298
Bi-State Development Agency, MO, Complaint No. 000378, January 15, 2002	1074
Bi-State Development Agency, MO, Complaint No. 000385, January 16, 2002	1109
Bi-State Development Agency, MO, Complaint No. 000398, January 16, 2002	1113
Bi-State Development Agency, MO, Complaint No. 010183, February 13, 2002.....	1177
Black and White Cabs, VA, Complaint No. 96123, March 5, 1997	97

Bloomington Public Transportation Corporation, IN, Complaint No. 97078, March 2, 1998	395
Brazos Transportation, TX, Complaint No. 97151, September 24, 1997.....	255
Brazos Transit District, TX, Complaint No. 01-0066, April 8, 2002.....	1228
Brazos Transit District, TX, Complaint No. 99104, November 9, 1999... ..	635
Broward County Division of Mass Transit, FL, Complaint No. 99211, March 31, 2000	716
Broward County Division of Mass Transit, FL, Complaint No. 01-0179, September 10, 2002.....	1307
Brownsville Urban System, TX, Complaint No. 98097, December 22, 1998	516
Butte County Transit, CA, Complaint No. 99305, September 16, 2002	1327
Cape Cod Regional Transit Authority, MA, Complaint No. 95091, September 4, 2003	1428
Cape Cod Regional Transit Authority, MA, Complaint No. 95090, November 13, 2003	1441
Capital Area Transportation Authority, MI, Complaint No. 03-0119, August 9, 2004	1529
Capital Area Transportation Authority, MI, Complaint No. 94016, February 28, 2002.....	1222
Capital District Transportation Authority, NY, Complaint No. 97253, May 21, 1998.....	467
Capital District Transportation Authority, NY, Complaint No. 98140, October 13, 1999	633
Capital Metropolitan Transportation Authority, TX, Complaint No. 97024, February 19, 1998	384
Capital Metropolitan Transportation Authority, TX, Complaint Nos. 95042 and 96014, December 22, 1998.....	513
Central Florida Regional Transportation Authority, FL, Complaint No. 000372, January 16, 2002	1111
Central Florida Regional Transportation Authority, FL, Complaint No. 00-0305, December 30, 2000.....	853
Central Florida Regional Transportation Authority, FL, Complaint No. 99170, April 28, 2000.....	728
Central Florida Regional Transportation Authority, FL, Complaint No. 00-0302, October 30, 2000	818
Central Florida Regional Transportation Authority, FL, Complaint No. 00053, June 27, 2001	936
Central Florida Regional Transportation Authority, FL, Complaint No. 97048, June 27, 2001	952
Central Florida Regional Transportation Authority, FL, Complaint No. 97040, June 28, 2001	1033
Central Florida Regional Transportation Authority, FL, Complaint No. 00-0380, August 22, 2002	1292

Central Florida Regional Transportation Authority, FL, Complaint No. 01-0034, December 23, 2002.....	1361
Central Midlands Council of Governments, SC, Complaint No. 99168, April 27, 2001	914
Central Midlands Council of Governments, SC, Complaint No. 98252, April 27, 2001	917
Central Midlands Council of Governments, SC, Complaint No. 00-0234, June 27, 2001.....	954
Central Midlands Council of Governments, SC, Complaint No. 92011, June 27, 2001.....	934
Central Midlands Council of Governments, SC, Complaint No. 94146, June 27, 2001.....	973
Central Oklahoma Transportation and Parking Authority, OK, Complaint No. 00-0329, February 4, 2002.....	1163
Centre Area Transportation Authority, PA, Complaint No. 99088, June 28, 2001	1043
Charleston Area Regional Transportation Authority, SC, Complaint No. 04-0059, March 17, 2004	1496
Chatham Area Transit Authority, GA, Complaint No. 00-0319, February 19, 2002.....	1185
Chattanooga Area Regional Transit Authority, TN, Complaint No. 98048, November 3, 1998	489
Chicago Transit Authority, IL, Complaint No. 00-0225, June 27, 2001	950
Chicago Transit Authority, IL, Complaint No. 00-044, September 4, 2003	1433
Chicago Transit Authority, IL, Complaint No. 010149, May 21, 2003	1405
Chicago Transit Authority, IL, Complaint No. 02-0007, August 16, 2004	1534
Chicago Transit Authority, IL, Complaint No. 02-0019, September 10, 2002	1305
Chicago Transit Authority, IL, Complaint No. 95172, February 13, 1997	79
Chicago Transit Authority, IL, Complaint No. 98147, December 4, 2003	1457
Chicago Transit Authority, IL, Complaint No. 98249, October 30, 2000.....	814
Chicago Transit Authority, IL, Complaint No. 98260, November 13, 2003	1444
Chicago Transit Authority, IL, Complaint No. 98278, January 25, 2002.....	1153
City and County of Honolulu, HI, Complaint No. 99036, February 2, 2000	678
City of Beaumont, CA, Complaint No. 99052, May 14, 1999.....	544
City of Colorado Springs, CO, Complaint No. 97281, June 1, 1999	567
City of Davenport, IA, Complaint No. 96008, April 10, 1997	140

City of Davenport, IA, Complaint No. 96008, August 21, 1997.....	237
City of Davenport, IA, Complaint No. 96008, February 26, 1997.....	85
City of Detroit Department of Transportation, MI, Complaint No. 96047, June 27, 2001.....	977
City of Detroit Department of Transportation, MI, Complaint No. 00040, July 10, 2001.....	1057
City of Detroit Department of Transportation, MI, Complaint No. 010095, September 18, 2001.....	1064
City of Detroit Department of Transportation, MI, Complaint No. 05-0039, February 22, 2005.....	1569
City of Detroit Department of Transportation, MI, Complaint No. 96047, July 31, 2000.....	774
City of Gainesville Regional Transit Authority, FL, Complaint No. 00039, December 16, 2002.....	1350
City of Gainesville Regional Transit Authority, FL, Complaint No. 00023, August 19, 2002.....	1284
City of Gainesville Regional Transit Authority, FL, Complaint No. 00-024, August 19, 2002.....	1286
City of Gainesville Regional Transit Authority, FL, Complaint No. 99220, August 19, 2002.....	1288
City of Galesburg, IL, Complaint No. 00-0071, January 31, 2001.....	875
City of Glendale, CA, Complaint No. 97002, December 5, 1997.....	295
City of Greensboro Transit Authority, NC, Complaint No. 99151, July 31, 2000.....	764
City of Hickory Transit, NC, Complaint No. 03-0163, July 15, 2004.....	1521
City of Las Vegas, NV, Complaint No. 99285, December 28, 2000.....	829
City of Lawrence Transit, KS, Complaint No. 010237, July 11, 2002.....	1267
City of Lompoc, CA, Complaint No. 98221, February 29, 2000.....	697
City of Loveland Transit, CO, Complaint No. 010280, April 7, 2002.....	1224
City of Oakland, CA, Complaint No. 96073, July 17, 1996.....	11
City of Oceanside, CA, Complaint No. 97004, March 31, 1997.....	135
City of Phoenix Public Transit, AZ, Complaint No. 01-0085, August 12, 2002.....	1276
City of Santa Monica Big Blue Bus, CA, Complaint No. 97039, March 10, 1998.....	401
City of Santa Monica Big Blue Bus, CA, Complaint No. 99066, September 2, 1999.....	596
City of Tecumseh, NE, Complaint No. 97197, February 10, 1999.....	520

City of Tucson, AZ, Complaint No. 97171, May 31, 2000	740
City of Tucson, AZ, Complaint No. 98225, May 27, 1999	559
City of West Hollywood, CA, Complaint No. 96043, May 3, 1997	178
City Transit Management, Incorporated, TX, Complaint No. 99019, May 14, 1999	552
City Transit System, IA, Complaint No. 00-0284, February 28, 2001	894
Coastal Rapid Public Transit Authority, SC, Complaint No. 99298, February 4, 2002	1173
Cobb County Community Transit, GA, Complaint No. 97131, February 12, 1998	377
Cobb County Community Transit, GA, Complaint No. 99095, December 30, 1999	649
Coconino County Community Services Department, AZ, Complaint No. 97071, August 6, 1997	216
Columbus Metro Transit, GA, Complaint Nos. 00046 and 000304, May 15, 2002	1252
Connecticut Transit Authority, CT, Complaint No. 98242, July 23, 1999	577
Corridor Transportation and Howard Area Transit Service, MD, Complaint No. 01-0188, June 16, 2004	1513
County of Lebanon Transit Authority, PA, Complaint No. 000333, May 15, 2002	1249
Coyote Run Transit, AZ, Complaint No. 98110, September 22, 1998	487
Dallas Area Rapid Transit, TX, Complaint No. 00-0212, February 4, 2002	1165
Dallas Area Rapid Transit, TX, Complaint No. 00-0269, April 3, 2001	901
Dallas Area Rapid Transit, TX, Complaint No. 94194, February 17, 1998	379
Dallas Area Rapid Transit, TX, Complaint No. 95037, April 23, 1997	148
Dallas Area Rapid Transit, TX, Complaint No. 95200, February 20, 1997	82
Dallas Area Rapid Transit, TX, Complaint No. 96023, March 27, 1997	114
Dallas Area Rapid Transit, TX, Complaint No. 96065, December 24, 1997	316
Dallas Area Rapid Transit, TX, Complaint No. 96212, April 24, 1997	157
Dallas Area Rapid Transit, TX, Complaint No. 96213, April 24, 1997	160
Dallas Area Rapid Transit, TX, Complaint No. 96214, April 24, 1997	163
Dallas Area Rapid Transit, TX, Complaint No. 97041, December 24, 1997	323
Dallas Area Rapid Transit, TX, Complaint No. 98022, December 30, 1999	651

Dallas Area Rapid Transit, TX, Complaint No. 98023, May 13, 1998	447
Dallas Area Rapid Transit, TX, Complaint No. 98288, February 25, 2002.....	1195
Dallas Area Rapid Transit, TX, Complaint No. 99111, June 27, 2001	971
Duluth Transit Authority, MN, Complaint No. 97265, December 15, 1997	307
East Bay Paratransit Consortium, CA, Complaint No. 01-0055, April 3, 2001	898
East Bay Paratransit Consortium, CA, Complaint No. 01-010134, February 4, 2003	1375
East Bay Paratransit Consortium, CA, Complaint No. 98002, October 13, 1999.....	627
East Bay Paratransit Consortium, CA, Complaint No. 99153, February 18, 2000	690
East Volusia Transportation Authority, FL, Complaint No. 96200, July 3, 1997	200
Eastern Tennessee Human Resource Agency, TN, Complaint No. 00-0267, February 13, 2002.....	1181
Ellwood City, PA, Complaint No. 96187, August 8, 1997	218
Five Seasons Transportation, IA, Complaint No. 98047, August 8, 2003	1423
Fresno Area Express, CA, Complaint No. 000230, February 28, 2002.....	1206
Fresno Area Express, CA, Complaint No. 97113, April 28, 2003.....	1401
Gary Public Transit Corporation, IN, Complaint No. 01-0249, October 13, 2004	1542
Glendale Beeline Transit, CA, Complaint No. 97042, February 25, 1998.....	392
Greater Cleveland Regional Transit Authority, OH, Complaint No. 98017, June 27, 2001	964
Greater Colorado Springs Transportation Company, CO, Complaint No. 94157, May 2, 1997.....	175
Greater Hartford Transit, CT, Complaint No. 99055, July 10, 2001	1059
Greater New Haven Transit District, CT, Complaint No. 99223, September 16, 2002.....	1324
Greater Waterbury Transit District, CT, Complaint No. 97012, August 6, 1997	213
Greyhound Bus Lines, FL, Complaint No. 96075, January 8, 1997	65
Guam Mass Transit Authority, Guam, Complaint No. 99025, June 27, 2001	975
Humboldt Transit Authority, CA, Complaint No. 00-0376, September 16, 2002.....	1318
Intercity Transit, WA, Complaint No. 95184, December 8, 1996.....	56
Island Transit, Galveston, TX, Complaint No. 02-0199, December 2, 2004.....	1558

Jackson Transit Authority, TN, Complaint No. 01-0185, December 19, 2002	1358
Jacksonville Transportation Authority, FL, Complaint No. 02-0084, March 12, 2003	1387
Johnson City Transit, TN, Complaint No. 010154, June 28, 2001.....	984
Kanawha Valley Regional Transportation Authority, WV, Complaint No. 98207, May 14, 1999	542
Kansas City Area Transportation Authority, MO, Complaint No. 00-0280, January 24, 2002	1144
Kansas City Area Transportation Authority, MO, Complaint No. 94237, September 21, 1999	607
King County Department of Metropolitan Services, WA, Complaint No. 97035, July 29, 1997.....	206
King County Department of Metropolitan Services, WA, Complaint No. 97137, October 27, 1997	271
King County Department of Metropolitan Services, WA, Complaint No. 94001, March 16, 1998	414
King County Department of Metropolitan Services, WA, Complaint No. 99077, August 24, 1999	590
King County Department of Metropolitan Services, WA, Complaint No. 98274, June 30, 2000	758
Kitsap Transit, WA, Complaint No. 95171, March 20, 1997	107
Lee County Transit, FL, Complaint No. 97250, December 18, 1997	312
LaFayette Consolidated Government, LA, Complaint No. 96208, May 21, 1998	454
Lehigh and Northampton Transportation Authority, PA, Complaint No. 99208, February 2, 2000.....	676
Long Beach Transit, CA, Complaint No. 01-0025, June 28, 2001.....	1029
Long Beach Transit, CA, Complaint No. 96147, January 24, 1997	70
Long Island Railroad, NY, Complaint No. 00049, June 27, 2001.....	956
Long Island Railroad, NY, Complaint No. 92078, March 31, 1997.....	120
Long Island Railroad, NY, Complaint No. 97091, October 27, 1997.....	269
Long Island Railroad, NY, Complaint No. 99080, February 28, 2002	1214
Long Island Railroad, NY, Complaint No. 99198, June 28, 2001.....	1049
Los Angeles County Metropolitan Transit Authority, CA, Complaint No. 99057, September 23, 1999	619

Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 01-0189, November 8, 2004	1549
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 95176, March 31, 1997	130
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 95040, January 23, 1998	346
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 97246, August 28, 2000	791
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 97028, January 24, 2002	1142
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 00007, May 9, 2002	1246
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 99002, May 23, 2002	1257
Louisiana Consolidated Government, LA, Complaint No. 96208, May 21, 1998	456
Louisiana Consolidated Government, LA, Complaint No. 97104, April 13, 1999	536
Loveland, OH, Case No. 00008, February 29, 2000	704
Lower Rio Grande Valley Development Council, TX, Complaint No. 01-0250, January 28, 2003	1370
Madison Metro Transit System, WI, Complaint No. 000313, August 21, 2001	1062
Madison Metro Transit System, WI, Complaint No. 97023, January 13, 1998	332
Madison Metro Transit System, WI, Complaint No. 98144, February 10, 1999	522
Madison Metro Transit System, WI, June 4, 1996	1
Manatee County Area Transit, FL, Complaint No. 98037, November 15, 1999	637
Martha's Vineyard Transit Authority, MA, Complaint No. 95096, February 26, 1997	88
Martha's Vineyard Transit Authority, MA, Complaint No. 95090, November 13, 2003	1441
Maryland Transit Administration, MD, Complaint No. 01-0007, February 28, 2002	1210
Maryland Transit Administration, MD, Complaint No. 02-0090, January 28, 2004	1478
Maryland Transit Administration, MD, Complaint No. 04-0033, September 8, 2004	1538
Maryland Transit Administration, MD, Complaint No. 95168, December 29, 2003	1460
Maryland Transit Administration, MD, Complaint No. 99096, December 31, 2003	1470

Maryland Transit Administration, MD, Complaint No. 00017, February 13, 2002	1179
Maryland Transit Administration, MD, Complaint No. 00020, January 15, 2002	1094
Maryland Transit Administration, MD, Complaint No. 000297, January 15, 2002	1096
Maryland Transit Administration, MD, Complaint No. 000298, January 15, 2002	1098
Maryland Transit Administration, MD, Complaint No. 000299, January 15, 2002	1100
Maryland Transit Administration, MD, Complaint No. 000407, January 15, 2002	1102
Maryland Transit Administration, MD, Complaint No. 010061, January 15, 2002	1104
Maryland Transit Administration, MD, Complaint No. 010086, January 15, 2002	1106
Maryland Transit Administration, MD, Complaint No. 02-0015, March 10, 2004	1492
Maryland Transit Administration, MD, Complaint No. 03-0207, March 17, 2004	1494
Maryland Transit Administration, MD, Complaint No. 98210, December 2, 2003	1452
Maryland Transit Administration, MD, Complaint No. 99218, October 14, 2003	1436
Maryland Transit Administration, MD, Complaint No. 00-0300, May 30, 2001	930
Maryland Transit Administration, MD, Complaint No. 02-0015, April 22, 2002	1234
Maryland Transit Administration, MD, Complaint No. 97069, September 24, 1997	251
Maryland Transit Administration, MD, Complaint No. 99235, May 30, 2001	932
Mass Transportation Authority of Flint, MI, Complaint No. 96095, January 30, 1997	72
Massachusetts Bay Transportation Authority, MA, Complaint No. 98112, June 28, 2001	1051
Massachusetts Bay Transportation Authority, MA, Complaint No. 00-048, February 5, 2003	1380
Massachusetts Bay Transportation Authority, MA, Complaint No. 02-0009, January 22, 2002	1124
Massachusetts Bay Transportation Authority, MA, Complaint No. 02-0009, November 8, 2004	1553
Massachusetts Bay Transportation Authority, MA, Complaint No. 96169, March 27, 1997	117
Massachusetts Bay Transportation Authority, MA, Complaint No. 96142, March 27, 1998	421
Massachusetts Bay Transportation Authority, MA, Complaint No. 97153, May 8, 1998	444
Massachusetts Bay Transportation Authority, MA, Complaint No. 98118, December 30, 1999	644

Memphis Area Transit Authority, TN, Complaint No. 99090, December 28, 2000	845
Memphis Area Transit Authority, TN, Complaint No. 00-0401, February 19, 2002	1183
Memphis Area Transit Authority, TN, Complaint No. 00-0406, June 28, 2001	1039
Memphis Area Transit Authority, TN, Complaint No. 97255, December 28, 2000	837
Memphis Area Transit Authority, TN, Complaint No. 98089, June 28, 2001.....	1047
Memphis Area Transit Authority, TN, Complaint No. 99180, January 31, 2001.....	861
Memphis Area Transit Authority, TN, Complaint No. 99243, June 28, 2001.....	1035
Metro Regional Transit Authority, OH, Complaint No. 01-0138, May 3, 2002.....	1236
Metro Regional Transit Authority, OH, Complaint No. 97252, April 8, 2002.....	1226
METRO, MO, Complaint No. 04-0029, March 3, 2005.....	1571
Metro-Dade Transit Authority, FL, Complaint No. 96133, March 3, 1997	94
Metro-Dade Transit Authority, FL, Complaint No. 99118, February 10, 2000	687
Metro-North Commuter Railroad, NY, Complaint No. 92080, March 4, 1998.....	397
Metro-North Commuter Railroad, NY, Complaint No. 99093, May 9, 2002	1244
Metro-North Commuter Railroad, NY, Complaint No. 99276, January 24, 2002.....	1150
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 96094, October 24, 1996.....	32
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 96057, August 6, 1997.....	209
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 98245, November 25, 1998.....	501
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 99159, June 27, 2001.....	948
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 00006, February 28, 2002	1208
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 010152, October 2, 2002.....	1338
Metropolitan Bus Authority, PR, Complaint No. 99228, April 27, 2000	722
Metropolitan Council Transit Operations, MN, Complaint No. 96228, August 14, 1997.....	233
Metropolitan Council Transit Operations, MN, Complaint No. 96089, September 11, 1996.....	23
Metropolitan Council Transit Operations, MN, Complaint No. 98206, December 30, 1999	666
Metropolitan Evansville Transit System, IN, Complaint No. 010158, February 27, 2002	1204

Metropolitan Transit Authority, TN, Complaint No. 01-0026, April 15, 2003	1396
Metropolitan Transit Authority, TN, Complaint No. 95006, February 6, 1998	362
Metropolitan Transit Authority, TN, Complaint No. 98099, May 21, 1998	465
Metropolitan Transit Authority, TX, Complaint No. 96074, July 24, 1996.....	14
Metropolitan Transit Authority, TX, Complaint No. 97274, July 23, 1999.....	574
Metropolitan Transit Authority, TX, July 24, 1996	13
Metropolitan Transit District, CA, Complaint No. 97092, June 27, 2001	966
Metropolitan Transportation Authority, NY, Complaint No. 00-0239, January 22, 2002	1122
Metropolitan Transportation Authority, NY, Complaint No. 94213, September 11, 1996.....	21
Metropolitan Transportation Authority, NY, Complaint No. 96120, September 13, 1996.....	25
Metropolitan Transportation Authority, NY, Complaint No. 99108, September 23, 1999.....	613
Metropolitan Transportation Authority, NY, Complaint No. 00-0239, January 22, 2002	1122
Metropolitan Transportation Commission and San Francisco Municipal Railway, CA, Complaint No. 98259, November 17, 2003.....	1447
Metropolitan Transportation Commission, CA, Complaint No. 98259, January 27, 2003.....	1367
Metropolitan Tulsa Transit Authority, OK, Complaint No. 00040, May 31, 2000.....	744
Metropolitan Tulsa Transit Authority, OK, Complaint No. 98276, March 31, 2000	712
Miami Valley Regional Transit Authority, OH, Complaint No. 99197, February 25, 2002	1197
Miami-Dade Transit Authority, FL, Complaint No. 96051, June 28, 2001	1023
Midway Municipal Airport, IL, Complaint No. 97272, January 12, 1998	330
Milwaukee County Transit System, WI, Complaint No. 99043, July 31, 2000.....	777
Milwaukee County Transit System, WI, Complaint No. 000228, February 26, 2002.....	1202
Milwaukee County Transit System, WI, Complaint No. 98267, February 28, 2002.....	1212
Milwaukee County Transit System, WI, Complaint Nos. 99137–99140, February 28, 2002.....	1217
Missoula Urban Transit District, MT, Complaint No. 92096, August 14, 1997.....	222
Monterey-Salinas Transit, CA, Complaint No. 99207-TA, April 28, 2000	732
Montgomery County Ride On, MD, Complaint No. 02-0097, March 29, 2004	1503

Mountain Area Regional Transit Authority, CA, Complaint No. 00056, January 22, 2002	1133
Mountain Area Regional Transit Authority, CA, Complaint No. 99264, August 25, 2000	784
New Hampshire Department of Transportation, NH, Complaint No. 95007, February 27, 1997	91
New Jersey Transit Corporation, NJ, Complaint No. 95069, September 3, 1998.....	479
New Jersey Transit Corporation, NJ, Complaint No. 99006, December 30, 1999	640
New Jersey Transit Corporation, NJ, Complaint No. 99076, December 30, 2000	850
New Jersey Transit Corporation, NJ, Complaint No. 95165, February 12, 1998	367
New Jersey Transit Corporation, NJ, Complaint No. 97027, February 10, 1998	365
New York City Transit Authority, NY, Complaint No. 00052, April 4, 2000	718
New York City Transit Authority, NY, Complaint No. 01-0142, February 4, 2002.....	1159
New York City Transit Authority, NY, Complaint No. 010142, February 26, 2002.....	1200
New York City Transit Authority, NY, Complaint No. 94215, March 10, 1998.....	404
New York City Transit Authority, NY, Complaint No. 96026, April 10, 1997	137
New York City Transit Authority, NY, Complaint No. 97126, December 24, 1997.....	314
New York City Transit Authority, NY, Complaint No. 99039, February 28, 2001	884
New York City Transit Authority, NY, Complaint No. 99064, June 9, 1999	570
New York City Transit Authority, NY, Complaint No. 99274, January 22, 2002.....	1138
New York City Transit Authority, NY, Complaint No. 97056, December 11, 1998.....	510
New York Metropolitan Transportation Authority, Long Island Bus, NY, Complaint No. 00060, May 31, 2000	737
Niagara Frontier Transportation Authority, NY, Complaint No. 00012, May 31, 2000	747
Niagara Frontier Transportation Authority, NY, Complaint No. 97049, February 12, 1998	373
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97284, December 31, 1997.....	325
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97127, March 19, 1997	103
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97073, June 10, 1997	195

Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97120, August 14, 1997	235
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97148, August 28, 1997	245
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 98052, May 7, 1998	438
North Slope Borough Department of Municipal Services, AK, Complaint No. 00-0327, January 31, 2001	857
North Slope Borough Department of Municipal Services, AK, Complaint No. 01-0067, January 19, 2002	1119
North Slope Borough Department of Municipal Services, AK, Complaint No. 02-0093, June 16, 2004	1516
Northwestern Indiana Commuter Transit District, IN, Complaint No. 97052, January 13, 1998	335
OMNITRANS, CA, Complaint No. 97112, September 5, 1997	248
OMNITRANS, CA, Complaint No. 97129, February 2, 1998	350
OMNITRANS, CA, Complaint No. 99003, August 19, 1999	587
Orange County Transportation Authority, CA, Complaint No. 98189, October 13, 1999	629
Orange County Transportation Authority, CA, Complaint No. 00-0238, February 4, 2002	1171
Orange County Transportation Authority, CA, Complaint No. 95111, March 26, 1997	111
Orange County Transportation Authority, CA, Complaint No. 96080, June 20, 1996	5
Orange County Transportation Authority, CA, Complaint No. 96098, June 26, 1996	7
PACE Suburban Bus Division, IL, Complaint No. 00-0324, January 31, 2001	865
PACE Suburban Bus Division, IL, Complaint No. 95041, November 13, 1996	34
PACE Suburban Bus Division, IL, Complaint No. 97108, March 13, 1998	410
PACE Suburban Bus Division, IL, Complaint No. 99289, April 28, 2000	725
Palm Beach County Surface Transportation Department, FL, Complaint No. 96136, June 27, 2001	938
Palm Beach County Surface Transportation Department, FL, Complaint No. 96137, June 27, 2001	940
Palm Beach County Surface Transportation Department, FL, Complaint No. 96138, June 27, 2001	942

Palm Beach County Surface Transportation Department, FL, Complaint No. 96139, June 27, 2001	944
Palm Beach County Surface Transportation Department, FL, Complaint No. 96140, June 27, 2001	946
Palm Beach County Surface Transportation Department, FL, Complaint No. 02-0017, May 23, 2002	1263
Peninsula Corridor Joint Powers Board, CA, Complaint No. 97174, May 1, 1998	434
Peninsula Corridor Joint Powers Board, CA, Complaint No. 97178, October 15, 1997	267
Phoenix Transit System, AZ, Complaint No. 97057, February 12, 1998	375
Phoenix Transit System, AZ, Complaint No. 98230, September 8, 1999.....	599
Pierce Transit, WA, Complaint No. 97032, February 19, 1998	388
Pierce Transit, WA, Complaint No. 99141, June 28, 2001	1027
Pinellas Suncoast Transit Authority, FL, Complaint No. 96058, December 1, 1996.....	52
Pinellas Suncoast Transit Authority, FL, Complaint No. 97060, February 6, 1998.....	355
Pinellas Suncoast Transit Authority, FL, Complaint No. 97141, November 13, 1998	493
Pinellas Suncoast Transit Authority, FL, Complaint No. 99054, May 14, 1999.....	546
Pioneer Valley Transit Authority, MA, Complaint No. 01-0186, January 9, 2002	1070
Pioneer Valley Transit Authority, MA, Complaint No. 96115, December 1, 1996.....	37
Pioneer Valley Transit Authority, MA, Complaint No. 98139, June 27, 2001	980
Pioneer Valley Transit Authority, MA, Complaint No. 99296, February 2, 2000.....	680
Port Authority of Allegheny County, PA, Complaint No. 00-0215, June 30, 2000.....	755
Port Authority of Allegheny County, PA, Complaint No. 00-0322, February 28, 2001	890
Port Authority of Allegheny County, PA, Complaint No. 00062, May 23, 2002.....	1265
Port Authority of Allegheny County, PA, Complaint No. 02-0006, March 19, 2004	1499
Port Authority of Allegheny County, PA, Complaint No. 96183, April 24, 1997	165
Port Authority of Allegheny County, PA, Complaint No. 95134, April 7, 1998	430
Port Authority of Allegheny County, PA, Complaint No. 98095, March 31, 2000	708
Port Authority of Allegheny County, PA, Complaint No. 99102, February 4, 2000	682

Port Authority of Allegheny County, PA, Complaint No. 97093, January 2, 1998	327
Prince George's County Department of Public Works and Transportation, MD, Complaint No. 98283, December 5, 2002	1346
Prosser Rural Transit, WA, Complaint No. 97165, March 13, 1998	408
Regional Transit Authority, LA, Complaint No. 01-0024, August 12, 2002	1280
Regional Transit Authority, LA, Complaint No. 99081, January 17, 2002	1115
Regional Transportation District, CO, Complaint No. 96060, July 24, 1996	16
Regional Transportation District, CO, Complaint No. 00063, June 28, 2001	1037
Regional Transit System, FL, Complaint No. 00039, December 16, 2002.....	1350
Regional Transit System, FL, Complaint No. 97170, December 11, 1997.....	303
Regional Transportation Authority, IL, Complaint No. 00-0397, January 31, 2001	859
Regional Transportation Authority, IL, Complaint No. 98213, August 19, 1999	584
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 97267, November 19, 1998	495
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 00-0405, December 28, 2000.....	834
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 00-0409, February 4, 2002.....	1167
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 010058, June 28, 2001	1053
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 01-0097, February 4, 2002.....	1169
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 98090, December 30, 1999.....	655
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 98215, October 6, 1999	624
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 99033, August 16, 1999	579
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 99050, December 19, 2002.....	1352
Regional Transportation Council, WA, Complaint Nos. 98145 and 98253, December 30, 1999	647

Regional Transportation District, CO, Complaint No. 96060, July 24, 1996	16
Regional Transportation District, CO, Complaint No. 97026, May 23, 2001	927
Regional Transportation District, CO, Complaint No. 00063, June 28, 2001	1037
Rhode Island Public Transit Authority, RI, Complaint No. 01-0225, January 28, 2003.....	1373
RIDE Transit Services, CO, Complaint No. 98092, August 18, 1998	475
Riverside Transit Agency, CA, Complaint No. 00-0346, June 11, 2003.....	1409
Riverside Transit Agency, CA, Complaint No. 02-0018, January 28, 2004.....	1484
Riverside Transit Agency, CA, Complaint No. 02-0020, January 28, 2004.....	1486
Riverside Transit Agency, CA, Complaint No. 03-0038, January 28, 2004.....	1488
Riverside Transit Agency, CA, Complaint No. 03-0039, January 28, 2004.....	1490
Riverside Transit Agency, CA, Complaint No. 93583, November 10, 1997.....	273
Riverside Transit Agency, CA, Complaint No. 96141, June 2, 1997.....	192
Sacramento Regional Transit District, CA, Complaint No. 97193, May 21, 1998	461
Sacramento Regional Transit District, CA, Complaint No. 98031, March 23, 1999.....	529
Sacramento Regional Transit District, CA, Complaint No. 98038, July 10, 2001	1055
Sacramento Regional Transit District, CA, Complaint No. 98066, September 22, 1998	484
Sacramento Regional Transit District, CA, Complaint No. 99161, January 9, 2002.....	1072
San Diego Metropolitan Transit Development Board, CA, Complaint No. 99117, April 15, 2002.....	1230
San Diego Metropolitan Transit Development Board, CA, Complaint No. 01-0251, July 29, 2004	1527
San Francisco Bay Area Rapid Transit District, CA, Complaint No. 97088, February 17, 1998	382
San Francisco Municipal Railway, CA, Complaint No. 000374, June 27, 2001	978
San Francisco Municipal Railway, CA, Complaint No. 00317, January 22, 2002	1140
San Francisco Municipal Railway, CA, Complaint No. 01-0145, February 4, 2002	1157
San Francisco Municipal Railway, CA, Complaint No. 02-0003, January 28, 2004	1476
San Francisco Municipal Railway, CA, Complaint No. 02-0100, January 28, 2004	1480
San Francisco Municipal Railway, CA, Complaint No. 02-0102, January 28, 2004	1482

San Francisco Municipal Railway, CA, Complaint No. 96078, December 19, 1996.....	58
San Francisco Municipal Railway, CA, Complaint No. 98081, April 8, 1999.....	533
San Joaquin Regional Transit District, CA, Complaint No. 01-0176, December 13, 2002.....	1348
San Joaquin Regional Transit District, CA, Complaint No. 95038, January 31, 2001.....	872
San Joaquin Regional Transit District, CA, Complaint No. 99067, September 29, 1999.....	621
San Mateo County Transit District, CA, Complaint No. 95143, November 26, 1997.....	286
San Mateo County Transit District, CA, Complaint No. 97102, September 20, 1999.....	604
San Mateo County Transit District, CA, Complaint No. 97199, August 17, 1999.....	581
San Mateo County Transit District, CA, Complaint No. 99103, January 30, 2002.....	1155
Santa Barbara Metropolitan Transit District, CA, Complaint No. 00003, June 30, 2000.....	761
Santa Barbara Metropolitan Transit District, CA, Complaint No. 97008, October 4, 1997.....	262
Santa Barbara Metropolitan Transit District, CA, Complaint No. 98068, May 14, 1999.....	549
Santa Clara Valley Transportation Authority, CA, Complaint No. 96175, April 24, 1997.....	152
Santa Clara Valley Transportation Authority, CA, Complaint No. 97089, January 19, 2000.....	671
Santa Clara Valley Transportation Authority, CA, Complaint No. 95199, February 8, 1997.....	76
Santa Clara Valley Transportation Authority, CA, Complaint No. 95199, December 8, 1997.....	300
Santa Clarita Transit, CA, Complaint No. 97243, December 30, 1999.....	668
Santa Cruz Metropolitan Transit District, CA, Complaint No. 97092, June 27, 2001.....	966
Shore Transit, MD, Complaint No. 04-0107, July 21, 2004.....	1524
South Bend Public Transportation Corporation, IN, Complaint No. 00-0237, May 23, 2002.....	1259
South Town Wheelchair Services, NY, Complaint No. 03-0238, December 9, 2004.....	1567
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 00045, July 31, 2000.....	769
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 000345, May 3, 2002.....	1239
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 00-004, September 16, 2002.....	1322

I-50

Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 010033, May 9, 2002.....	1242
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 99194, December 11, 2001.....	1066
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 99084, February 19, 2002.....	1189
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 96164, March 19, 1997	105
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 92209, March 31, 1997	124
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 96150, March 31, 1997	132
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 92219, April 23, 1997.....	145
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 94130, May 6, 1997	181
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 95106, May 6, 1997	184
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 92225, June 13, 1997	197
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 96159, August 14, 1997	220
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 92230, December 15, 1997.....	309
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 96175, January 15, 1998	339
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 97273, January 15, 1998	341
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 04-0014, October 14, 2004	1546
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 92226, May 8, 1997.....	187
Southwest Ohio Regional Transit Authority, OH, Complaint No. 97145, May 7, 1998	442
Southwest Ohio Regional Transit Authority, OH, Complaint No. 98113, November 24, 1998.....	498
Space Coast Area Transit, FL, Complaint No. 97064, May 7, 1998.....	440

Space Coast Area Transit, FL, Complaint No. 98212, May 27, 1999.....	555
Spokane Transit Authority, WA, Complaint No. 94172, December 24, 1997.....	321
Springs Transit, CO, Complaint No. 97103, July 29, 2003.....	1419
Storer Transit Systems, CA, Complaint No. 97147, March 16, 1998.....	418
Suburban Mobility Authority for Regional Transportation, MI, Complaint No. 00-0016, June 9, 2005	1573
Suburban Mobility Authority for Regional Transport, MI, Complaint No. 00035, July 11, 2002	1269
Suffolk County Transit, NY, Complaint No. 99044, June 28, 2001	1025
Suffolk County Transit, NY, Complaint No. 98244, July 1, 2003	1414
Suffolk County Transit, NY, Complaint No. 99018, April 27, 2000	720
Sun Tran, AZ, Complaint No. 99202, March 24, 2003	1392
Toledo Area Regional Transit Authority, OH, Complaint No. 97128, December 15, 1997.....	305
Toledo Area Regional Transit Authority, OH, Complaint No. 02-0017, September 10, 2002	1309
Toledo Area Regional Transit Authority, OH, Complaint No. 99265, April 11, 2001.....	905
Toledo Area Regional Transit Authority, OH, Complaint No. 99266, April 11, 2001.....	908
Toledo Area Regional Transit Authority, OH, Complaint No. 99267, August 28, 2000	786
Toledo Area Regional Transit Authority, OH, Complaint No. 99268, April 11, 2001.....	911
Toledo Area Regional Transit Authority, OH, Complaint No. 99270, May 16, 2001.....	922
Toledo Area Regional Transit Authority, OH, Complaint No. 02-0099, September 10, 2002	1316
Town of Chapel Hill, NC, Complaint No. 99001, December 30, 1999.....	659
Transit Authority of Northern Kentucky, KY, Complaint No. 96107, September 17, 1996.....	27
Transit Authority of Northern Kentucky, KY, Complaint No. 98019, February 12, 1998	371
Transit Authority of Northern Kentucky, KY, Complaint No. 98020, March 13, 1998.....	412
Transit Authority of River City, KY, Complaint No. 96054, November 29, 1997	291
Transit Authority of River City, KY, Complaint No. 96203, March 20, 1997	109
Transit Authority of River City, KY, Complaint No. 98057, August 5, 1998	469

Transportation District Commission of Hampton Roads, VA, Complaint No. 98164, June 28, 2001	982
Transportation District Commission of Hampton Roads, VA, Complaint No. 98184, June 28, 2001	1019
Transportation District Commission of Hampton Roads, VA, Complaint No. 98194, June 28, 2001	1021
Transportation District Commission of Hampton Roads, VA, Complaint No. 98182, February 4, 2002.....	1161
Transportation District Commission of Hampton Roads, VA, Complaint No. 98170, June 28, 2001	995
Transportation District Commission of Hampton Roads, VA, Complaint No. 98183, June 28, 2001	1016
Transportation District Commission of Hampton Roads, VA, Complaint No. 98166, June 28, 2001	986
Transportation District Commission of Hampton Roads, VA, Complaint No. 98167, June 28, 2001	988
Transportation District Commission of Hampton Roads, VA, Complaint No. 98168, June 28, 2001	991
Transportation District Commission of Hampton Roads, VA, Complaint No. 98169, June 28, 2001	993
Transportation District Commission of Hampton Roads, VA, Complaint No. 98171, June 28, 2001	998
Transportation District Commission of Hampton Roads, VA, Complaint No. 98172, June 28, 2001	1000
Transportation District Commission of Hampton Roads, VA, Complaint No. 98173, June 28, 2001	1002
Transportation District Commission of Hampton Roads, VA, Complaint No. 98174, June 28, 2001	1004
Transportation District Commission of Hampton Roads, VA, Complaint No. 98175, June 28, 2001	1006
Transportation District Commission of Hampton Roads, VA, Complaint No. 98176, June 28, 2001	1008
Transportation District Commission of Hampton Roads, VA, Complaint No. 98177, June 28, 2001	1010
Transportation District Commission of Hampton Roads, VA, Complaint No. 98178, June 28, 2001	1012

Transportation District Commission of Hampton Roads, VA, Complaint No. 98180, June 28, 2001	1014
Triangle Transit Authority, NC, Complaint No. 96105, January 8, 1997	62
Tri-County Commuter Rail Authority, FL, Complaint No. 97098, August 22, 2002	1290
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 98251, February 19, 2002.....	1187
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 96061, July 16, 1996	9
Tri-County Metropolitan Transportation District of Oregon, OR, Appeal, Complaint No. 01-0030, January 7, 2002	1068
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 95146, August 28, 1997	241
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 97179, November 10, 1997	277
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 95047, February 6, 1998.....	357
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 97184, February 6, 1998.....	360
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 97259, December 11, 1998.....	505
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 96083, April 27, 2001.....	920
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 99277, August 12, 2002	1274
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 04-0069, December 2, 2004.....	1562
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 99049, September 10, 2002	1313
Tri-County Rail Authority, FL, Complaint No. 97098, August 22, 2002.....	1290
Tri-County Rail Authority, FL, Complaint No. 99049, September 10, 2002.....	1313
Tulsa Transit Authority, OK, Complaint No. 00040, May 31, 2000	744
Twin Cities Area Transportation Authority, MI, Complaint No. 97094, March 16, 1998.....	416
Utah Transit Authority, UT, Complaint No. 00-0263, January 31, 2001.....	868

Utah Transit Authority, UT, Complaint No. 00047, December 28, 2000	821
Utah Transit Authority, UT, Complaint No. 01-0088, January 24, 2002.....	1147
Utah Transit Authority, UT, Complaint No. 99292, February 2, 2000	674
Valley Transportation, ID, Complaint No. 00058, January 16, 2002	1108
VIA Metropolitan Transit, TX, Complaint No. 95131, August 14, 1997.....	229
VIA Metropolitan Transit, TX, Complaint No. 96155, January 20, 1998.....	343
VIA Metropolitan Transit, TX, Complaint No. 95202, March 26, 2001.....	896
Victor Valley Transit Authority, CA, Complaint No. 98185, May 27, 1999	557
Washington Metropolitan Area Transit Authority, DC, Complaint No. 95183, July 25, 1997	203
Washington Metropolitan Area Transit Authority, DC, Complaint No. 96087, October 30, 2000	795
Washington Metropolitan Area Transit Authority, DC, Complaint No. 96153, March 17, 1997	100
Washington Metropolitan Area Transit Authority, DC, Complaint No. 97076, September 24, 1997	253
Washington Metropolitan Area Transit Authority, DC, Complaint No. 96055, March 27, 1998	426
Washington Metropolitan Area Transit Authority, DC, Complaint No. 99164, February 29, 2000.....	693
Washington Metropolitan Area Transit Authority, DC, Complaint No. 97157, October 30, 2000	798
Washington Metropolitan Area Transit Authority, DC, Complaint No. 98105, October 30, 2000	801
Washington Metropolitan Area Transit Authority, DC, Complaint No. 99304, October 30, 2000	808
Washington Metropolitan Area Transit Authority, DC, Complaint No. 99169, December 28, 2000.....	826
Washington Metropolitan Area Transit Authority, DC, Complaint No. 99263, January 31, 2001	855
Washington Metropolitan Area Transit Authority, DC, Complaint No. 00-0328, February 6, 2001.....	878

Washington Metropolitan Area Transit Authority, DC, Complaint No. 010150, June 28, 2001	1031
Washington Metropolitan Area Transit Authority, DC, Complaint No. 01-0243, January 22, 2002	1126
Washington Metropolitan Area Transit Authority, DC, Complaint No. 01-0244, January 22, 2002	1130
Washington Metropolitan Area Transit Authority, DC, Complaint No. 97095, October 2, 2002	1340
Washington Metropolitan Area Transit Authority, DC, Complaint No. 01-0248, March 7, 2003	1383
Washington Metropolitan Area Transit Authority, DC, Complaint No. 99149, September 2, 1999	593
Washington Metropolitan Area Transit Authority, DC, Complaint No. 99040, June 30, 2000	751
Washington State Ferries, WA, Complaint No. 98247, February 29, 2000.....	702
Whatcom Transit Authority, WA, Complaint No. 01-0136, April 3, 2001	903
Whatcom Transit Authority, WA, Complaint No. 97065, September 26, 1997.....	257
Whatcom Transit Authority, WA, Complaint No. 99078, September 20, 1999.....	602
Worcester Regional Transportation Authority, MA, Complaint No. 99035, June 17, 1999	572
Worcester Regional Transportation Authority, MA, Complaint No. 00038, August 12, 2002	1272
Worcester Regional Transportation Authority, MA, Complaint Nos. 96196 and 96197, February 29, 2000.....	700

COMPLIANCE REVIEW FINAL REPORTS

Central Florida Regional Transportation Authority, FL, May 25–28, 1999	1592
Central Midlands Council of Governments, SC, July 13–16, 1999	1664
Chicago Transit Authority, IL, July 31, 2000	1689
Jacksonville Transportation Authority, FL, May 30, 2000.....	1623
Miami-Dade Transit Authority, FL, September 26, 1998.....	1575

SUBJECT AND ISSUE INDEX

LETTERS OF FINDINGS

ACCESSIBLE FACILITIES AND EQUIPMENT

City of Davenport, IA, Complaint No. 96008, February 26, 1997	140
City of Davenport, IA, Complaint No. 96008, August 21, 1997	237
City of West Hollywood, CA, Complaint No. 96043, May 3, 1997	178
Greyhound Bus Lines, FL, Complaint No. 96075, January 8, 1997	65
Long Island Railroad, NY, Complaint No. 92078, March 31, 1997	120
Long Island Railroad, NY, Complaint No. 99080, February 28, 2002	1214
Martha's Vineyard Transit Authority, MA, Complaint No. 95096, February 26, 1997.....	88
Massachusetts Bay Transportation Authority, MA, Complaint No. 96142, March 27, 1998.....	421
Missoula Urban Transit District, MT, Complaint No. 92096, August 14, 1997.....	222
New Hampshire Department of Transportation, NH, Complaint No. 95007, February 27, 1997	91
New York City Transit Authority, NY, Complaint No. 96026, April 10, 1997	137
Regional Transportation Council, WA, Complaint Nos. 98145 and 98253, December 30, 1999	647
Washington Metropolitan Area Transit Authority, DC, Complaint No. 95183, July 25, 1997	203
Washington Metropolitan Area Transit Authority, DC, Complaint No. 99149, September 2, 1999	593

ACCESSIBLE INFORMATION

Access Services, Incorporated, CA, Complaint No. 96189, May 27, 1999.....	562
New York Metropolitan Transit Authority, Long Island Bus, NY, Complaint No. 00060, May 31, 2000	737
Pioneer Valley Transit Authority, MA, Complaint No. 96115, December 1, 1996.....	37
Sacramento Regional Transit District, CA, Complaint No. 98031, March 23, 1999.....	529

ADA COORDINATOR

Louisiana Consolidated Government, LA, Complaint No. 97104, April 13, 1999.....536

ALCOHOLISM

New York City Transit Authority, NY, Complaint No. 97126, December 24, 1997.....314

ANXIETY ATTACKS

San Diego Metropolitan Transit Development Board, CA, Complaint No. 99117,
April 15, 2002.....1230

ASSISTANCE WITH PERSONAL ITEMS

City of Oakland, CA, Complaint No. 96073, July 17, 1996.....11

Greater Colorado Springs Transportation Company, CO, Complaint No. 94157, May 2, 1997.....175

Intercity Transit, WA, Complaint No. 95184, December 8, 1996.....56

Maryland Transit Administration, MD, Complaint No. 99096, December 31, 20031470

Washington Metropolitan Area Transit Authority, DC, Complaint No. 96153, March 17, 1997100

BICYCLES

Albuquerque Transit Department, NM, Complaint No. 98265, December 10, 1998503

BUS SHELTERS AND STOPS

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 98250, August 26, 2002.....1295

Central Oklahoma Transportation and Parking Authority, OK, Complaint No. 00-0329,
February 4, 2002.....1163

City of Oceanside, CA, Complaint No. 97004, March 31, 1997135

Pinellas Suncoast Transportation Authority, FL, Complaint No. 99054, May 14, 1999.....546

Port Authority of Allegheny County, PA, Complaint No. 98095, March 31, 2000708

San Francisco Municipal Railway, CA, Complaint No. 00317, January 22, 2002	1140
Springs Transit, CO, Complaint No. 97103, July 29, 2003.....	1419
Utah Transit Authority, UT, Complaint No. 00-0263, January 31, 2001.....	868

CAPACITY CONSTRAINTS

Access Services Incorporated, CA, Complaint No. 99015, February 27, 2001	880
Capital District Transportation Authority, NY, Complaint No. 97253, May 21, 1998.....	467
Greater Waterbury Transit District, CT, Complaint No. 97012, August 6, 1997	213
Louisiana Consolidated Government, LA, Complaint No. 96208, May 21, 1998	456
Louisiana Consolidated Government, LA, Complaint No. 97104, April 13, 1999.....	536
Massachusetts Bay Transportation Authority, MA, Complaint No. 96142, March 27, 1998.....	421
Memphis Area Transit Authority, TN, Complaint No. 97255, December 28, 2000	837
New York City Transit Authority, NY, Complaint No. 94125, March 10, 1998.....	404
Orange County Transit Authority, CA, Complaint No. 98189, October 13, 1999	629
Port Authority of Allegheny County, PA, Complaint No. 00-0215, June 30, 2000.....	755
Santa Barbara Metropolitan Transit District, CA, Complaint No. 00003, June 30, 2000	761
Suffolk County Transit, NY, Complaint No. 99044, June 28, 2001	1025
Transit Authority of River City, KY, Complaint No. 96054, November 29, 1997	291

COMMUTER BUS SERVICE

Cobb Community Transit, GA, Complaint No. 97131, February 12, 1998.....	377
Loveland, OH, Case No. 00008, February 29, 2000	704
Maryland Transit Administration, MD, Complaint No. 98210, December 2, 2003	1452
Metropolitan Transit Authority, TX, Complaint No. 97274, July 23, 1999.....	574

COMMUTER RAIL SERVICE

Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97127, March 19, 1997	103
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97073, June 10, 1997	195
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97120, August 14, 1997	235
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97148, August 2, 1997	245
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97284, December 31, 1997.....	325
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 98052, May 7, 1998	438
Northwestern Indiana Commuter Transit District, IN, Complaint No. 97052, January 13, 1998	335

COMPANION RIDES

Gary Public Transportation Corporation, IN, Complaint No. 01-0249, October 13, 2004.....	1542
Maryland Transit Administration, MD, Complaint No. 99096, December 31, 2003	1470
Missoula Urban Transit District, MT, Complaint No. 92096, August 14, 1997.....	222
Pioneer Valley Transit Authority, MA, Complaint No. 96115, December 1, 1996.....	37

COMPLAINTS

Dallas Area Rapid Transit, TX, Complaint No. 95200, February 20, 1997.....	82
Dallas Area Rapid Transit, TX, Complaint No. 96023, March 27, 1997.....	114
Metro-North Commuter Railroad, NY, Complaint No. 92080, March 4, 1998.....	397
New Jersey Transit Corporation, NJ, Complaint No. 95069, September 3, 1998.....	479
Riverside Transit Agency, CA, Complaint No. 00-0346, June 11, 2003.....	1409
<i>Timeliness</i>	
City of Santa Monica, CA, Complaint No. 99066, September 2, 1999	596

Metropolitan Transit Authority, TN, Complaint No. 98099, May 21, 1998 465

COMPLIANCE ASSESSMENTS

Access Services Incorporated, CA, Complaint No. 00-0312, September 10, 2002..... 1301

Access Services Incorporated, CA, Complaint No. 01-0246, September 10, 2002..... 1303

Access Services Incorporated, CA, Complaint No. 01-0135, September 10, 2002..... 1311

Access Services Incorporated, CA, Complaint No. 01-0143, September 16, 2002..... 1332

Access Services Incorporated, CA, Complaint No. 02-0092, September 26, 2002..... 1334

Access Services Incorporated, CA, Complaint No. 02-0094, September 26, 2002..... 1336

Access Services Incorporated, CA, Complaint No. 01-0239, January 27, 2003 1364

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0012,
January 15, 2002 1076

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0013,
January 15, 2002 1078

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0020,
January 15, 2002 1080

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0027,
January 15, 2002 1082

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0028,
January 15, 2002 1084

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0031,
January 15, 2002 1086

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0046,
January 15, 2002 1088

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0059,
January 15, 2002 1090

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0083,
January 15, 2002 1092

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 01-0146,
May 23, 2002 1255

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 02-00013,
September 16, 2002 1330

Birmingham-Jefferson County Transit Authority, AL, Complaint No. 02-00012, December 19, 2002	1356
Bi-State Development Authority, MO, Complaint No. 000378, January 15, 2002	1074
Bi-State Development Authority, MO, Complaint No. 000385, January 16, 2002	1109
Bi-State Development Authority, MO, Complaint No. 000398, January 16, 2002	1113
Bi-State Development Authority, MO, Complaint No. 010183, February 13, 2002.....	1177
Bi-State Development Authority, MO, Complaint No. 02-0016, September 10, 2002.....	1298
Broward County Transit, FL, Complaint No. 01-0179, September 10, 2002	1307
Butte County Transit, CA, Complaint No. 99305, September 16, 2002	1327
Capital Area Transit Authority, MI, Complaint No. 94016, February 28, 2002.....	1222
Central Florida Regional Transportation Authority, FL, Complaint No. 00053, June 27, 2001	936
Central Florida Regional Transportation Authority, FL, Complaint No. 97048, June 27, 2001	952
Central Florida Regional Transportation Authority, FL, Complaint No. 97040, June 28, 2001	1033
Central Florida Regional Transportation Authority, FL, Complaint No. 000372, January 16, 2002	1111
Central Midlands Council of Governments, SC, Complaint No. 00-0234, June 27, 2001.....	954
Central Midlands Council of Governments, SC, Complaint No. 99168, April 27, 2001	914
Central Midlands Council of Governments, SC, Complaint No. 98252, April 27, 2001	917
Central Midlands Council of Governments, SC, Complaint No. 92011, June 27, 2001.....	934
Chicago Transit Authority, IL, Complaint No. 02-0019, September 10, 2002	1305
Chicago Transit Authority, IL, Complaint No. 00-0225, June 27, 2001	950
Chicago Transit Authority, IL, Complaint No. 98278, January 25, 2002.....	1153
City of Detroit Department of Transportation, MI, Complaint No. 96047, June 27, 2001.....	774
City of Detroit Department of Transportation, MI, Complaint No. 00040, July 10, 2001.....	1057
City of Detroit Department of Transportation, MI, Complaint No. 010095, September 18, 2001	1064
City of Detroit Department of Transportation, MI, Complaint No. 05-0039, February 22, 2005	1569

City of Gainesville Regional Transit Authority, FL, Complaint No. 00023, August 19, 2002	1284
City of Gainesville Regional Transit Authority, FL, Complaint No. 00-024, August 19, 2002	1286
City of Gainesville Regional Transit Authority, FL, Complaint No. 99220, August 19, 2002	1288
City of Gainesville Regional Transit Authority, FL, Complaint No. 00039, December 16, 2002	1350
Greater Cleveland Regional Transit Authority, OH, Complaint No. 98017, June 27, 2001	964
Maryland Transit Administration, MD, Complaint No. 00-0300, May 30, 2001	930
Maryland Transit Administration, MD, Complaint No. 99235, May 30, 2001	932
Maryland Transit Administration, MD, Complaint No. 00020, January 15, 2002.....	1094
Maryland Transit Administration, MD, Complaint No. 000297, January 15, 2002.....	1096
Maryland Transit Administration, MD, Complaint No. 000298, January 15, 2002.....	1098
Maryland Transit Administration, MD, Complaint No. 000299, January 15, 2002.....	1100
Maryland Transit Administration, MD, Complaint No. 000407, January 15, 2002.....	1102
Maryland Transit Administration, MD, Complaint No. 010061, January 15, 2002.....	1104
Maryland Transit Administration, MD, Complaint No. 010086, January 15, 2002.....	1106
Maryland Transit Administration, MD, Complaint No. 00017, February 13, 2002	1179
Maryland Transit Administration, MD, Complaint No. 01-0007, February 28, 2002	1210
Maryland Transit Administration, MD, Complaint No. 02-0015, April 22, 2002	1234
Maryland Transit Administration, MD, Complaint No. 02-0015, March 10, 2004.....	1492
Maryland Transit Administration, MD, Complaint No. 03-0207, March 17, 2004.....	1494
Massachusetts Bay Transit Authority, MA, Complaint No. 98112, June 18, 2001	1051
Memphis Area Transit Authority, TN, Complaint No. 99243, June 28, 2001.....	1035
Memphis Area Transit Authority, TN, Complaint No. 00-0406, June 28, 2001	1039
Memphis Area Transit Authority, TN, Complaint No. 00-0401, February 19, 2002.....	1183
METRO, MO, Complaint No. 04-0029, March 3, 2005.....	1571
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 99159, June 27, 2001.....	948
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 00006, February 28, 2002	1208

Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 010152, October 2, 2002.....	1338
Miami-Dade Transit Agency, FL, Complaint No. 96051, June 28, 2001	1023
Milwaukee County Transit System, WI, Complaint No. 000228, February 26, 2002.....	1202
Milwaukee County Transit System, WI, Complaint No. 98267, February 28, 2002.....	1212
Milwaukee County Transit System, WI, Complaint No. 99173-99140, February 28, 2002	1217
New York City Transit Authority, NY, Complaint No. 01-0142, February 4, 2002.....	1159
Palm Beach County Surface Transportation Department, FL, Complaint No. 96136, June 27, 2001	938
Palm Beach County Surface Transportation Department, FL, Complaint No. 96137, June 27, 2001	940
Palm Beach County Surface Transportation Department, FL, Complaint No. 96138, June 27, 2001	942
Palm Beach County Surface Transportation Department, FL, Complaint No. 96139, June 27, 2001	944
Palm Beach County Surface Transportation Department, FL, Complaint No. 96140, June 27, 2001	946
Palm Beach County Surface Transportation Department, FL, Complaint No. 02-0017, May 23, 2002	1263
Pioneer Valley Transit Authority, MA, Complaint No. 98139, June 27, 2001	980
Pioneer Valley Transit Authority, MA, Complaint No. 01-0186, January 9, 2002	1070
Regional Transit District, CO, Complaint No. 00063, June 28, 2001	1037
Riverside Transit Agency, CA, Complaint No. 02-0018, January 28, 2004.....	1484
Riverside Transit Agency, CA, Complaint No. 02-0020, January 28, 2004.....	1486
Riverside Transit Agency, CA, Complaint No. 03-0038, January 28, 2004.....	1488
Riverside Transit Agency, CA, Complaint No. 03-0039, January 28, 2004.....	1490
San Francisco Municipal Railway, CA, Complaint No. 02-0100, January 28, 2004	1480
San Francisco Municipal Railway, CA, Complaint No. 02-0102, January 28, 2004	1482
San Francisco Municipal Railway, CA, Complaint No. 02-0003, January 28, 2004	1476
Southeastern Pennsylvania Transit Authority, PA, Complaint No. 00-004, September 16, 2002	1322

Suburban Mobility Authority for Regional Transportation, MI, Complaint No. 00-0016, June 9, 2005	1573
Toledo Area Regional Transit Authority, OH, Complaint No. 99265, April 11, 2001.....	905
Toledo Area Regional Transit Authority, OH, Complaint No. 99266, April 11, 2001.....	908
Toledo Area Regional Transit Authority, OH, Complaint No. 99270, May 16, 2001.....	922
Toledo Area Regional Transit Authority, OH, Complaint No. 02-0017, September 10, 2002	1309
Toledo Area Regional Transit Authority, OH, Complaint No. 02-0099, September 10, 2002	1316
Transportation District Commission of Hampton Roads, VA, Complaint No. 98164, June 28, 2001	982
Transportation District Commission of Hampton Roads, VA, Complaint No. 98166, June 28, 2001	986
Transportation District Commission of Hampton Roads, VA, Complaint No. 98167, June 28, 2001	988
Transportation District Commission of Hampton Roads, VA, Complaint No. 98168, June 28, 2001	991
Transportation District Commission of Hampton Roads, VA, Complaint No. 98169, June 28, 2001	993
Transportation District Commission of Hampton Roads, VA, Complaint No. 98170, June 28, 2001	995
Transportation District Commission of Hampton Roads, VA, Complaint No. 98171, June 28, 2001	998
Transportation District Commission of Hampton Roads, VA, Complaint No. 98172, June 28, 2001	1000
Transportation District Commission of Hampton Roads, VA, Complaint No. 98173, June 28, 2001	1002
Transportation District Commission of Hampton Roads, VA, Complaint No. 98174, June 28, 2001	1004
Transportation District Commission of Hampton Roads, VA, Complaint No. 98175, June 28, 2001	1006
Transportation District Commission of Hampton Roads, VA, Complaint No. 98176, June 28, 2001	1008
Transportation District Commission of Hampton Roads, VA, Complaint No. 98177, June 28, 2001	1010

Transportation District Commission of Hampton Roads, VA, Complaint No. 98178, June 28, 2001	1012
Transportation District Commission of Hampton Roads, VA, Complaint No. 98180, June 28, 2001	1014
Transportation District Commission of Hampton Roads, VA, Complaint No. 98182, February 4, 2002.....	1161
Transportation District Commission of Hampton Roads, VA, Complaint No. 98183, June 28, 2001	1016
Transportation District Commission of Hampton Roads, VA, Complaint No. 98184, June 28, 2001	1019
Transportation District Commission of Hampton Roads, VA, Complaint No. 98194, June 28, 2001	1021
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 96083, April 27, 2001.....	920
Washington Metropolitan Area Transit Authority, DC, Complaint No. 010150, June 28, 2001	1031
Washington Metropolitan Area Transit Authority, DC, Complaint No. 01-0243, January 22, 2002	1126
Washington Metropolitan Area Transit Authority, DC, Complaint No. 01-0244, January 22, 2002	1130

CONTRACTED SERVICE

Access Services Incorporated, CA, Complaint No. 00-0402, June 28, 2001.....	1045
City of Lompoc, CA, Complaint No. 98221, February 29, 2000	697
Maryland Transit Administration, MD, Complaint No. 98210, December 2, 2003	1452
Massachusetts Bay Transportation Authority, MA, Complaint No. 98118, December 30, 1999.....	644
Prince George's County Department of Public Works, MD, Complaint No. 98283, December 5, 2002.....	1346
Transit Authority of Northern Kentucky, KY, Complaint No. 98020, March 13, 1998.....	412
Transit Authority of Northern Kentucky, KY, Complaint No. 98019, February 12, 1998	371
Transit Authority of River City, KY, Complaint No. 98057, August 5, 1998	469
Washington Metropolitan Area Transit Authority, DC, Complaint No. 99304, October 30, 2000	808

I-66

Washington Metropolitan Area Transit Authority, DC, Complaint No. 99169,
December 28, 2000..... 826

COORDINATED SERVICE

Kansas City Area Transportation Authority, MO, Complaint No. 94237, September 21, 1999 607

CURB CUTS

City of Davenport, IA, Complaint No. 96008, April 10, 1997 140
 City of Davenport, IA, Complaint No. 96008, August 21, 1997..... 237
 Port Authority of Allegheny County, PA, Complaint No. 02-0006, March 19, 2004 1499

DAMAGES

Access Services Incorporated, CA, Complaint No. 96177, March 31, 1997 127
 City of Oceanside, CA, Complaint No. 97004, March 31, 1997 135
 Tri-County Metropolitan Transportation District, OR, Complaint No. 95047, February 6, 1998 357

DEFINITION OF COMMON WHEELCHAIR

Access Services Incorporated, CA, Complaint No. 99280, October 30, 2000 816
 Adams County Senior Services, NE, Complaint No. 99236, April 28, 2000 734
 Albuquerque Transit Department, NM, Complaint No. 98265, December 10, 1998 503
 Central Florida Regional Transportation Authority, FL, Complaint No. 00-0302,
October 30, 2000 818
 City of Beaumont, CA, Complaint No. 99052, May 14, 1999..... 544
 City of Tecumseh, NE, Complaint No. 97197, February 10, 1999 520
 Metropolitan Evansville Transit System, IN, Complaint No. 010158, February 27, 2002 1204
 Phoenix Transit Service, AZ, Complaint No. 98230, September 8, 1999..... 599
 Port Authority of Allegheny County, PA, Complaint No. 00-0215, June 30, 2000..... 755

Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 92230,
December 15, 1997..... 309

Space Coast Area Transit, FL, Complaint No. 97064, May 7, 1998..... 440

Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 01-0030,
January 7, 2002 1068

DEFINITION OF COMPLEMENTARY PARATRANSIT SERVICE

Access Services Incorporated, CA, Complaint No. 98193, December 11, 1998 508

Brazos Transit District, TX, Complaint No. 97151, September 24, 1997 255

Cape Cod Regional Transit Authority, Complaint No. 95091, September 4, 2003 1428

City of Loveland Transit, CO, Complaint No. 010280, April 7, 2002..... 1224

City Transit System, IA, Complaint No. 00-0284, February 28, 2001 894

Ellwood City, PA, Complaint No. 96187, August 8, 1997 218

Long Beach Transit, CA, Complaint No. 01-0025, June 28, 2001 1029

New York City Transit Authority, NY, Complaint No. 94215, March 10, 1998..... 404

Niagra Frontier Transportation Authority, NY, Complaint No. 97049, February 12, 1998 373

OMNITRANS, CA, Complaint No. 97112, September 5, 1997 248

PACE Suburban Bus Division, IL, Complaint No. 95041, November 13, 1996 34

Pierce Transit, WA, Complaint No. 97032, February 19, 1998 388

Southwest Ohio Regional Transit Authority, OH, Complaint No. 98113, November 24, 1998..... 498

DEFINITION OF DISABILITY

Access Services Incorporated, CA, Complaint No. 00011, October 30, 2000 812

Access Services Incorporated, CA, Complaint No. 00-0258, December 28, 2000 831

Madison Metro Transit System, WI, June 4, 1996..... 1

Metropolitan Transportation Authority, NY, Complaint No. 94213, September 11, 1996..... 21

New York City Transit Authority, NY, Complaint No. 97126, December 24, 1997..... 314

Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 96175, January 15, 1998	339
--	-----

DEMAND RESPONSE SERVICE

Coyote Run Transit, AZ, Complaint No. 98110, September 22, 1998	487
San Joaquin Regional Transit District, CA, Complaint No. 95038, January 31, 2001.....	872

DISCRIMINATION

Mountain Area Regional Transit Authority, CA, Complaint No. 99264, August 25, 2000	784
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 98090, December 30, 1999.....	655

DISRUPTIVE BEHAVIOR

Antelope Valley Transit Authority, CA, Complaint No. 99064, September 23, 1999	617
East Bay Paratransit Consortium, CA, Complaint No. 01-0134, February 4, 2003	1375
Greater Waterbury Transit District, CT, Complaint No. 97012, August 6, 1997	213
King County Department of Metropolitan Services, WA, Complaint No. 94001, March 16, 1998	414
Manatee County Area Transit, FL, Complaint No. 98037, November 15, 1999	637
Monterey-Salinas Transit, CA, Complaint No. 99207-TA, April 28, 2000	732
Port Authority of Allegheny County, PA, Complaint No. 00-0322, February 28, 2001	890
Prosser Rural Transit, WA, Complaint No. 97165, March 13, 1998	408
Springs Transit, CO, Complaint No. 97103, July 29, 2003.....	1419
Tri-County Metropolitan Transportation District, OR, Complaint No. 95047, February 6, 1998.....	357

DRIVER/DISPATCHER BEHAVIOR AND TRAINING

Access Services Incorporated, CA, Complaint No. 96177, March 31, 1997	127
Access Services Incorporated, CA, Complaint No. 96146, April 29, 1997.....	169

Access Services Incorporated, CA, Complaint No. 97198, December 5, 1997	297
Access Services Incorporated, CA, Complaint No. 98006, May 13, 1999.....	539
Access Services Incorporated, CA, Complaint No. 96189, May 27, 1999.....	562
Access Services Incorporated, CA, Complaint No. 98261, July 31, 2000.....	781
Access Services Incorporated, CA, Complaint No. 00030, October 30, 2000	812
Access Services Incorporated, CA, Complaint No. 99015, February 27, 2001	880
Access Services Incorporated, CA, Complaint No. 98208, October 2, 2002.....	1342
Alameda-Contra Costa County Transit, CA, Complaint No. 96077, July 24, 1996	887
Albuquerque Transit Department, NM, Complaint No. 03-2336, April 29, 2004	1507
Albuquerque Transit Department, NM, Complaint No. 04-0032, June 3, 2004	1510
Bay Area Rapid Transit District, CA, Complaint No. 98102, March 2, 1999.....	524
Black and White Cabs, VA, Complaint No. 96123, March 5, 1997	97
Bloomington Public Transportation Corporation, IN, Complaint No. 97078, March 2, 1998	395
Capital Area Transportation Authority, MI, Complaint No. 03-0119, August 9, 2004	1529
Central Florida Regional Transportation Authority, FL, Complaint No. 99170, April 28, 2000.....	728
Chatham Area Transit Authority, GA, Complaint No. 00-0319, February 19, 2002.....	1185
Chattanooga Area Regional Transit Authority, TN, Complaint No. 98048, November 3, 1998	489
Chicago Transit Authority, IL, Complaint No. 98260, November 13, 2003	1444
City of Greensboro Transit Authority, NC, Complaint No. 99151, July 31, 2000.....	764
City of Lompoc, CA, Complaint No. 98221, February 29, 2000.....	697
City of Phoenix Public Transit, AZ, Complaint No. 01-0085, August 12, 2002.....	1276
City of Santa Monica, Big Blue Bus, CA, Complaint No. 99066, September 2, 1999	596
City of Tucson, AZ, Complaint No. 98225, May 27, 1999	559
Coastal Rapid Public Transit Authority, SC, Complaint No. 99298, February 4, 2002	1173
Connecticut Transit Authority, CT, Complaint No. 98242, July 23, 1999	577
Dallas Area Rapid Transit, TX, Complaint No. 96065, December 24, 1997.....	316

Dallas Area Rapid Transit, TX, Complaint No. 97041, December 24, 1997	323
Dallas Area Rapid Transit, TX, Complaint No. 98023, May 13, 1998	447
Dallas Area Rapid Transit, TX, Complaint No. 98022, December 30, 1999	651
Dallas Area Rapid Transit, TX, Complaint No. 00-0212, February 4, 2002	1165
Dallas Area Rapid Transit, TX, Complaint No. 95037, April 23, 1997	148
Dallas Area Rapid Transit, TX, Complaint No. 94194, February 17, 1998	379
East Bay Paratransit Consortium, CA, Complaint No. 010134, February 4, 2003	1375
East Volusia Transportation Authority, FL, Complaint No. 96200, July 3, 1997	200
Fresno Area Express, CA, Complaint No. 000230, February 28, 2002	1206
Fresno Area Express, CA, Complaint No. 97113, April 28, 2003	1401
Glendale Beeline Transit, CA, Complaint No. 97042, February 25, 1998	392
Greyhound Bus Lines, FL, Complaint No. 96075, January 8, 1997	65
Island Transit, TX, Complaint No. 02-0199, December 2, 2004	1558
Jacksonville Transportation Authority, FL, Complaint No. 02-0084, March 12, 2003	1387
Kansas City Area Transportation Authority, MO, Complaint No. 94237, September 21, 1999	607
Kansas City Area Transportation Authority, MO, Complaint No. 00-0280, January 24, 2002	1144
Louisiana Consolidated Government, LA, Complaint No. 96208, May 21, 1998	456
Long Island Railroad, NY, Complaint No. 92078, March 31, 1997	120
Long Island Railroad, NY, Complaint No. 99198, June 28, 2001	1029
Long Island Railroad, NY, Complaint No. 99080, February 28, 2002	1214
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 95176, March 31, 1997	130
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 95040, January 23, 1998	346
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 99057, September 23, 1999	619
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 99002, May 23, 2002	1257

Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 01-0189, November 8, 2004	1549
Madison Metro Transit System, WI, June 4, 1996.....	1
Maryland Transit Administration, MD, Complaint No. 02-0090, January 28, 2004.....	1478
Maryland Transit Administration, MD, Complaint No. 04-0033, September 8, 2004.....	1538
Mass Transportation Authority of Flint, MI, Complaint No. 96095, January 30, 1997.....	72
Massachusetts Bay Transportation Authority, MA, Complaint No. 96169, March 27, 1997.....	117
Massachusetts Bay Transportation Authority, MA, Complaint No. 97153, May 8, 1998	444
Memphis Area Transit Authority, TN, Complaint No. 97255, December 28, 2000	837
Metro-Dade Transit Agency, FL, Complaint No. 96133, March 3, 1997	94
Metro-North Commuter Railroad, NY, Complaint No. 92080, March 4, 1998.....	397
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 96094, October 24, 1996.....	32
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 96057, August 6, 1997.....	209
Metropolitan Transportation Authority, NY, Complaint No. 96120, September 13, 1996.....	25
Milwaukee County Transit System, WI, Complaint No. 99043, July 31, 2000.....	777
Milwaukee County Transit System, WI, Complaint No. 99173-99140, February 28, 2002	1212
Missoula Urban Transit District, MT, Complaint No. 92096, August 14, 1997.....	222
New Jersey Transit Corporation, NJ, Complaint No. 95165, February 12, 1998	367
New Jersey Transit Corporation, NJ, Complaint No. 95069, September 3, 1998.....	479
New York City Transit Authority, NY, Complaint No. 99274, January 22, 2002.....	1138
New York City Transit Authority, NY, Complaint No. 010142, February 26, 2002.....	1200
Niagra Frontier Transportation Authority, NY, Complaint No. 00012, May 31, 2000	373
North Slope Borough, AK, Complaint No. 02-0093, June 16, 2004	1516
Northwestern Indiana Commuter Transit District, IN, Complaint No. 97052, January 13, 1998	335
PACE Suburban Bus Division, IL, Complaint No. 95041, November 13, 1996	34
Phoenix Transit System, AZ, Complaint No. 97057, February 12, 1998.....	375
Pinellas Suncoast Transit Authority, FL, Complaint No. 96058, December 1, 1996.....	52

Port Authority of Allegheny County, PA, Complaint No. 99102, February 4, 2000	682
Regional Transit Authority, LA, Complaint No. 99081, January 17, 2002	1115
Regional Transit Authority, LA, Complaint No. 01-0024, August 12, 2002	1280
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 00-0409, February 4, 2002.....	1167
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 01-0097, February 4, 2002.....	1169
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 99050, December 19, 2002.....	1352
Regional Transportation District, CO, Complaint No. 96060, July 24, 1996	16
Regional Transportation District, CO, Complaint No. 97206, May 23, 2001	1037
Riverside Transit Authority, CA, Complaint No. 96414, June 2, 1997.....	192
Riverside Transit Agency, CA, Complaint No. 93583, November 10, 1997.....	273
Sacramento Regional Transit District, CA, Complaint No. 97193, May 21, 1998	461
San Diego Metropolitan Transit Development Board, CA, Complaint No. 99117, April 15, 2002	1230
San Diego Metropolitan Transit System, CA, Complaint No. 01-0251, July 29, 2004	1527
San Francisco Bay Area Transit District, CA, Complaint No. 97088, February 17, 1998	382
San Francisco Municipal Railway, CA, Complaint No. 96078, December 19, 1996.....	58
San Mateo County Transit District, CA, Complaint No. 95143, November 26, 1997	286
Santa Barbara Metropolitan Transit District, CA, Complaint No. 97008, October 4, 1997	262
Santa Clara Valley Transportation Authority, CA, Complaint No. 96175, April 24, 1997	152
Santa Clara Valley Transportation Authority, CA, Complaint No. 97089, January 19, 2000.....	671
Santa Monica Municipal Bus Lines, CA, Complaint No. 97039, March 10, 1998.....	401
South Bend Public Transportation Corporation, IN, Complaint No. 00-0237, May 23, 2002	1259
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 92209, March 31, 1997	124
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 92219, April 23, 1997.....	145

Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 94130, May 6, 1997	181
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 95106, May 6, 1997	184
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 92226, May 8, 1997	187
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 92225, June 13, 1997	197
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 96159, August 14, 1997	220
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 92230, December 15, 1997.....	309
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 00045, July 31, 2000	769
Southwest Ohio Regional Transit Authority, OH, Complaint No. 97145, May 7, 1998	442
Sun Tran, AZ, Complaint No. 99202, March 24, 2003	1392
Toledo Area Regional Transit Administration, OH, Complaint No. 97128, December 15, 1997	305
Toledo Area Regional Transit Authority, OH, Complaint No. 99267, August 28, 2000	786
Toledo Area Regional Transit Authority, OH, Complaint No. 99268, April 11, 2001.....	911
Toledo Area Regional Transit Authority, OH, Complaint No. 99270, May 16, 2001.....	922
Transit Authority of River City, KY, Complaint No. 96054, November 29, 1997	291
Triangle Transit Authority, NC, Complaint No. 96105, January 8, 1997	62
Tri-County Metropolitan Transportation District, OR, Complaint No. 95146, August 28, 1997	241
Tri-County Metropolitan Transportation District, OR, Complaint No. 95047, February 6, 1998.....	357
Tri-County Metropolitan Transportation District, OR, Complaint No. 97259, December 11, 1998.....	505
Twin Cities Area Transportation Authority, MI, Complaint No. 97094, March 16, 1998.....	416
Utah Transit Authority, UT, Complaint No. 00047, December 28, 2000	821
Washington Metropolitan Area Transit Authority, DC, Complaint No. 96153, March 17, 1997	100

Washington Metropolitan Area Transit Authority, DC, Complaint No. 97076, September 24, 1997	253
Washington Metropolitan Area Transit Authority, DC, Complaint No. 99304, October 30, 2000	808
Washington Metropolitan Area Transit Authority, DC, Complaint No. 97095, October 2, 2002	1340
Washington State Ferries, WA, Complaint No. 98247, February 29, 2000.....	702
Worcester Regional Transportation Authority, MA, Complaint Nos. 96196 and 96197, February 29, 2000.....	700
Worcester Regional Transportation Authority, MA, Complaint No. 00038, August 12, 2002	1272

ELECTRIC SCOOTERS

Adams County Senior Services, NE, Complaint No. 99236, April 28, 2000	734
Capital Area Transportation Authority, MI, Complaint No. 03-0119, August 9, 2004	1529
Central Florida Regional Transportation Authority, FL, Complaint No. 00-0302, October 30, 2000	818
Centre Area Transportation Authority, PA, Complaint No. 99088, June 28, 2001	1043
City and County of Honolulu, HI, Complaint No. 99036, February 2, 2000	678
City of Phoenix Public Transit, AZ, Complaint No. 01-0085, August 12, 2002.....	1276
City of Tucson, AZ, Complaint No. 97171, May 31, 2000	740
Mountain Area Regional Transit Authority, CA, Complaint No. 00056, January 22, 2002	1133
Toledo Area Regional Transit Authority, OH, Complaint No. 99268, April 11, 2001.....	905

ELEVATORS

New York City Transit Authority, NY, Complaint No. 010142, February 26, 2002.....	1200
San Francisco Municipal Railway, CA, Complaint No. 000374, June 27, 2001.....	978
Washington Metropolitan Area Transit Authority, DC, Complaint No. 99040, June 30, 2000	751

EMERGENCY EXIT GATES

Washington Metropolitan Area Transit Authority, DC, Complaint No. 99263, January 31, 2001	855
--	-----

EQUIPMENT AND FACILITIES FAILURES

Access Services Incorporated, CA, Complaint No. 96086, September 17, 1996	29
Alameda-Contra Costa County Transit, CA, Complaint No. 96077, July 24, 1996	18
Albuquerque Transit Department, NM, Complaint No. 03-2336, April 29, 2004... ..	1507
Bay Area Rapid Transit District, CA, Complaint No. 98102, March 2, 1999.....	524
Chattanooga Area Regional Transit Authority, TN, Complaint No. 98048, November 3, 1998	489
Chicago Transit Authority, IL, Complaint No. 98249, October 30, 2000.....	814
Chicago Transit Authority, IL, Complaint No. 010149, May 21, 2003	1405
Chicago Transit Authority, IL, Complaint No. 02-0007, August 16, 2004	1534
City of Detroit Department of Transportation, MI, Complaint No. 96047, July 31, 2000.....	774
City of Hickory Transit, NC, Complaint No. 03-0163, July 15, 2004.....	1521
City of Tucson, AZ, Complaint No. 97171, May 31, 2000	559
Columbus Metro Transit, GA, Complaint Nos. 00046 and 000304, May 15, 2002	1252
East Bay Paratransit Consortium, CA, Complaint No. 01-0134, February 4, 2003	1375
East Volusia Transportation Authority, FL, Complaint No. 96200, July 3, 1997	200
Gary Public Transportation Corporation, IN, Complaint No. 01-0249, October 13, 2004.....	1542
Glendale Beeline Transit, CA, Complaint No. 97042, February 25, 1998.....	392
Island Transit, TX, Complaint No. 02-0199, December 2, 2004.....	1558
Jacksonville Transportation Authority, FL, Complaint No. 02-0084, March 12, 2003	1387
Kansas City Area Transportation Authority, MO, Complaint No. 94237, September 21, 1999	607
Long Island Railroad, NY, Complaint No. 99080, February 28, 2002	1214
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 95176, March 31, 1997	130

Mass Transportation Authority of Flint, MI, Complaint No. 96095, January 30, 1997	72
Memphis Area Transit Authority, TN, Complaint No. 97255, December 28, 2000	837
Metro-Dade Transit Authority, FL, Complaint No. 99118, February 10, 2000	687
Metro-North Commuter Railroad, NY, Complaint No. 92080, March 4, 1998	397
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 96094, October 24, 1996	32
Metropolitan Transit Authority, TN, Complaint No. 01-0026, April 15, 2003	1396
Metropolitan Transit Authority, TX, Complaint No. 96074, July 24, 1996	14
Metropolitan Transportation Authority, NY, Complaint No. 00-0239, January 22, 2002	1122
Missoula Urban Transit District, MT, Complaint No. 92096, August 14, 1997	222
Montgomery Ride On and Transit Services, MD, Complaint No. 02-0097, March 29, 2004	1503
New York City Transit Authority, NY, Complaint No. 010142, February 26, 2002	1200
North Slope Borough, AK, Complaint No. 02-0093, June 16, 2004	1516
PACE Suburban Bus Division, IL, Complaint No. 99289, April 28, 2000	725
Port Authority of Allegheny County, PA, Complaint No. 99102, February 4, 2000	682
Port Authority of Allegheny County, PA, Complaint No. 98095, March 31, 2000	708
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 99050, December 19, 2002	1352
Riverside Transit Agency, CA, Complaint No. 93583, November 10, 1997	273
San Diego Metropolitan Transit System, CA, Complaint No. 01-0251, July 29, 2004	1527
San Francisco Municipal Railway, CA, Complaint No. 98081, April 8, 1999	533
Santa Clarita Transit, CA, Complaint No. 97243, December 30, 1999	668
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 92226, May 8, 1997	187
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 04-0014, October 14, 2004	1546
Toledo Area Regional Transit Authority, OH, Complaint No. 99267, August 28, 2000	786
Triangle Transit Authority, NC, Complaint No. 96105, January 8, 1997	62
Utah Transit Authority, UT, Complaint No. 00047, December 28, 2000	821

Washington Metropolitan Area Transit Authority, DC, Complaint No. 96055, March 27, 1998 426

FARES

Access Services Incorporated, CA, Complaint No. 97043, March 15, 2000 706

Access Services Incorporated, CA, Complaint No. 99015, February 27, 2001 880

Bay Area Rapid Transit District, CA, Complaint No. 98102, March 2, 1999 524

City of Davenport, IA, Complaint No. 96008, February 26, 1997 85

City of Greensboro Transit Authority, NC, Complaint No. 99151, July 31, 2000 764

Dallas Area Rapid Transit, TX, Complaint No. 96212, April 24, 1997 157

Dallas Area Rapid Transit, TX, Complaint No. 96213, April 24, 1997 160

Gary Public Transportation Corporation, IN, Complaint No. 01-0249, October 13, 2004 1542

Humboldt Transit Authority, CA, Complaint No. 00-0376, September 16, 2002 1318

Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 99002,
May 23, 2002 1257

Madison Metro Transit System, WI, June 4, 1996 1

Massachusetts Bay Transportation Authority, MA, Complaint No. 96169, March 27, 1997 117

Metro-Dade Transit Authority, FL, Complaint No. 96133, March 3, 1997 94

Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 96507, August 6, 1997 209

Metropolitan Transit Authority, NY, Complaint No. 94213, September 11, 1996 21

Metropolitan Tulsa Transit Authority, OK, Complaint No. 98276, March 31, 2000 712

Metropolitan Tulsa Transit Authority, OK, Complaint No. 00040, May 31, 2000 744

New Jersey Transit Corporation, NJ, Complaint No. 99076, December 30, 2000 850

New York City Transit Authority, NY, Complaint No. 97126, December 24, 1997 314

New York City Transit Authority, NY, Complaint No. 96026, April 10, 1997 137

New York City Transit Authority, NY, Complaint No. 97126, December 24, 1997 314

PACE Suburban Bus Division, IL, Complaint No. 95041, November 13, 1996 34

Pinellas Suncoast Transit Authority, FL, Complaint No. 96058, December 1, 1996 52

Pioneer Valley Transit Authority, MA, Complaint No. 99296, February 2, 2000..... 680

Port Authority of Allegheny County, PA, Complaint No. 02-0006, March 19, 2004 1499

Santa Barbara Metropolitan Transit District, CA, Complaint No. 98068, May 14, 1999 549

Santa Clara Valley Transportation Authority, CA, Complaint No. 96175, April 24, 1997 52

Toledo Area Regional Transit Authority, OH, Complaint No. 02-0017, September 10, 2002 1309

Transit Authority of Northern Kentucky, KY, Complaint No. 98019, February 12, 1998 371

Transit Authority of Northern Kentucky, KY, Complaint No. 98020, March 13, 1998 412

Triangle Transit Authority, NC, Complaint No. 96105, January 8, 1997 62

VIA Metropolitan Transit, TX, Complaint No. 95131, August 14, 1997 229

Washington Metropolitan Area Transit Authority, DC, Complaint No. 97095,
October 2, 2002 1340

FIRST AID

Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 96159,
August 14, 1997 220

HEARING IMPAIRMENT

Triangle Transit Authority, NC, Complaint No. 96105, January 8, 1997 62

HIV/AIDS

South Town Wheelchair Services, NY, Complaint No. 03-0238, December 9, 2004 1567

INFORMATION REGARDING TRANSPORTATION SERVICES

Capital Area Transit Authority, MI, Complaint No. 94016, February 28, 2002 1222

Chicago Transit Authority, IL, Complaint No. 010149, May 21, 2003 1405

Maryland Transit Administration, MD, Complaint No. 95168, December 29, 2003 1460

Memphis Area Transit Authority, TN, Complaint No. 98089, June 28, 2001 1047

Metropolitan Transportation Commission, CA, Complaint No. 98259, January 27, 2003.....	1367
Metropolitan Transportation Commission and San Francisco Municipal Railroad, CA, Complaint No. 98258, November 17, 2003	1447
New York Metropolitan Transit Authority, Long Island Bus, NY, Complaint No. 00060, May 31, 2000	737
San Francisco Municipal Railway, CA, Complaint No. 000374, June 27, 2001	978
Santa Cruz Metropolitan Transit District, CA, Complaint No. 97092, June 27, 2001	966
Springs Transit, CO, Complaint No. 97103, July 29, 2003.....	1419
Tri-County Rail Authority, FL, Complaint No. 99049, September 10, 2002	1313

KEY RAIL STATIONS

Bay Area Rapid Transit District, CA, Complaint No. 98102, March 2, 1999	524
Chicago Transit Authority, IL, Complaint No. 98249, October 30, 2000.....	814
Long Island Railroad, NY, Complaint No. 00049, June 27, 2001.....	956
Maryland Transit Administration, MD, Complaint No. 95168, December 29, 2003	1460
Metro-North Commuter Railroad, NY, Complaint No. 99276, January 24, 2002.....	1150
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 96094, October 24, 1996.....	32
Metropolitan Council Transit Operations, MN, Complaint No. 96228, August 14, 1997.....	233
New York City Transit Authority, NY, Complaint No. 99064, June 9, 1999	570
Peninsula Corridor Joint Powers Board, CA, Complaint No. 97174, May 1, 1998	434
Pioneer Valley Transit Authority, MA, Complaint No. 96115, December 1, 1996.....	37
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 00045, July 31, 2000	769
Triangle Transit Authority, NC, Complaint No. 96105, January 8, 1997	62
Washington Metropolitan Area Transit Authority, DC, Complaint No. 96055, March 27, 1998	426
Whatcom Transit Authority, WA, Complaint No. 97065, September 26, 1997	257

LATE OR EARLY PICKUPS

Access Services Incorporated, CA, Complaint No. 97198, November 21, 1997	283
Access Services Incorporated, CA, Complaint No. 97198, December 5, 1997	297
Access Services Incorporated, CA, Complaint No. 97195, December 24, 1997	319
Access Services Incorporated, CA, Complaint No. 98006, May 13, 1999.....	539
Access Services Incorporated, CA, Complaint No. 96189, May 27, 1999.....	562
Access Services Incorporated, CA, Complaint No. 99210, December 30, 1999	662
Access Services Incorporated, CA, Complaint No. 98018, December 30, 1999	664
Access Services Incorporated, CA, Complaint No. 98261, July 31, 2000.....	781
Access Services Incorporated, CA, Complaint No. 00030, October 30, 2000	816
Access Services Incorporated, CA, Complaint No. 99015, February 27, 2001	880
Access Services Incorporated, CA, Complaint No. 00-0323, February 25, 2002	1191
Access Services Incorporated, CA, Complaint No. 00-0373, February 25, 2002	1192
Access Services Incorporated, CA, Complaint No. 00-0375, February 25, 2002	1193
Access Services Incorporated, CA, Complaint No. 00-0229, February 25, 2002	1194
Alameda-Contra Costa Transit District, CA, Complaint No. 00055, February 28, 2001	887
Birmingham-Jefferson County Transit Authority, AL, Complaint No. 98250, August 26, 2002.....	1295
Broward County Division of Mass Transit, FL, Complaint No. 99211, March 31, 2000	716
Central Florida Regional Transportation Authority, FL, Complaint No. 99170, April 28, 2000.....	728
Central Midlands Council of Governments, SC, Complaint No. 94146, June 27, 2001.....	973
City of Greensboro Transit Authority, NC, Complaint No. 99151, July 31, 2000.....	764
Coastal Rapid Public Transit Authority, SC, Complaint No. 99298, February 4, 2002	1173
Dallas Area Rapid Transit, TX, Complaint No. 95037, April 23, 1997	148
Dallas Area Rapid Transit, TX, Complaint No. 98023, May 13, 1998	447
Dallas Area Rapid Transit, TX, Complaint No. 98022, December 30, 1999.....	651
Dallas Area Rapid Transit, TX, Complaint No. 99111, June 27, 2001	971

East Bay Paratransit Consortium, CA, Complaint No. 010134, February 4, 2003	1375
Greater New Haven Transit District, CT, Complaint No. 99223, September 16, 2002.....	1324
Jacksonville Transportation Authority, FL, Complaint No. 02-0084, March 12, 2003	1387
Lower Rio Grande Valley Development Council, TX, Complaint No. 01-0250, January 28, 2003	1370
Maryland Transit Administration, MD, Complaint No. 97069, September 24, 1997.....	251
Massachusetts Bay Transportation Authority, MA, Complaint No. 96142, March 27, 1998.....	421
Massachusetts Bay Transportation Authority, MA, Complaint No. 02-0009, January 22, 2002	1124
Massachusetts Bay Transportation Authority, MA, Complaint No. 02-0009, November 8, 2004	1553
Metro Regional Transit Authority, OH, Complaint No. 97252, April 8, 2002.....	1226
Metropolitan Tulsa Transit Authority, OK, Complaint No. 98276, March 31, 2000	712
Milwaukee County Transit System, WI, Complaint No. 99043, July 31, 2000.....	777
Milwaukee County Transit System, WI, Complaint No. 99173-99140, February 28, 2002	1217
New York City Transit Authority, NY, Complaint No. 99039, February 28, 2001.....	
OMNITRANS, CA, Complaint No. 97129, February 2, 1998	350
OMNITRANS, CA, Complaint No. 99003, August 19, 1999.....	587
Regional Transit Authority, LA, Complaint No. 01-0024, August 12, 2002.....	1280
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 98090, December 30, 1999.....	655
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 99050, December 19, 2002.....	1352
San Joaquin Regional Transit District, CA, Complaint No. 01-0176, December 13, 2002.....	1348
Santa Barbara Metropolitan Transit District, CA, Complaint No. 97008, October 4, 1997	262
Santa Clara Valley Transportation Authority, CA, Complaint No. 96175, April 24, 1997	152
South Bend Public Transportation Corporation, IN, Complaint No. 00-0237, May 23, 2002	1259
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 96164, March 19, 1997	105

Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 000345, May 3, 2002	1239
Spokane Transit Authority, WA, Complaint No. 94172, December 24, 1997	321
Toledo Area Regional Transit Authority, OH, Complaint No. 99270, May 16, 2001	922
Town of Chapel Hill, NC, Complaint No. 99001, December 30, 1999	659
Washington Metropolitan Area Transit Authority, DC, Complaint No. 99164, February 29, 2000	693
Washington Metropolitan Area Transit Authority, DC, Complaint No. 01-0248, March 7, 2003	1383

LIFT-EQUIPPED VEHICLES

Metropolitan Transit Authority, TX, Complaint No. 96074, July 24, 1996	14
PACE Suburban Bus Division, IL, Complaint No. 95041, November 13, 1996	34
Santa Clara Valley Transportation Authority, CA, Complaint No. 96175, April 24, 1997	152

LOCAL JURISDICTION

Bloomington Public Transportation Corporation, IN, Complaint No. 97078, March 2, 1998	395
Chicago Transit Authority, IL, Complaint No. 95172, February 13, 1997	79
City of Davenport, IA, Complaint No. 96008, April 10, 1997	140
City of Davenport, IA, Complaint No. 96008, August 21, 1997	237
Duluth Transit Authority, MN, Complaint No. 97265, December 15, 1997	307
East Bay Paratransit Consortium, CA, Complaint No. 98002, October 13, 1999	627
King County Department of Metropolitan Services, WA, Complaint No. October 27, 1997	271
Metro-North Commuter Railroad, NY, Complaint No. 99093, May 9, 2002	1244
Missoula Urban Transit District, MT, Complaint No. 92096, August 14, 1997	222
New York City Transit Authority, NY, Complaint No. 94125, March 10, 1998	404
New York City Transit Authority, NY, Complaint No. 99108, September 23, 1999	613
New York City Transit Authority, NY, Complaint No. 00052, April 4, 2000	718

Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97127, March 19, 1997	103
Orange County Transportation Authority, CA, Complaint No. 96080, June 20, 1996.....	5
Orange County Transportation Authority, CA, Complaint No. 96098, June 26, 1996.....	7
Pinellas Suncoast Transit Authority, FL, Complaint No. 97060, February 6, 1998.....	355
Pinellas Suncoast Transportation Authority, FL, Complaint No. 99054, May 14, 1999.....	546
San Francisco Municipal Railway, CA, Complaint No. 98081, April 8, 1999.....	533
Spokane Transit Authority, WA, Complaint No. 94172, December 24, 1997.....	321
Valley Transportation, Lewiston, ID, Complaint No. 00058, January 16, 2002.....	1108
Worcester Regional Transit Authority, MA, Complaint No. 99035, June 17, 1999.....	572

MEDICAL EMERGENCY

Massachusetts Bay Transportation Authority, MA, Complaint No. 97153, May 8, 1998	444
Santa Clara Valley Transportation District, CA, Complaint No. 95199, December 8, 1997.....	300

MISSED OR PASSED UP RIDES

Access Services Incorporated, CA, Complaint No. 01-0093, January 22, 2002.....	1128
Access Services Incorporated, CA, Complaint No. 01-0182, January 17, 2002.....	1117
Alameda-Contra Costa County Transit, CA, Complaint No. 96077, July 24, 1996	18
Chatham Area Transit Authority, GA, Complaint No. 00-0319, February 19, 2002.....	1185
Louisiana Consolidated Government, LA, Complaint No. 96208, May 21, 1998.....	456
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 97246, August 28, 2000	791
Madison Metro Transit System, MI, June 4, 1996.....	1
Mass Transportation Authority of Flint, MI, Complaint No. 96095, January 30, 1997.....	72
Montgomery Ride On and Transit Services, MD, Complaint No. 02-0097, March 29, 2004.....	1503
New Jersey Transit Corporation, NJ, Complaint No. 95165, February 12, 1998	367
Orange County Transit Authority, CA, Complaint No. 98189, October 13, 1999.....	629

Phoenix Transit System, AZ, Complaint No. 98230, September 8, 1999..... 599

Port Authority of Allegheny County, PA, Complaint No. 99102, February 4, 2000 682

San Joaquin Regional Transit District, CA, Complaint No. 01-0176, December 13, 2002..... 1348

Santa Clara Valley Transportation Authority, CA, Complaint No. 97089, January 19, 2000..... 671

Santa Clarita Transit, CA, Complaint No. 97243, December 30, 1999 668

Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 000345,
May 3, 2002..... 1239

Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 010033,
May 9, 2002..... 1242

Sun Tran, AZ, Complaint No. 99202, March 24, 2003 1392

Washington Metropolitan Area Transit Authority, DC, Complaint No. 97076,
September 24, 1997 253

OBESITY

Eastern Tennessee Human Resource Agency, TN, Complaint No. 00-0267, February 13, 2002..... 1181

ONE CAR PER TRAIN RULE

San Mateo County Transit District, CA, Complaint No. 95143, November 26, 1997 286

Washington Metropolitan Area Transit Authority, DC, Complaint No. 96087, October 30, 2000 795

Washington Metropolitan Area Transit Authority, DC, Complaint No. 97157, October 30, 2000 798

Washington Metropolitan Area Transit Authority, DC, Complaint No. 98105, October 30, 2000 801

ORIGIN TO DESTINATION SERVICE

Access Services Incorporated, CA, Complaint No. 98261, July 31, 2000..... 781

City of Glendale, CA, Complaint No. 97002, December 5, 1997..... 295

City Transit Management Incorporated, TX, Complaint No. 99019, May 14, 1999 552

Cobb County Transit, GA, Complaint No. 99095, December 30, 1999 649

Dallas Area Rapid Transit, TX, Complaint No. 96065, December 24, 1997 316

Dallas Area Rapid Transit, TX, Complaint No. 00-0269, April 3, 2001.....	901
Louisiana Consolidated Government, LA, Complaint No. 96208, May 21, 1998	456
Madison Metro Transit System, WI, June 4, 1996.....	1
Madison Metro Transit System, WI, Complaint No. 000313, August 21, 2001	1062
Metropolitan Bus Authority, PR, Complaint No. 99228, April 27, 2000	722
Milwaukee County Transit System, WI, Complaint No. 99043, July 31, 2000.....	777
Regional Transportation District, CO, Complaint No. 96060, July 24, 1996	16
Santa Clara Valley Transportation District, CA, Complaint No. 95199, February 8, 1997.....	76
Santa Clara Valley Transportation Authority, CA, Complaint No. 96175, April 24, 1997	152
Space Coast Area Transportation, FL, Complaint No. 98212, May 27, 1999.....	555
Utah Transit Authority, UT, Complaint No. 00-0263, January 31, 2001.....	868

OVER THE ROAD BUSES

Brazos Transit District, TX, Complaint No. 99104, November 9, 1999.....	635
Brazos Transit District, TX, Complaint No. 01-0066, April 8, 2002	1228

PARATRANSIT ELIGIBILITY

Access Services Incorporated, CA, Complaint No. 96086, September 17, 1996	29
Access Services Incorporated, CA, Complaint No. 96146, April 29, 1997.....	169
Dallas Area Rapid Transit, TX, Complaint No. 96212, April 24, 1997.....	157
Dallas Area Rapid Transit, TX, Complaint No. 96213, April 24, 1997.....	160
Dallas Area Rapid Transit, TX, Complaint No. 96124, April 24, 1997.....	163
East Bay Paratransit Consortium, CA, Complaint No. 01-0055, April 3, 2001	898
Maryland Transit Administration, MD, Complaint No. 99218, October 14, 2003.....	1436
Memphis Area Transit Authority, TN, Complaint No. 99180, January 31, 2001.....	861
Regional Transportation Authority, IL, Complaint No. 00-0397, January 31, 2001	859

Transit Authority of Northern Kentucky, KY, Complaint No. 96107, September 17, 1996..... 27

Appeals

Access Services Incorporated, CA, Complaint No. 00-0258, December 28, 2000 831

Access Services Incorporated, CA, Complaint No. 96146, April 29, 1997..... 169

Access Services Incorporated, CA, Complaint No. 96173, April 29, 1997..... 172

City of Galesburg, IL, Complaint No 00-0071, January 31, 2001 875

East Bay Paratransit Consortium, CA, Complaint No. 99153, February 18, 2000 690

Massachusetts Bay Transportation Authority, MA, Complaint No. 96142, March 27, 1998..... 421

Regional Transportation Commission of Southern Nevada, NV, Complaint No. 00-0405,
December 28, 2000..... 834

Southwest Ohio Regional Transit Authority, OH, Complaint No. 98113, November 24, 1998..... 498

Conditional Eligibility

Access Services Incorporated, CA, Complaint No. 97076, November 10, 1997 280

Access Services Incorporated, CA, Complaint No. 96001, February 19, 1998 390

Capital District Transportation Authority, NY, Complaint No. 98104, October 13, 1999 633

New Jersey Transit Corporation, NJ, Complaint No. 97027, February 10, 1998 365

New Jersey Transit Corporation, NJ, Complaint No. 99006, December 30, 1999 640

Pinellas Suncoast Transit Authority, FL, Complaint No. 97141, November 13, 1998 493

Port Authority of Allegheny County, PA, Complaint No. 97093, January 2, 1998 327

Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 96175,
January 15, 1998 339

Denials

Access Services Incorporated, CA, Complaint No. 96121, February 2, 1998 353

Access Services Incorporated, CA, Complaint No. 98193, December 11, 1998 508

Access Services Incorporated, CA, Complaint No. 00011, October 30, 2000 812

Access Services Incorporated, CA, Complaint No. 00-0258, December 28, 2000 831

Central Florida Regional Transportation Authority, FL, Complaint No. 00-0380, August 22, 2002	1292
City of Galesburg, IL, Complaint No 00-0071, January 31, 2001	875
Dallas Area Rapid Transit, TX, Complaint No. 95200, February 20, 1997	82
King County Department of Metropolitan Services, WA, Complaint No. 99077, August 24, 1999	590
Kitsap Transit, WA, Complaint No. 95171, March 20, 1997	107
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 00007, May 9, 2002	1246
Madison Metro Transit System, WI, Complaint No. 97023, January 13, 1998	332
Metro Regional Transit Authority, OH, Complaint No. 01-0138, May 3, 2002	1236
Niagra Frontier Transportation Authority, NY, Complaint No. 97049, February 12, 1998	373
Orange County Transportation Authority, CA, Complaint No. 00-0238, February 4, 2002	1171
Pierce Transit, WA, Complaint No. 97032, February 19, 1998	1027
Port Authority of Allegheny County, PA, Complaint No. 00062, May 23, 2002	1265
Regional Transportation Authority, IL, Complaint No. 98213, August 19, 1999	584
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 97267, November 19, 1998	495
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 99033, August 16, 1999	579
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 98215, October 6, 1999	624
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 00-0405, December 28, 2000	834
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 010058, June 28, 2001	1053
San Diego Metropolitan Transit Development Board, CA, Complaint No. 99117, April 15, 2002	1230
San Mateo County Transit District, CA, Complaint No. 97199, August 17, 1999	604
<i>Recertification</i>	
Access Services Incorporated, CA, Complaint No. 00-0403, June 28, 2001	1041

City of Colorado Springs, CO, Complaint No. 97281, June 1, 1999	567
City of Tucson, AZ, Complaint No. 98225, May 27, 1999	559
East Bay Paratransit Consortium, CA, Complaint No. 99153, February 18, 2000	690
Madison Metro Transit System, WI, Complaint No. 97023, January 13, 1998	332
Madison Metro Transit System, WI, Complaint No. 98144, February 10, 1999.....	522
Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 98245, November 25, 1998.....	501
New Jersey Transit Corporation, NJ, Complaint No. 99006, December 30, 1999	850
Sacramento Regional Transit District, CA, Complaint No. 97193, May 21, 1998	461
Sacramento Regional Transit District, CA, Complaint No. 98031, March 23, 1999.....	529
Southeastern Pennsylvania Transit Authority, PA, Complaint No. 97273, January 15, 1998.....	341
 <i>Suspensions</i>	
Greater Waterbury Transit District, CT, Complaint No. 97012, August 6, 1997	213
Intercity Transit, WA, Complaint No. 95184, December 8, 1996	56
Niagra Frontier Transportation Authority, NY, Complaint No. 00012, May 31, 2000	747
Port Authority of Allegheny County, PA, Complaint No. 00-0322, February 28, 2001	708
San Francisco Municipal Railway, CA, Complaint No. 96078, December 19, 1996.....	58
Washington Metropolitan Area Transit Authority, DC, Complaint No. 97095, October 2, 2002	1340
 <i>Temporary Eligibility</i>	
Massachusetts Bay Transportation Authority, MA, Complaint No. 96169, March 27, 1997.....	117
 <i>Three-Quarter Mile Corridor</i>	
Chicago Transit Authority, IL, Complaint No. 00-044, September 4, 2003	1433
Coconino County Community Services Department, AZ, Complaint No. 97071, August 6, 1997	216
Corridor Transportation Corporation and Howard Area Transit Service, MD, Complaint No. 01-0188, June 16, 2004	1513

Lee County Transit, FL, Complaint No. 97250, December 18, 1997 312

Lehigh and Northampton Transportation Authority, PA, Complaint No. 99280,
February 2, 2000..... 676

Loveland, OH, Case No. 00008, February 29, 2000 704

Transit Authority of River City, KY, Complaint No. 96203, March 20, 1997 109

Whatcom County Transit Authority, WA, Complaint No. 01-0136, April 3, 2001..... 903

Visitor Policies

Access Services Incorporated, CA, Complaint No. 96146, April 29, 1997..... 169

Kansas City Area Transportation Authority, MO, Complaint No. 94237, September 21, 1999 607

PACE Suburban Bus Division, IL, Complaint No. 97108, March 13, 1998..... 410

Riverside Transit Authority, CA, Complaint No. 96141, June 2, 1997..... 192

PARATRANSIT PLANS

Massachusetts Bay Transportation Authority, MA, Complaint No. 96142, March 27, 1998..... 421

PARATRANSIT NO SHOWS

Access Services Incorporated, CA, Complaint No. 00-0309, February 28, 2002 1219

Dallas Area Rapid Transit, TX, Complaint No. 96065, December 24, 1997 316

Greater New Haven Transit District, CT, Complaint No. 99223, September 16, 2002..... 1324

Madison Metro Transit System, WI, June 4, 1996..... 1

Memphis Area Transit Authority, Complaint No. 97255, December 28, 2000..... 837

Memphis Area Transit Authority, Complaint No. 99090, December 28, 2000..... 845

Metropolitan Tulsa Transit Authority, OK, Complaint No. 98276, March 31, 2000 712

Regional Transportation District, CO, Complaint No. 96060, July 24, 1996 16

Santa Clara Valley Transportation District, Complaint No. 95199, February 8, 1997..... 76

Santa Clara Valley Transportation District, CA, Complaint No. 95199, December 8, 1997..... 300

Storer Transit Systems, CA, Complaint No. 97147, March 16, 1998..... 418

Transit Authority of River City, KY, Complaint No. 98057, August 5, 1998 469

Washington Metropolitan Area Transit Authority, DC, Complaint No. 99164,
February 29, 2000..... 693

PARATRANSIT SERVICE RESPONSE TIMES AND SCHEDULING

One Hour Before or After Desired Trip

Brownsville Urban System, TX, Complaint No. 98097, December 22, 1998 516

Capital Metropolitan Transportation Authority, TX, Complaint Nos. 95042 and 96014,
December 22, 1998 513

City Transit Management Incorporated, TX, Complaint No. 99019, May 14, 1999 552

Massachusetts Bay Transportation Authority, MA, Complaint No. 02-0009,
November 8, 2004 1553

Regional Transportation District, CO, Complaint No. 96060, July 24, 1996 16

San Mateo County Transit District, CA, Complaint No. 99103, January 30, 2002 1155

San Mateo County Transit District, CA, Complaint No. 97102, September 20, 1999 604

Santa Barbara Metropolitan Transit District, CA, Complaint No. 97008, October 4, 1997 262

Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 96061,
July 16, 1996 9

14 Days in Advance

City of Davenport, IA, Complaint No. 96008, April 10, 1997 140

Dallas Area Rapid Transit, TX, Complaint No. 95037, April 23, 1997 148

Metropolitan Council Transit Operations, MN, Complaint No. 96089, September 11, 1996..... 23

Santa Barbara Metropolitan Transit District, CA, Complaint No. 97008, October 4, 1997 262

South Bend Public Transportation Corporation, IN, Complaint No. 00-0237, May 23, 2002 1259

Transit Authority of River City, KY, Complaint No. 96054, November 29, 1997 291

Next Day Service

Bi-State Development Authority, MO, Complaint No. 02-0016, September 10, 2002 1298

City of Hickory Transit, NC, Complaint No. 03-0163, July 15, 2004.....	1521
County of Lebanon Transit Authority, PA, Complaint No. 000333, May 15, 2002.....	1249
Guam Mass Transit Authority, Guam, Complaint No. 99025, June 27, 2001	975
King County Department of Metropolitan Services, WA, Complaint No. 97035, July 29, 1997.....	206
Lower Rio Grande Valley Development Council, TX, Complaint No. 01-0250, January 28, 2003	1370
Metropolitan Transportation Commission and San Francisco Municipal Railroad, CA, Complaint No. 98258, November 17, 2003.....	1447
Metropolitan Tulsa Transit Authority, OK, Complaint No. 00040, May 31, 2000.....	744
Mountain Area Regional Transit Authority, CA, Complaint No. 99264, August 25, 2000	784
New Jersey Transit Corporation, NJ, Complaint No. 95165, February 12, 1998	367
New York City Transit Authority, NY, Complaint No. 99274, January 22, 2002.....	1138
OMNITRANS, CA, Complaint No. 99003, August 19, 1999	587
Sacramento Regional Transit District, CA, Complaint No. 97193, May 21, 1998	461
Sacramento Regional Transit District, CA, Complaint No. 98038, July 10, 2001	1055
San Mateo County Transit District, CA, Complaint No. 99103, January 30, 2002.....	1155
Storer Transit Systems, CA, Complaint No. 97147, March 16, 1998.....	418
 <i>Same Day Service</i>	
City of Oakland, CA, Complaint No. 96073, July 17, 1996.....	11
Pinellas Suncoast Transit Authority, FL, Complaint No. 96058, December 1, 1996.....	37
 <i>Subscription Service</i>	
Access Services Incorporated, CA, Complaint No. 99186, February 4, 2002	1194
Central Midlands Council of Governments, SC, Complaint No. 99168, April 27, 2001	914
Dallas Area Rapid Transit, TX, Complaint No. 95200, February 20, 1997.....	82
Dallas Area Rapid Transit, TX, Complaint No. 95037, April 23, 1997	148
Fresno Area Express, CA, Complaint No. 97113, April 28, 2003.....	1209
Metropolitan Council Transit Operations, MN, Complaint No. 98206, December 30, 1999	666

New York City Transit Authority, NY, Complaint No. 94215, March 10, 1998..... 404

Orange County Transit Authority, CA, Complaint No. 98189, October 13, 1999 629

RIDE Transit Services, CO, Complaint No. 98092, August 18, 1998 475

Sacramento Regional Transit District, CA, Complaint No. 98066, September 22, 1998 484

Sacramento Regional Transit District, CA, Complaint No. 98031, March 23, 1999..... 529

Santa Barbara Metropolitan Transit District, CA, Complaint No. 97008, October 4, 1997 262

Santa Barbara Metropolitan Transit District, CA, Complaint No. 00003, June 30, 2000 761

South Bend Public Transportation Corporation, IN, Complaint No. 00-0237, May 23, 2002 1259

Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 99194,
December 11, 2001..... 1066

Telephone Reservations

City of Davenport, IA, Complaint No. 96008, February 26, 1997 85

Wheelchair Priority

Metropolitan Transit Authority, TN, Complaint No. 95006, February 6, 1998 362

PARKING

Bi-State Development Agency, MO, Complaint No. 98211, September 23, 1999 615

Maryland Transit Administration, MD, Complaint No. 95168, December 29, 2003 1460

Metro-North Commuter Railroad, NY, Complaint No. 99093, May 9, 2002 1244

Midway Municipal Airport, IL, Complaint No. 97272, January 12, 1998 330

Southwest Ohio Regional Transit Authority, OH, Complaint No. 98113, November 24, 1998..... 498

Utah Transit Authority, UT, Complaint No. 99292, February 2, 2000 674

Whatcom Transit Authority, WA, Complaint No. 99078, September 20, 1999..... 602

PERSONAL CARE ATTENDANTS

City of Las Vegas, NV, Complaint No. 99285, December 28, 2000 829

Intercity Transit, WA, Complaint No. 95184, December 8, 1996.....	56
Jackson Transit Authority, FL, Complaint No. 01-0185, December 19, 2002.....	1358
New Jersey Transit Corporation, NJ, Complaint No. 99076, December 30, 2000	850
Niagra Frontier Transportation Authority, NY, Complaint No. 00012, May 31, 2000	747
Orange County Transportation Authority, CA, Complaint No. 95111, March 26, 1997	111
San Mateo County Transit District, CA, Complaint No. 95143, November 26, 1997	286
VIA Metropolitan Transit, TX, Complaint No. 96155, January 20, 1998.....	343

PRIORITY BOARDING

Jacksonville Transportation Authority, FL, Complaint No. 02-0084, March 12, 2003	1387
King County Department of Metropolitan Services, WA, Complaint No. 98274, June 30, 2000	758

PRIORITY SEATING

Capital Metropolitan Transit Authority, TX, Complaint No. 97024, February 19, 1998	384
Central Florida Regional Transportation Authority, FL, Complaint No. 01-0034, December 23, 2002.....	1361
Central Oklahoma Transportation and Parking Authority, OK, Complaint No. 00-0329, February 4, 2002.....	1163
Long Beach Transit, CA, Complaint No. 96147, January 24, 1997	70
New Jersey Transit Corporation, NJ, Complaint No. 95069, September 3, 1998.....	479
Orange County Transportation Authority, CA, Complaint No. 00-0238, February 4, 2002	1171
Pierce Transit, WA, Complaint No. 99141, June 28, 2001	1027
San Francisco Municipal Railway, CA, Complaint No. 96078, December 19, 1996.....	58
San Francisco Municipal Railway, CA, Complaint No. 00317, January 22, 2002	1140
San Francisco Municipal Railway, CA, Complaint No. 01-0145, February 4, 2002	1157
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 97179, November 10, 1997	277

Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 97184, February 6, 1998.....	360
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 99277, August 12, 2002	1274
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 04-0069, December 2, 2004.....	1562
Utah Transit Authority, UT, Complaint No. 00047, December 28, 2000	821
Utah Transit Authority, UT, Complaint No. 01-0088, January 24, 2002.....	1147

PRIVATE ENTITIES

Brazos Transit District, TX, Complaint No. 99104, November 9, 1999.....	635
South Town Wheelchair Services, NY, Complaint No. 03-0238, December 9, 2004	1567

PUBLIC HEARINGS

Chicago Transit Authority, IL, Complaint No. 00-044, September 4, 2003	1433
City of Davenport, IA, Complaint No. 96008, February 26, 1997	85
Fresno Area Express, CA, Complaint No. 97113, April 28, 2003.....	1401
Metropolitan Transit Authority, TN, Complaint No. 01-0026, April 15, 2003.....	1396
New York Metropolitan Transit Authority, Long Island Bus, NY, Complaint No. 00060, May 31, 2000	737
Peninsula Corridor Joint Powers Board, CA, Complaint No. 97174, May 1, 1998	434
Transit Authority of River City, KY, Complaint No. 98057, August 5, 1998	469

RAIL STATIONS AND PLATFORMS

Long Island Railroad, NY, Complaint No. 97091, October 27, 1997.....	269
Northwestern Indiana Commuter Transit District, IN, Complaint No. 97052, January 13, 1998	335
Peninsula Joint Powers Board, CA, Complaint No. 97178, October 15, 1997.....	267
Washington Metropolitan Area Transit Authority, DC, Complaint No. 96087, October 30, 2000	795

Washington Metropolitan Area Transit Authority, DC, Complaint No. 97157,
October 30, 2000 798

Washington Metropolitan Area Transit Authority, DC, Complaint No. 98105,
October 30, 2000 801

REDUCTION IN SERVICE—Also See LOCAL JURISDICTION

OMNITRANS, CA, Complaint No. 97112, September 5, 1997 248

San Francisco Municipal Railway, CA, Complaint No. 98081, April 8, 1999..... 533

RESTROOMS

Cape Cod Regional Transit Authority, MA, Complaint No. 95091, September 4, 2003 1428

Metropolitan Atlanta Rapid Transit Authority, GA, Complaint No. 96057, August 6, 1997 209

Tri-County Commuter Rail Authority, FL, Complaint No. 97098, August 22, 2002 1290

RETALIATION

City of Colorado Springs, CO, Complaint No. 97281, June 1, 1999 567

City of Greensboro Transit Authority, NC, Complaint No. 99151, July 31, 2000..... 764

Coastal Rapid Public Transit Authority, SC, Complaint No. 99298, February 4, 2002 1173

Dallas Area Rapid Transit, TX, Complaint No. 96023, March 27, 1997..... 114

Maryland Transit Administration, MD, Complaint No. 02-0090, January 28, 2004..... 1478

Metropolitan Bus Authority, PR, Complaint No. 99228, April 27, 2000 722

Niagra Frontier Transportation Authority, NY, Complaint No. 00012, May 31, 2000 747

North Slope Borough Department of Transportation, AK, Complaint No. 01-0067,
January 19, 2002 1119

Phoenix Transit System, AZ, Complaint No. 97057, February 12, 1998..... 375

San Joaquin Regional Transit District, CA, Complaint No. 99067, September 29, 1999..... 621

Santa Clara Valley Transportation Authority, CA, Complaint No. 96175, April 24, 1997 152

Storer Transit Systems, CA, Complaint No. 97147, March 16, 1998..... 418

Toledo Area Regional Transit Authority, OH, Complaint No. 99270, May 16, 2001 922

Transit Authority of River City, KY, Complaint No. 98057, August 5, 1998 469

VIA Metropolitan Transit, TX, Complaint No. 96155, January 20, 1998..... 343

RETROFITTING

Central Midlands Council of Governments, SC, Complaint No. 99168, April 27, 2001 914

City of Las Vegas, NV, Complaint No. 99285, December 28, 2000 829

Memphis Area Transit Authority, TN, Complaint No. 97255, December 28, 2000 845

Metropolitan Transit Authority, TX, Complaint No. 97274, July 23, 1999..... 574

Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 96150,
March 31, 1997 132

ROUTE ELIMINATION—Also see LOCAL JURISDICTION

Missoula Urban Transit District, MT, Complaint No. 92096, August 14, 1997..... 222

Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 98052,
May 7, 1998 438

Victor Valley Transit Authority, CA, Complaint No. 98185, May 27, 1999 557

SAFETY

Capital Metropolitan Transportation Authority, TX, Complaint Nos. 95042 and 96014,
December 22, 1998..... 513

Metropolitan Transportation Authority, NY, Complaint No. 00-0239, January 22, 2002 1122

Southwest Ohio Regional Transit Authority, OH, Complaint No. 98113, November 24, 1998..... 498

Suburban Mobility for Regional Transport, MI, Complaint No. 00035, July 11, 2002..... 1269

SECUREMENT SYSTEMS

Driver Assistance

Brownsville Urban System, TX, Complaint No. 98097, December 22, 1998 516

Capital Area Transportation Authority, MI, Complaint No. 03-0119, August 9, 2004	1529
Capital Metropolitan Transit Authority, TX, Complaint No. 97024, February 19, 1998	384
Chatham Area Transit Authority, GA, Complaint No. 00-0319, February 19, 2002	1185
Chattanooga Area Regional Transit Authority, TN, Complaint No. 98048, November 3, 1998	489
City of Oakland, CA, Complaint No. 96073, July 17, 1996	11
City of Santa Monica Big Blue Bus, CA, Complaint No. 99066, September 2, 1999	596
Greyhound Bus Lines, FL, Complaint No. 96075, January 8, 1997	65
Island Transit, TX, Complaint No. 02-0199, December 2, 2004	1558
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 97246, August 28, 2000	791
Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 01-0189, November 8, 2004	1549
Miami Valley Regional Transit Authority, OH, Complaint No. 99197, February 25, 2002	1197
Mountain Area Regional Transit Authority, CA, Complaint No. 00056, January 22, 2002	1133
Port Authority of Allegheny County, PA, Complaint No. 96183, April 24, 1997	165
Port Authority of Allegheny County, PA, Complaint No. 99102, February 4, 2000	682
Port Authority of Allegheny County, PA, Complaint No. 98095, March 31, 2000	708
Regional Transit Authority, LA, Complaint No. 99081, January 17, 2002	1115
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 00-0409, February 4, 2002	1167
Regional Transportation Commission of Southern Nevada, NV, Complaint No. 99050, December 19, 2002	1352
Santa Monica Municipal Bus Lines, CA, Complaint No. 97039, March 10, 1998	401
Southeastern Pennsylvania Transportation Authority, PA, Complaint No. 92225, June 13, 1997	197
Suburban Mobility Authority for Regional Transportation, MI, Complaint No. 00035, July 11, 2002	1573
Sun Tran, AZ, Complaint No. 99202, March 24, 2003	1392
Toledo Area Regional Transit Authority, OH, Complaint No. 99268, April 11, 2001	911

Washington Metropolitan Area Transit Authority, DC, Complaint No. 99164,
February 29, 2000..... 693

Washington Metropolitan Area Transit Authority, DC, Complaint No. 01-0248,
March 7, 2003 1383

Securement Location

Capital Area Transportation Authority, MI, Complaint No. 03-0119, August 9, 2004 1529

Dallas Area Rapid Transit, TX, Complaint No. 98288, February 25, 2002..... 1195

Side-Facing Wheelchairs

Access Services Incorporated, CA, Complaint No. 96178, May 18, 1998..... 451

Access Services Incorporated, CA, Complaint No. 01-0239, January 27, 2003 1364

Wheelchair Tie Downs

Cape Cod Regional Transit Authority, MA, Complaint No. 95091, September 4, 2003 1428

Centre Area Transportation Authority, PA, Complaint No. 99088, June 28, 2001 1043

City of Santa Monica Big Blue Bus, CA, Complaint No. 99066, September 2, 1999 596

Island Transit, TX, Complaint No. 02-0199, December 2, 2004..... 1558

Miami Valley Regional Transit Authority, OH, Complaint No. 99197, February 25, 2002 1197

Missoula Urban Transit District, MT, Complaint No. 92096, August 14, 1997..... 222

Northwestern Indiana Commuter Transit District, IN, Complaint No. 97052,
January 13, 1998 335

PACE Suburban Bus Division, IL, Complaint No. 00-0324, January 31, 2001 865

Pinellas Suncoast Transit Authority, FL, Complaint No. 96058, December 1, 1996..... 52

Port Authority of Allegheny County, PA, Complaint No. 96183, April 24, 1997 165

Springs Transit, CO, Complaint No. 97103, July 29, 2003..... 1419

Sun Tran, AZ, Complaint No. 99202, March 24, 2003 1392

SERVICE ANIMALS

Access Services Incorporated, CA, Complaint No. 00-0309, February 28, 2002	1219
Black and White Cabs, VA, Complaint No. 96123, March 5, 1997	97
Central Florida Regional Transportation Authority, FL, Complaint No. 01-0034, December 23, 2002.....	1361
Dallas Area Rapid Transit, TX, Complaint No. 94194, February 17, 1998.....	379
Humboldt Transit Authority, CA, Complaint No. 00-0376, September 16, 2002.....	1318
Kansas City Area Transportation Authority, MO, Complaint No. 00-0280, January 24, 2002.....	1144
New York City Transit Authority, NY, Complaint No. 97056, December 11, 1998.....	510
Phoenix Transit System, AZ, Complaint No. 97057, February 12, 1998.....	375
Pioneer Valley Transit Authority, MA, Complaint No. 96115, December 1, 1996.....	37
Regional Transportation District, CO, Complaint No. 97206, May 23, 2001	927
Riverside Transit Agency, CA, Complaint No. 93583, November 10, 1997.....	273
Riverside Transit Agency, CA, Complaint No. 00-0346, June 11, 2003.....	1409
Toledo Area Regional Transit Authority, OH, Complaint No. 99270, May 16, 2001.....	922
Tri-County Metropolitan Transportation District, OR, Complaint No. 97259, December 11, 1998.....	505

SERVICE CHANGES AND REDUCTIONS

Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97127, March 19, 1997	103
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97073, June 10, 1997	195
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97120, August 14, 1997	235
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97148, August 28, 1997	245
Northeast Illinois Regional Commuter Railroad Corporation, IL, Complaint No. 97284, December 31, 1997.....	325

I-100

OMNITRANS, CA, Complaint No. 97129, February 2, 1998	350
Orange County Transportation Authority, CA, Complaint No. 96080, June 20, 1996	5
Orange County Transportation Authority, CA, Complaint No. 96098, June 26, 1996	7
Regional Transit System, FL, Complaint No. 97170, December 11, 1997	303

SCHOOL BUS SERVICE

RIDE Transit Service, CO, Complaint No. 98092, August 18, 1998	475
Springs Transit, CO, Complaint No. 97103, July 29, 2003	1419

SEATBELTS

East Volusia Transportation Authority, FL, Complaint No. 96200, July 3, 1997	200
Metro-Dade Transit Agency, FL, Complaint No. 96133, March 3, 1997	94
Port Authority of Allegheny County, PA, Complaint No. 95134, April 7, 1998	430
VIA Metropolitan Transit, TX, Complaint No. 96155, January 20, 1998	343

SETTLEMENT AGREEMENTS

Johnson City Transit, TN, Complaint No. 010154, June 28, 2001	984
VIA Metropolitan Transportation, TX, Complaint No. 95202, March 26, 2001	896

SIGNAGE

Bay Area Rapid Transit District, CA, Complaint No. 98102, March 2, 1999	524
Louisiana Consolidated Government, LA, Complaint No. 96208, May 21, 1998	456
Whatcom Transit Authority, WA, Complaint No. 97065, September 26, 1997	257

SMOKING POLICIES

Chicago Transit Authority, IL, Complaint No. 95172, February 13, 1997	79
City of Davenport, IA, Complaint No. 96008, August 21, 1997	237

Worcester Regional Transit Authority, MA, Complaint No. 99035, June 17, 1999 572

STANDBYS

Charleston Area Regional Transportation, SC, Complaint No. 04-0059, March 17, 2004 1496

Toledo Area Regional Transit Authority, OH, Complaint No. 99265, April 11, 2001 905

Toledo Area Regional Transit Authority, OH, Complaint No. 99266, April 11, 2001 908

STOP ANNOUNCEMENTS

Albuquerque Transit Department, NM, Complaint No. 03-2336, April 29, 2004 1507

Albuquerque Transit Department, NM, Complaint No. 04-0032, June 3, 2004 1510

Bay Area Rapid Transit District, CA, Complaint No. 98102, March 2, 1999 524

Capital Area Transit Authority, MI, Complaint No. 94016, February 28, 2002 1222

Capital Metropolitan Transit Authority, TX, Complaint No. 97024, February 19, 1998 384

Chicago Transit Authority, IL, Complaint No. 98260, November 13, 2003 1444

Chicago Transit Authority, IL, Complaint No. 98147, December 4, 2003 1457

City of Lawrence Transit, KS, Complaint No. 010237, July 11, 2002 1267

Dallas Area Rapid Transit, TX, Complaint No. 95200, February 20, 1997 82

Greater Hartford Transit, CT, Complaint No. 99055, July 10, 2001 1059

Humboldt Transit Authority, CA, Complaint No. 00-0376, September 16, 2002 1318

Kansas City Area Transportation Authority, MO, Complaint No. 94237, September 21, 1999 607

Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 95040,
January 23, 1998 346

Maryland Transit Administration, MD, Complaint No. 99218, October 14, 2003 1436

Maryland Transit Administration, MD, Complaint No. 98210, December 2, 2003 1452

Metropolitan Transportation Authority, NY, Complaint No. 96120, September 13, 1996 25

Metropolitan Transit Authority, TN, Complaint No. 95006, February 6, 1998 362

Metropolitan Transit Authority, TN, Complaint No. 01-0026, April 15, 2003 1396

New Jersey Transit Corporation, NJ, Complaint No. 95069, September 3, 1998.....	479
Pioneer Valley Transit Authority, MA, Complaint No. 96115, December 1, 1996.....	37
Prince George’s County Department of Public Works, MD, Complaint No. 98283, December 5, 2002.....	1346
Rhode Island Transit Authority, RI, Complaint No. 01-0225, January 28, 2003	1373
Santa Barbara Metropolitan Transit District, CA, Complaint No. 98068, May 14, 1999	549
Springs Transit, CO, Complaint No. 97103, July 29, 2003.....	1419
Suffolk County Transit, NY, Complaint No. 98244, July 3, 2003	1414
Sun Tran, AZ, Complaint No. 99202, March 24, 2003	1392
Suffolk County Transit, NY, Complaint No. 99018, April 27, 2000	720
Transit Authority of River City, KY, Complaint No. 98057, August 5, 1998	469
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 04-0069, December 2, 2004.....	1562
Utah Transit Authority, UT, Complaint No. 00047, December 28, 2000	821
Utah Transit Authority, UT, Complaint No. 01-0088, January 24, 2002.....	1147
VIA Metropolitan Transit, TX, Complaint No. 95131, August 14, 1997.....	229

SPECIAL ACCOMMODATION

Central Florida Regional Transportation Authority, FL, Complaint No. 00-0305, December 30, 2000	853
--	-----

SPECIALIZED TRANSPORTATION

New Hampshire Department of Transportation, NH, Complaint No. 95007, February 27, 1997	91
--	----

TAXICABS

City of West Hollywood, CA, Complaint No. 96043, May 3, 1997.....	178
Greater Colorado Springs Transportation Company, CO, Complaint No. 94157, May 2, 1997.....	175
Maryland Transit Administration, MD, Complaint No. 99218, October 14, 2003.....	1436

Tri-County Metropolitan Transportation District, OR, Complaint No. 97259,
December 11, 1998..... 505

TRANSFERS

King County Department of Metropolitan Services, WA, Complaint No. 97035, July 29, 1997..... 206

Regional Transportation Commission of Southern Nevada, NV, Complaint No. 00-0409,
February 4, 2002..... 1167

TRANSIT BOARD MEMBERSHIP

Triangle Transit Authority, NC, Complaint No. 96105, January 8, 1997 62

TRAVEL TRAINING

Dallas Area Rapid Transit, TX, Complaint No. 96214, April 24, 1997 163

TRIP DENIALS

Access Services Incorporated, CA, Complaint No. 00030, October 30, 2000 804

Access Services Incorporated, CA, Complaint No. 00-0402, June 28, 2001..... 1045

Kanawha Valley Regional Transportation Authority, WV, Complaint No. 98207,
May 14, 1999 542

Massachusetts Bay Transportation Authority, MA, Complaint No. 00-048, February 5, 2003..... 1380

Memphis Area Transit Authority, TN, Complaint No. 99090, December 28, 2000 837

Sacramento Regional Transit District, CA, Complaint No. 99161, January 9, 2002..... 1072

Santa Barbara Metropolitan Transit District, CA, Complaint No. 00003, June 30, 2000 761

Toledo Area Regional Transit Authority, OH, Complaint No. 99267, August 28, 2000 786

Toledo Area Regional Transit Authority, OH, Complaint No. 99265, April 11, 2001..... 905

Toledo Area Regional Transit Authority, OH, Complaint No. 99266, April 11, 2001..... 908

VIA Metropolitan Transportation, TX, Complaint No. 95202, March 26, 2001 896

TRIP LENGTH

East Bay Paratransit Consortium, CA, Complaint No. 98002, October 13, 1999..... 627

Massachusetts Bay Transportation Authority, MA, Complaint No. 02-0009,
November 8, 2004 1553

Milwaukee County Transit System, WI, Complaint No. 99173-99140, February 28, 2002 1217

Regional Transit Authority, LA, Complaint No. 01-0024, August 12, 2002 1280

San Joaquin Regional Transit District, CA, Complaint No. 99067, September 29, 1999..... 621

San Joaquin Regional Transit District, CA, Complaint No. 01-0176, December 13, 2002..... 1348

Transit Authority of River City, KY, Complaint No. 98057, August 5, 1998 469

Utah Transit Authority, UT, Complaint No. 00-0263, January 31, 2001..... 868

TRIP PURPOSE

Access Services Incorporated, CA, Complaint No. 97198, November 21, 1997 283

Dallas Area Rapid Transit, TX, Complaint No. 96023, March 27, 1997..... 114

Transit Authority of River City, KY, Complaint No. 96054, November 29, 1997 291

TROLLEYS

Cape Cod Regional Transit Authority, MA, Complaint No. 95091, September 4, 2003 1428

VISUAL IMPAIRMENT

Bay Area Rapid Transit District, CA, Complaint No. 98102, March 2, 1999 524

Chicago Transit Authority, IL, Complaint No. 98260, November 13, 2003 1444

Dallas Area Rapid Transit, TX, Complaint No. 95200, February 20, 1997 82

Dallas Area Rapid Transit, TX, Complaint No. 96212, April 24, 1997 157

Dallas Area Rapid Transit, TX, Complaint No. 96213, April 24, 1997 160

Dallas Area Rapid Transit, TX, Complaint No. 96214, April 24, 1997 163

Los Angeles County Metropolitan Transportation Authority, CA, Complaint No. 97028, January 24, 2002	1142
Maryland Transit Administration, MD, Complaint No. 99218, October 14, 2003.....	1436
Metropolitan Council Transit Operations, MN, Complaint No. 96228, August 14, 1997.....	233
Pioneer Valley Transit Authority, MA, Complaint No. 96115, December 1, 1996.....	52
Sacramento Regional Transit District, CA, Complaint No. 98066, September 22, 1998	484
Santa Barbara Metropolitan Transit District, CA, Complaint No. 98068, May 14, 1999	549
Santa Cruz Metropolitan Transit District, CA, Complaint No. 97092, June 27, 2001.....	966
Tri-County Metropolitan Transportation District of Oregon, OR, Complaint No. 04-0069, December 2, 2004.....	1562
Tri-County Rail Authority, FL, Complaint No. 99049, September 10, 2002.....	1313
Utah Transit Authority, UT, Complaint No. 01-0088, January 24, 2002.....	1147

COMPLIANCE ASSESSMENTS

Central Florida Regional Transportation Authority, FL, May 25–28, 1999	1575
Issues: Stop Announcements, Vehicle/Passenger Identification, Visual Impairment	
Central Midlands Council of Governments, SC, July 13–16, 1999	1664
Issues: Paratransit Service Assessment	
Chicago Transit Authority, IL, July 31, 2000.....	1689
Issues: Paratransit Service Assessment	
Jacksonville Transportation Authority, FL, May 30, 2000.....	1623
Issues: Paratransit Service Assessment	
Miami-Dade Transit Authority, FL, September 26, 1998.....	1575
Issues: Stop Announcements, Route Identification	

ACKNOWLEDGMENTS

This study was performed under the overall guidance of TCRP Project Committee J-5. The Committee is chaired by **Robin M. Reitzes**, San Francisco City Attorney's Office, San Francisco, California. Members are **Rolf G. Asphaug**, Denver Regional Transportation District, Denver, Colorado; **Darrell Brown**, Transit Management of Southeast Louisiana, Inc., RTA New Orleans, New Orleans, Louisiana; **Dorval Ronald Carter, Jr.**, Chicago Transit Authority, Chicago, Illinois; **Dennis C. Gardner**, Ogletree, Deakins, Nash, Smoak & Stewart, Houston, Texas; **Clark Jordan-Holmes**, Joyner & Jordan-Holmes, P.A., Tampa, Florida; **Sheryl King Benford**, Greater Cleveland Regional Transit Authority, Cleveland, Ohio; and **Alan S. Max**, City of Phoenix Public Transit Department, Phoenix, Arizona. **Rita M. Maristch** provides liaison with the Federal Transit Administration, and **James P. LaRusch** serves as liaison with the American Public Transportation Association. **Gwen Chisholm Smith** represents the TCRP staff.



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 4 1996

Dear [REDACTED]

This responds to your correspondence to the Federal Transit Administration's (FTA) Office of Civil Rights regarding allegations of discrimination against Madison Metro of Madison, Wisconsin. We have reviewed your complaint in the context of the Department of Transportation's regulation implementing the Americans with Disabilities Act of 1990 (ADA), 49 CFR Parts 27, 37, and 38. We understand that your basic underlying complaint is that Madison Metro will not certify you to ride the Metro+Plus taxi-provided paratransit service, but instead offers Local Motion, a route deviation service, that you cannot tolerate because of your respiratory and Multiple Chemical Sensitivity (MCS) disabilities. In addition, we understand that you allege the following:

1. Madison Metro would not provide you paratransit service to its public hearing;
2. Madison Metro dispatchers and managers are discourteous to you;
3. An FTA employee was discourteous to you;
4. Paratransit fare increases have a disproportionate effect on paratransit users;
5. Madison Metro intends to eliminate paratransit service; and
6. On January 27, 1996, your paratransit ride did not pick you up for a previously scheduled return trip.

While a medical diagnosis, in and of itself, does not qualify one for paratransit service, the functional limitations that a disability causes may form the basis of paratransit eligibility. Disability is defined as a physical or mental impairment that substantially limits one or more of the major life activities. The phrase "major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and work.

Section 37.123(e)(1) of the Department's regulation states that any individual with a disability who is unable, as the result of a physical or mental impairment, to board, ride, or disembark

from any accessible vehicle on the system, is eligible for paratransit service. In addition, Section 37.123(e)(3) states that any individual with a disability whose impairment-related condition prevents them from traveling to or from a boarding location along the fixed route system is also eligible for paratransit service. If MCS or respiratory impairments prevent your using the fixed route under either of these two conditions, you are eligible for paratransit service.

It is important to note that the ADA is a civil rights statute, not a transportation or social service program statute. The ADA clearly emphasizes nondiscriminatory access to fixed route service, with complementary paratransit acting as a "safety net" for people who cannot use the fixed route system. The ADA does not require transit providers to take extraordinary measures to accommodate those who are unable to use the paratransit system.

While reasonable accommodations are required in the context of housing and employment, leading to negotiations and even litigation between the affected parties, the Department's regulation describes with precision, the responsibilities of transit operators to persons with disabilities. Madison Metro's decision to provide paratransit service only to those origins and destinations along its fixed routes fulfills its obligations in this regard. Madison Metro is not required to provide you with door-to-door paratransit to any origin or destination as a "reasonable accommodation" of your disability since, reasonable accommodations are not required in the context of transit service.

1. From the information you provided, it appears that Madison Metro denied your request for a Metro+Plus ride to its public hearing. It is not clear whether you were approved for a Local Motion ride. It is also not clear where the hearing site is located in relation to a fixed route. Section 37.121(a) of the Department's regulation requires only that paratransit service for persons with disabilities be provided to origins or destinations within 3/4 mile of a fixed route.
2. You allege that some Madison Metro managers and paratransit service dispatchers have been discourteous to you on more than one occasion. As you know, the Department's regulation requires that all transit providers are required to train staff to assist and treat individuals with disabilities who use the service in a respectful and courteous way. With your written permission, we would like to send copies of all of the correspondence you provided to us to Madison Metro. This would allow Madison Metro to directly respond to your allegations.
3. We have spoken with the FTA employee whom you allege was discourteous to you during a telephone conversation. He was not aware of the that he had somehow offended you and assured us that he did not intentionally treat you discourteously. Please accept FTA's apologies for any misunderstanding.

4. The fare policy for paratransit is set by the Department's regulation. Section 37.131(c) states that "The fare for a trip charged to an ADA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the entity's fixed route system." Madison Metro is in compliance with this requirement.

5. As complementary paratransit service is required by statute, Madison Metro cannot discontinue service unless it completely ceases its fixed route operations.

6. You cited one particular incident that occurred on January 27, 1996, in which you allege several ADA violations: your scheduled paratransit return trip was a no-show; the dispatcher was rude to you; the dispatcher refused to schedule door-to-door service even though you offered to pay the standard fee for the service. These allegations, if substantiated, may be violations of the ADA. However, we make findings of discrimination based on a pattern or practice of incidents rather than on isolated operational errors. Once again, we would be interested in gaining your approval to release copies of your letters to Madison Metro so that they we can be certain it is aware of the difficulty you encountered.

With regard to your complaint that Madison Metro does not provide you with door-to-door service, the regulation does not prescribe such service, as section 37.129 of the Department's regulation requires only origin-to-destination service. Appendix D to the regulation states that such service may be either curb-to-curb or door-to-door, and that the local planning process should decide whether, or in what circumstances, such service shall be provided. The precise type of service is a matter of local discretion, and does not trigger Federal intervention.

Conclusion

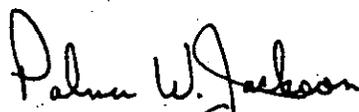
Madison Metro's ADA complementary paratransit system complies with the guidelines set out in the DOT implementing regulation, 49 CFR Parts 27, 37, and 38; its paratransit plan has been approved by FTA. Therefore, we will take no action regarding your complaint that Madison Metro will not allow you to use Metro+Plus taxi service. We also will take no action on the allegations that do not constitute violations under the ADA. We will, however, make note of your allegations of inappropriate employee behavior and of the January 27, 1996, incident. If you approve of our releasing actual copies of your correspondence, please sign the enclosed form and return it to us as soon as possible. If we do not hear from you within 20 days, we will summarize your allegations in our words to present to Madison Metro.

In response to your question about making amendments to the Department's regulation, please contact:

Mr. Robert C. Ashby
Deputy Assistant General Counsel for
Regulation and Enforcement
Department of Transportation
400 7th Street, S.W.
Washington, D.C. 20590

Please contact Roberta Wolgast, Equal Opportunity Specialist, at (202) 366-2285, if you have any questions regarding this letter. I regret that we are unable to assist you further, and I hope that you find a suitable solution to your transportation difficulties.

Sincerely,



Palmer W. Jackson, Jr.
Chief, Operations Division
Office of Civil Rights

cc: Mr. Paul Larrousse, General Manager
Madison Metro Transit System

Enclosure

Federal Transit Administration

TCR-21:RWolgast/RWong:rw:6/4/96:60802

Copies to: TRO-5, TCC (Wong) TCR-1, TCR-20

Chron/Subject Wolgast

O:\Wolgast



U.S. Department
of Transportation
**Federal Transit
Administration**

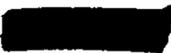
Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 20 1996



FTA Complaint No. 96080

Dear 

This responds to your complaint against the Orange County Transportation Authority (OCTA) in Orange, California, in which you allege that OCTA violated the Americans with Disabilities Act of 1990 (ADA) and the Department of Transportation implementing regulations at 49 CFR Parts 27, 37, and 38. Specifically, you state that OCTA revised its bus schedules on October 1, 1995, eliminating the Route 76 Saturday service to the Mariposa Villa Apartments.

The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA and the DOT implementing regulations. The FTA is the agency of DOT that provides funds to state and local public bodies to assist them with the provision of transit service.

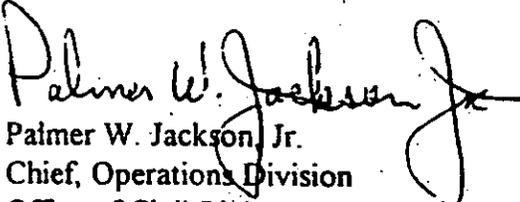
The FTA Office of Civil Rights contacted OCTA and received its response regarding your concerns (copy enclosed). OCTA admits that it should have been more specific about the proposed changes before the public hearing. However, OCTA claims that it notified riders of the service changes through brochures and rider's alert notices before it implemented the changes.

Although we are sensitive to, and concerned about, the needs of transit patrons, FTA is prohibited by Federal Transit Laws, as codified under 49 U.S.C., Section 5324(c) "Prohibitions Against Regulating Operations and Charges" from becoming involved in local decisions regarding transit operations. Federal law does not prevent public entities from changing transit service routes that equally affect all persons who use the transit system. The changes in question appear to be nondiscriminatory because they equally impact all citizens who live in the area, not just specific groups.

We regret that we could not be of more assistance. I suggest that you continue to express your concerns to OCTA as well as appropriate local elected officials regarding this matter. For the reasons explained, we consider your complaint to be resolved and we will close it unless we receive information from you, within 30 days from the date of this letter that would substantially alter these facts.

Please refer to the assigned FTA complaint number when communicating with this office. If you have any questions, please contact Cylinda Queen, of my staff, at (202) 366-0796.

Sincerely,


Palmer W. Jackson, Jr.
Chief, Operations Division
Office of Civil Rights

Enclosure

cc: Stan Ofelie, Chief Executive Officer

Federal Transit Administration

TCR-10:CQueen:cq:6/17/96:60796:FINAL:6/19/96 [FTA #96080]

Copies to: TRO9, TCR1, 20 Chron/Subject, Wolgast/Queen

O:\Queen: 

We regret that we could not be of more assistance. I suggest that you continue to express your concerns to OCTA as well as appropriate local elected officials regarding this matter. For the reasons explained, we consider your complaint to be resolved and we will close it unless we receive information from you, within 30 days from the date of this letter that would substantially alter these facts.

Please refer to the assigned FTA complaint number when communicating with this office. If you have any questions, please contact Cylinda Queen, of my staff, at (202) 366-0796.

Sincerely,

Original Sign By

Palmer W. Jackson, Jr.
Chief, Operations Division
Office of Civil Rights

Enclosure

cc: Stan Ofelie, Chief Executive Officer

Federal Transit Administration

TCR-10:CQueen:cq:6/20/96:60796:FINAL:6/25/96 [FTA #96098]

Copies to: TRO9, TCR1, 20 Chron/Subject, Wolgast/Queen

O:\Queen: [REDACTED]

TCR 1



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 16 1996

[REDACTED]

Re: FTA Complaint No. 96061

Dear [REDACTED]

This responds to your complaint against Tri-County Metropolitan Transportation District of Oregon (Tri-Met) paratransit service provider, "Broadway Cab, Inc. (Broadway)," in which you allege that Tri-Met has violated the Americans with Disabilities Act of 1990 (ADA) and the Department of Transportation implementing regulations at 49 CFR Parts 27, 37, and 38. Specifically, you stated that on December 24, 1995, Broadway picked you up at 1:45 a.m. for a return trip that was scheduled for 8:15 p.m. resulting in a five and one half hour delay which caused you to miss a dosage of seizure medication.

The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA and the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. Under the DOT regulation at 49 CFR 37.131(b)(2), the transit provider may negotiate pickup times with the individual, but the entity shall not require an ADA paratransit eligible individual to schedule a trip to begin more than one hour before or after the individual's desired departure time.

The FTA Office of Civil Rights contacted Tri-Met, and received its response regarding your concerns (copy enclosed). Tri-Met informed us that Broadway scheduled six accessible vans for service on December 24, 1995, but did not anticipate a high rate of absenteeism of its taxicab operators during the Christmas Eve holiday. An increased demand for paratransit service coupled with the absenteeism resulted in the unacceptable service you received from Broadway.

In response to your complaint, Tri-Met and Broadway have initiated the following new procedures to help prevent incidents like this occurring in the future:

- Broadway will schedule more taxicab operators than necessary on holidays in anticipation of a higher than normal level of absenteeism;
- Broadway will review its holiday schedule 48 hours in advance of a holiday and inform Tri-Met if it will be unable to meet the demand; and

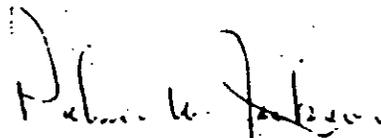
Broadway and Tri-Met will implement a backup procedure for "on call" management support in case a critical situation, such as the incident you described, develops.

We also understand that Broadway apologized to you for the poor service it provided to you on Christmas Eve and provided you a \$50.00 voucher for free cab service. Based on the documentation Tri-Met provided us during our investigation, we believe that it took immediate and appropriate actions to investigate and respond to your complaint. In the FTA complaint resolution process, we attempt to address issues by assisting transit providers and complainants in working together to ensure compliance with the regulations.

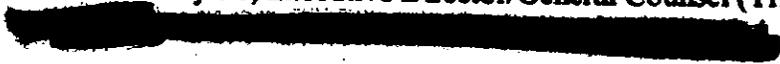
Based on the facts as described above, we will take no further action on your complaint unless we receive information from you, within 30 days from the date of this letter, that would substantially alter our understanding of these facts. Please identify the FTA complaint number in any correspondence with this office.

We hope that your future transit needs with Tri-Met will be adequately served. Thank you for bringing this matter to our attention. Should you need to contact us, Cyllinda Queen, Equal Opportunity Specialist may be reached at (202) 366-0796 or at her electronic mail address: queenc@tcr.dot.gov.

Sincerely,


Palmer W. Jackson, Jr.
Chief, Operations Division
Office of Civil Rights

Enclosure

cc: M. Brian Playfair, Executive Director/General Counsel (Tri-Met)


Federal Transit Administration

TCR-10:CQueen:cq:6/28/96:60796:FINAL:7/15/96

[FTA #96061]

Copies to: TRO-10, TCR1, 20 Chron/Subject, Wolgast/Queen

O:\Queen:  Investigator/Queen

TCK-1



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 17 1996



Re: FTA Complaint No. 96073

Dear [Redacted]

This responds to your complaint against the City of Oakland (the City), California, in which you allege that the City violates the Americans with Disabilities Act of 1990 (ADA) and the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA and the DOT implementing regulations. In the FTA complaint investigative process, we analyze the complainant's allegations for possible ADA violations by the transit provider. If we identify a violation, we attempt to resolve complaints by assisting transit providers to work together with complainants to resolve the ADA issues. Under the ADA, we have no authority to seek monetary damages or compensation on behalf of a complainant. If we cannot voluntarily resolve ADA infringements, formal enforcement proceedings against the transit provider remain an alternative.

You stated in your letter dated January 18, 1996, that you were concerned that the Paratransit for Elderly and Disabled (OPED) service of Oakland, California, was being phased out and replaced with COMSIS Mobility Services (COMSIS.) We received a follow-up letter from you dated May 15, 1996, in which you indicated that you were no longer concerned about the change to COMSIS because you were approved as eligible for ADA paratransit service. However, you stated the following new concerns about COMSIS:

- 1) Rides must be reserved "days ahead of time";
- 2) Drivers will help with only 2 grocery sized packages; and
- 3) You cannot call for a return trip when you are ready to leave.

Our response to your concerns is outlined below:

- 1) The DOT regulation at Section 37.131(b)(1) requires that paratransit providers must provide service on the day following a request for service. There is no requirement for "same day service."
- 2) Section 37.165(f) states that where necessary or upon request, the public transportation provider's personnel shall assist individuals with disabilities with the use of securement systems,

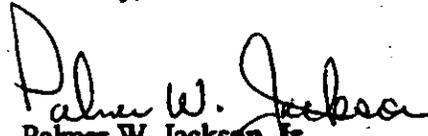
ramps and lifts. The DOT regulation does not require personnel to assist with the passenger's personal possessions. Any service beyond what the DOT regulation requires is at the discretion of the transit provider.

3) The DOT regulation does not require "same day" service.

Based on the information in your file, we do not find any violations of the ADA. We are pleased to hear that you have been approved for COMSIS service and hope that your future transit needs with COMSIS will be adequately served. I regret that we cannot assist you further. Unless we hear from you within 30 days from the date of this letter, we will consider your complaint to be resolved.

If you have any questions, please contact Ms. Cylinda Queen, Equal Opportunity Specialist, of my staff, at (202) 366-0796 or at her electronic mail address: queenc@tcr.dot.gov. Please identify the FTA complaint number when communicating with this office.

Sincerely,


Palmer W. Jackson, Jr.
Chief, Operations Division
Office of Civil Rights

cc: City of Oakland
(complainant's identity withheld)

FEDERAL TRANSIT ADMINISTRATION
TCR-13:CQueen:cq:7/5/96:366-0796 FTA Complaint No. 96073
Copies to: TCR-1, TCR-20 Chron/Subject, Wolgast/Queen
O:\Queen: [REDACTED]



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 24 1996

[REDACTED]

Dear [REDACTED]

Enclosed is a copy of the Federal Transit Administration Office of Civil Right's disposition in response to a complaint against the Metropolitan Transit Authority (METRO) alleging discrimination under the Americans with Disabilities Act of 1990. We did not find METRO in noncompliance, but please note our statement to the complainant regarding METRO's responsibility for providing a backup ride in case of lift failures. Although METRO's policy is valid, it appears the complainant has not been made aware of and offered a backup ride after a reported lift failure. Please reiterate this requirement to your vehicle operators. If you have any questions, please feel free to contact me at (202) 366-2285.

Sincerely,

Palmer W. Jackson, Jr.
Chief, Operations Division
Office of Civil Rights

Enclosure

cc: [REDACTED]

Federal Transit Administration
TCR-21:RWolgast:rw:7/19/96:60802
Copies to: TCR-20, Chron/Subject
Peralta/Wolgast
O:PERALTA [REDACTED]



U.S. Department
of Transportation

Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 24 1996

[REDACTED]

Re: FTA Complaint No. 96074

Dear [REDACTED]

This letter responds to your complaint alleging that the Houston Metropolitan Transit Authority (METRO) is in violation of Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If deficiencies are identified they are presented to the transit provider and assistance is offered to correct the inadequacies within a predetermined timeframe.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Accessible buses are not consistently available on the METRO 143 South Belt Express route; and
2. Lift failures occur approximately seventy-five percent of the time on the accessible buses that do service the route.

We informed METRO of your allegations and requested information relating to your complaint; reviewed the information presented by METRO and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. Our determinations follow:

1. Under Section 37.71, the ADA DOT regulation requires that newly purchased or leased non-rail public transportation vehicles must be accessible to persons with disabilities, including

individuals who use wheelchairs. However, there is no requirement that vehicles must be retrofitted to be made accessible or that transit providers must immediately buy new accessible vehicles. We understand from METRO that its 143 South Belt Express route is not yet a designated "accessible route" because METRO lacks sufficient accessible buses to guarantee that every bus on the route is accessible. This does not constitute a violation of the ADA.

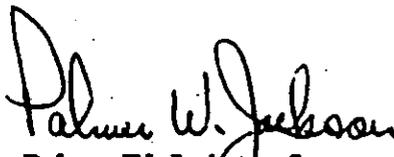
Section 37.121 requires public transportation providers to operate a complementary paratransit service for persons with disabilities who are unable to use the fixed route service. Section 37.123(e)(2) addresses the issue of persons who could ride the fixed route service if it is accessible, but because the route is not yet accessible, are eligible for complementary paratransit service on the non-accessible routes. In your situation, you should be eligible for complementary paratransit service until the 143 South Belt Express route is fully accessible.

2. The DOT ADA regulation at Sections 37.163-37.165 makes certain requirements on public transportation providers regarding using and maintaining accessible features on vehicles, such as lifts on buses. The operator must deploy the lift when requested and assist the rider to use the lift. Accessible features must be maintained in operating condition and any failure of a lift must be reported and repaired promptly.

We have examined METRO's policies regarding these requirements and find that they comply with the DOT ADA regulation. However, we understand it is possible that in real situations, the policies are not always implemented as planned. For instance, when a lift failure occurs, METRO is required to provide you with a backup ride if the headway to the next accessible bus is greater than 30 minutes. Although METRO does have a written policy on this requirement, and it has issued bulletins to its employees regarding the policy, it appears that you have not been offered this service. We have brought this to METRO's attention (see enclosure.)

In conclusion, according to the information we collected, we do not find that METRO is in violation of the ADA with regard to your allegations. If you have any questions regarding this decision, please feel free to contact Roger Peralta, Equal Opportunity Specialist, of my staff, at (202) 366-2285 or at his electronic mail address: peraltar@tcr.dot.gov. Thank you for bringing this matter to our attention.

Sincerely,


Palmer W. Jackson, Jr.
Chief, Operations Division
Office of Civil Rights

inclosure

cc: Robert G. MacLennan, P.E.
General Manager, METRO

11/10/70

Copies to: TRO-9, TCR-1, TCR
(P:Jackson, Peralta, Wolgast), Chron/Subject
"0:PERALTA



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 24 1996

[REDACTED]

Re: FTA Complaint No. 96060

Dear [REDACTED]

This letter responds to your allegation that the Regional Transportation District (RTD), of Denver, Colorado, is in violation of Title II of the Americans with Disabilities Act of 1990 (ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If deficiencies are identified they are presented to the transit provider and assistance is offered to correct the inadequacies within a predetermined timeframe.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

- (1) access-a-Ride drivers will not pick you up or drop you off in front of your residence;
- (2) one of access-a-Ride's dispatchers made an inappropriate remark to you; and
- (3) access-a-Ride does not allow sufficient time for you to get to the entrance of your residence when the vehicle arrives and as a result, you and your mother have been charged with "no-shows."

We informed RTD of your concerns and received its response on behalf of access-a-Ride. Our determination, based on our review of your allegations, RTD's response, and the DOT ADA regulation follows:

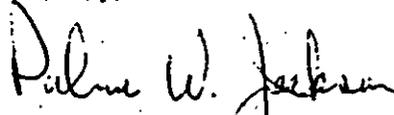
1) The regulation, at Section 37.129 requires that transit providers must provide ADA paratransit eligible persons "origin-to-destination service." The decision of where to pick up and drop off riders is made locally. We understand that the entrance to your building is located on a narrow, one-way street. For safety reasons, we believe that RTD's decision to load or unload passengers on the right side of the street is reasonable. As this places the passengers on the other side of the street from the building, RTD claims that it requires its drivers to assist passengers to cross the street. We do not find that this is a violation of the "origin-to-destination service" requirement in the DOT ADA regulation.

(2) We agree with you, as does RTD, that the remark allegedly made by the dispatcher was inappropriate. However, RTD claims that it is unable to investigate your allegation because the dispatcher is no longer employed by access-a-Ride. As required by Section 37.173 of the DOT ADA regulation, access-a-Ride employees must attend sensitivity training classes on working with persons with disabilities prior to beginning service. We consider this issue resolved, but we will maintain a record of this allegation for future reference in case we receive more complaints of the same nature.

(3) Beyond the provision at Section 37.131(b)(2) to allow the transit provider to negotiate pick-up times for up to one hour before or after the passenger's requested time, the DOT ADA regulation does not directly address the issue of what is an appropriate length of time for pick-ups. This decision also is made locally. However, based upon our review of access-a-Ride's policy, we consider the policy to be reasonable. A copy of the policy is enclosed for your reference.

Based on the above, we have determined that no further action is warranted on your complaint. Unless we receive information from you, within 30 days from the date of this letter, that would substantially alter these facts, we will consider your complaint closed. If you have any questions regarding this decision, please feel free to contact Michael Virts, Equal Opportunity Specialist, of my staff, at (202) 366-2285 or at his electronic mail address, virtsm@tcr.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concerns to our attention.

Sincerely,



Palmer W. Jackson, Jr.
Chief, Operations Division
Office of Civil Rights

Enclosure

cc: Clarence W. Marsella, General Manager, RTD
Joseph Mistrot, Manager of Paratransit Services, RTD

TCR-20 Chron/Subj
c: TRO-8, TCR-1, TCR-20 Chron/Subj
Jackson, Wolgast, Virts
O:Virts

7CR-1



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 24 1996

[REDACTED]

Re: FTA Complaint No. 96077

[REDACTED]

This letter responds to your complaint alleging that the Alameda-Contra Costa Transit District (AC Transit), Oakland, California, is in violation of Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If deficiencies are identified they are presented to the transit provider, and assistance is offered to correct the inadequacies within a predetermined timeframe.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement. We have explained this process to your attorney, Ms. Jennifer Kern.

We understand your allegations to be as follows:

- 1) On November 8, 1995, you were "passed up" several times by transit buses because of defective wheelchair lifts; and
- 2) In two separate incidents on November 8, 1995, two different AC Transit operators were rude and disrespectful to you.

We informed AC Transit of your allegations and requested information relating to your complaint; reviewed the information presented by AC Transit and you; interviewed two witnesses; spoke with AC Transit and your attorney; and made a determination based on our analysis of the compiled facts.

The following is our determination based upon the facts presented:

1) The DOT regulation at §§37.163-37.165 makes certain requirements on public transportation providers regarding using and maintaining accessible features on vehicles, such as lifts on buses. The operator must deploy the lift when requested and assist the rider to use the lift. Accessible features must be maintained in operating condition and any failure of a lift must be reported and repaired promptly.

In regard to your complaint that you were "passed up" several times by transit buses because of defective wheelchair lifts, we are unable to respond without specific information regarding the bus and route number, time of day, whether the buses were full, and how many buses passed you by. We offered you the opportunity to provide this information, but you did not respond to our request. Should this continue to be a problem, we recommend that you make note of the above details and report them immediately and directly to AC Transit, 1600 Franklin Street, Oakland, California 94612, telephone number (415) 891-4827. Any finding of noncompliance on our part would be based on a substantiated "pattern or practice" rather than on isolated events. We will, however, maintain a record of this allegation for future reference in case of more complaints of the same nature against AC Transit.

2) After interviewing witnesses and considering the conflicting account of the facts, we are not in a position to determine who may have been right or wrong in this brouhaha. AC Transit has a responsibility for the conduct of their drivers, and if a pattern and practice of incidents of this nature comes to attention then we will further address it at that time. AC Transit has "cautioned and re-instructed" both drivers on company policies and procedures as part of AC Transit's ADA complaint investigation process. As a direct result of your complaint, AC Transit intends to include a provision in its next labor contract negotiation to strengthen its disciplinary policy regarding ADA compliance.

The DOT regulation requires that transit providers educate personnel to work with persons with disabilities. The regulation states at §37.173:

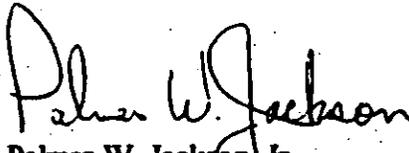
Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

AC Transit provided documentation that it trains its operators as required by the ADA.

In closing, we regret that the incident of this nature has occurred and have determined that AC Transit took immediate and appropriate action in response to the incidents you reported. No further action is warranted on this complaint.

If you have any questions regarding this decision, please feel free to contact Roger Peralta, Equal Opportunity Specialist, of my staff, at (202) 366-2285 or at his electronic mail address: peraltar@tcr.dot.gov. Thank you for bringing this matter to our attention.

Sincerely,


Palmer W. Jackson, Jr.
Chief, Operations Division
Office of Civil Rights

cc: Sharon D. Banks
General Manager, AC Transit

Ms. Monique Papillion

Ms. Jennifer Kern

Federal Transit Administration
TCR-20:PERALTA 06/10/96:x66745
Revised: 7/8/96
Copies to: TRO-9, TCR-1, TCR-20
(PJackson, Peralta, Wolgast), Chron/Subject
"0:PERALTA" [REDACTED]



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 11 1996



Re: FTA Complaint No. 94213

Dear 

This is in response to your complaint against the Metropolitan Transportation Authority (MTA), New York, New York, alleging that MTA violates the Americans with Disabilities Act of 1990 (ADA), 49 CFR Parts 27, 37 and 38. Specifically, you state that although you believe you meet MTA's criteria for a reduced-fare card for people with disabilities, MTA denied your request.

The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, including ensuring that the ADA is being implemented and met. As a result of the tremendous influx of civil rights complaints, the Office of Civil Rights has procured contractor assistance to reduce investigative time. Ralph G. Moore and Associates, Inc. (RGMA), of Chicago, Illinois is the contractor assigned by the Office of Civil Rights to investigate this complaint. This correspondence confirms that RGMA advised you of the following findings and that you are in agreement with these results:

- 1) According to Title 49 USC Section 5307(d)(1)(D), Formerly Section 5(m) of the Federal Transit Act ("the Act"), transit operators are required to provide half-fare benefits to elderly and "handicapped" riders during non-peak hours.
- 2) The term "handicapped," according to Section 5302(a)(5) of Title 49 USC, is defined as "any individual who by reason of illness, age, congenital malfunction, or other permanent or temporary incapacity or disability, including any person who is *wheelchair bound or has semi-ambulatory capabilities*, is unable without special facilities or special planning or design to utilize public transportation facilities and services effectively."
- 3) The ADA, on the other hand, defines "disabled" as an individual with "a physical or mental impairment that substantially limits one or more of the major life activities of such individual, and a record of such an impairment or being regarded as having such an impairment." (Section 3(2) of the ADA, codified at Title 42 USC Section 12102). Nevertheless, the ADA term "disabled" does not supersede the Act term "handicapped" although the ADA was passed after the Act. Because the term "handicapped" has been retained in the Act, operators are therefore bound, at a minimum, to extend the half-fare

-2-

benefits to the class of eligible individuals defined by the strict language of section 5302(a)(5).

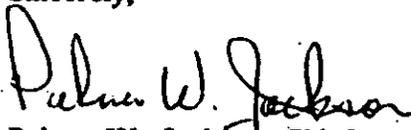
- 4) MTA may broaden the category of riders who are eligible to receive the reduced-fare benefit, but eligibility beyond the statutory criteria is a matter of local discretion. Therefore decisions such as this are left to the MTA.

We regret that we could not have been more assistance to you in this matter. We conclude that there is no basis to find discrimination. Given these circumstances, and in consideration of FTA policy, if you do not express dissatisfaction with our determination within 30 days from the date of this letter, we will consider your complaint to be resolved and closed. If you have any questions, please contact Ms. Sandra Schroud, of RGMA at (312) 419-1911 or write to:

Ms. Sandra Schroud, Senior Consultant
Ralph G. Moore, and Associates, Incorporated
211 West Wacker Drive, Suite 900
Chicago, Illinois 60606

All correspondence and/or communications regarding your complaint should reference the above-referenced complaint number.

Sincerely,


Palmer W. Jackson, Chief
Operations Division

cc: RGMA



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 11 1996

[REDACTED]

Re: FTA Complaint No. 96089

Dear [REDACTED]

This responds to your complaint in which you claim that the Metropolitan Council Transit Operations (MCTO) violates Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA and the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If deficiencies are identified they are presented to the transit provider and assistance is offered to correct the inadequacies within a predetermined timeframe.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that the MCTO paratransit service, provided by Metro Mobility Service Center (Metro Mobility), can get you to your destination, but is unable to provide you with a return ride home. We contacted Metro Mobility and requested it to respond to your allegation. A copy of its response is enclosed for your review.

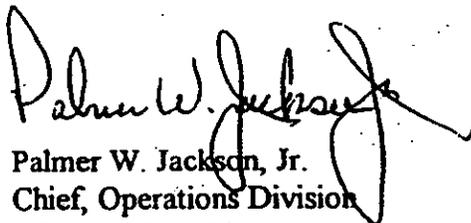
Until recently, the DOT ADA regulation required paratransit providers to permit reservations to be made up to 14 days in advance. Metro Mobility claims that compliance with this requirement has contributed to the capacity problems that you described. According to Metro Mobility, about one-third of all ride requests are made on the first day of the 14-day window. As a result, many people are being denied trips even when calling 14 days in advance. Metro Mobility states that its cancellation rate has greatly increased since implementation of the 14-day advance reservation system. In direct response to the issue that you raised, Metro Mobility states that because some riders are able to find alternative transportation, it offers one leg of a requested trip if that is all that is available.

As I inferred earlier, the DOT ADA regulation has recently changed to allow paratransit providers the option to decide locally on an appropriate reservation system. This could mean that the 14-day advance reservation policy could be discontinued if the public and MCTO decided to do so. You may wish to contact MCTO to let them know your thoughts on this subject.

One last important fact to note is that full compliance with the DOT ADA paratransit provisions is not required until January 26, 1997. Therefore, MCTO and Metro Mobility have several remaining months to bring the paratransit system into full compliance. Based on the information presented, we do not find MCTO or Metro Mobility to be in noncompliance with the DOT ADA regulations.

We will consider your complaint resolved and will close it unless we receive information from you, within 30 days from the date of this letter, that would substantially alter the facts in this complaint. When communicating with this office, please include the FTA complaint number on your correspondence. If you have any questions, please contact Cylinda Queen, of my staff, at (202) 366-0796 or at her electronic mail address: queenc@tcr.dot.gov.

Sincerely,


Palmer W. Jackson, Jr.
Chief, Operations Division
Office of Civil Rights

Enclosure

cc: Thomas R. Sather, General Manager (MCTO)
Tom Vida, General Manager (MMSC)

Federal Transit Administration
TCR-10:CQueen:cq:6/11/96:60796:FINAL:9/10/96 [FTA Complaint #96089]
Copies to: TRO5, TCRI, 20 Chron/Subject, Wolgast/Queen
O:\Queen: [REDACTED] Investigator/Queen

100-110000-100



U.S. Department of Transportation
Federal Transit Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

Sept. 13, 1996

[Redacted]

Re: FTA Complaint No. 96120

Dear [Redacted]

This letter responds to your allegation that the Metropolitan Transportation Authority New York City Transit (NYCT), Brooklyn, New York, is in violation of Title II of the Americans with Disabilities Act of 1990 (ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If deficiencies are identified they are presented to the transit provider and assistance is offered to correct the inadequacies within a predetermined timeframe.

The ADA does not provide FTA the authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that not all NYCT fixed route bus operators announce bus stops. You provided extensive documentation that your allegation has a credible basis. We informed NYCT of your concern and received its response. Our determination, based on our review of your allegation, NYCT's response, and the DOT ADA regulation follows.

Section 37.167(b) of the DOT ADA regulation states:

On fixed route systems, the entity shall announce stops as follows: (1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location. (2) The entity shall announce any stop on request of an individual with a disability.

Although, it is unable to corroborate or deny your allegation, NYCT has provided us evidence of its commitment to enforce the ADA requirement (See enclosure.) NYCT provided documentation that it:

- (1) has issued written policy to require bus operators to announce bus stops;
- (2) has issued a list for each route of the stops which are to be announced;
- (3) trains fixed route bus operators to announce stops in accordance with the ADA DOT regulation;
- (4) has worked with the bus operators' union to seek voluntary compliance with the requirement;
- (5) employs "bus operator observers" to monitor stop announcement compliance; and
- (6) disciplines bus operators who do not comply with the stop announcement requirement.

Although these measures offer no guarantee that bus operators will comply with the stop announcement requirement, we consider NYCT's actions to be reasonable. Based on the above, we have determined that no further action is warranted on your complaint. However, your complaint has brought this issue to our attention, and we may consider future action if we receive other complaints of a similar nature. Unless we receive information from you, within 30 days of the date of this letter, we will consider your complaint closed. We encourage you to report future violations of this requirement directly to NYCT.

If you have any questions regarding this decision, please contact Michael Virts, Equal Opportunity Specialist, of my staff, at (202) 366-2285 or at his electronic mail address, Michael.Virts@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concerns to our attention.

Sincerely,

Arthur Andrew Lopez
Director, Office of Civil Rights

Enclosure

cc: Lawrence G. Reuter
President

[REDACTED]

Federal Transit Administration
TCR-22:MVirts:mv:9/13/96:x62285

Copies to: TRO-2, TCR-1, TCR-20 Chron/Subj
Jackson, Wolgast, Virts
A:\(Wolgast Disk)NICLOUD



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 17 1996

[REDACTED]

Re: FTA Complaint No. 96107

Dear [REDACTED]

This letter responds to your allegation that the Transit Authority of Northern Kentucky (TANK), Fort Wright, Kentucky, is in violation of the Americans with Disabilities Act of 1990 (ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA and the DOT implementing regulations. In the FTA complaint resolution process, we analyze the complainant's allegations for possible ADA violations by the transit provider.

If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA. Under Title II of the ADA, FTA has no authority to directly seek monetary damages, neither compensatory, nor punitive, nor other types of monetary relief on behalf of a complainant. Neither does Title II allow FTA to levy fines, nor file suit on behalf of the complainant. If we can not resolve ADA violations by voluntary means, we may invoke formal enforcement proceedings against the provider of public transportation, which may result in the termination of Federal funds or in the referral of the matter to the Department of Justice for enforcement within the courts.

We understand your allegation to be, that as a result of a TANK re-evaluation determination, you were denied eligibility for TANK's paratransit service. We have made a determination based on the information in your complaint file provided by you and TANK as it relates to the DOT ADA regulations.

The ADA is a civil rights statute, not a transportation or social service statute. This means that individuals with disabilities are to be offered nondiscriminatory access to fixed route service. Complementary paratransit service is intended to be a "safety net" for those who cannot use the fixed route service. The ADA intends for this to be strictly interpreted. We have reviewed TANK's process for determining eligibility and with regards to the handling of your case find nothing that violates our regulations.

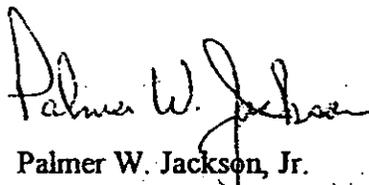
With regards to the substantive facts of your appeal, the following is quoted from your August 29, 1995, re-application for TANK paratransit service:

Question - "How does your disability prevent you from riding a TANK bus? Please explain completely."

Response - "Most of the time in no way. During inclement weather EVERY WAY. When there is several inches of snow or ice on the sidewalks it makes it almost impossible for a visually impaired person to walk. It is a 10 to 12 minute walk in good conditions."

Based on your ability to ride the TANK fixed route system during most of the year, we find TANK's decision to grant you conditional eligibility "during periods of snow and/or ice" to be in keeping with the DOT ADA regulation. We will take no further action on your complaint and will consider it closed unless we receive information from you, within 30 days from the date of this letter, that would substantially alter these facts. If you have any questions regarding this decision, please feel free to contact Michael Virts, Equal Opportunity Specialist, at (202) 366-2285 or at his electronic mail address, virtsm@tcr.dot.gov. Please identify the FTA complaint number in any correspondence with this office. We regret that we are unable to assist you further.

Sincerely,



Palmer W. Jackson, Jr.
Chief, Operations Division
Office of Civil Rights

cc: Mark Donaghy
General Manager, TANK



U.S. Department
of Transportation

Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 17 1996

[REDACTED]

Re: FTA Complaint No. 96086

Dear [REDACTED]

This letter responds to your complaint regarding Access Services Incorporated (ASI) and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If deficiencies are identified they are presented to the transit provider and assistance is offered to correct the inadequacies within a predetermined timeframe.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. you were denied eligibility for paratransit service by ASI; and
2. you experienced lift failures on some fixed route buses.

We informed ASI of your allegations and requested information relating to your complaint; reviewed the information presented by ASI and you; and made a determination on each of your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determinations follow:

1. The ADA is a civil rights statute, not a transportation or social service statute. This means that individuals with disabilities are to be offered nondiscriminatory access to fixed route service. Complementary paratransit service is intended to be a "safety net" for those who cannot use the fixed route service. The ADA intends for this to be strictly interpreted.

Under the DOT ADA regulation at Section 37.125, ASI is required to establish a process for determining ADA paratransit eligibility. The process is used to determine whether the individual has the ability to use fixed route transportation. This is a transportation decision primarily, not a medical decision. In addition, Section 37.125(g) requires ASI to establish an administrative appeals process through which individuals who are denied eligibility can appeal the decision. The administrative appeals process is intended to give applicants who have been denied eligibility the opportunity to have their cases heard by some official other than the one who turned them down in the first place.

In response to your allegations, ASI provided us copies of your initial application paperwork and evaluation with its determination that you have the ability to ride a wheelchair lift-equipped bus. During your eligibility interview, the evaluator asked you a series of questions and conducted a standard cognitive test to determine your ability to ride the fixed route system. The "ADA Certification Interview Summary Form" documents that you stated that you have ridden fixed route buses, but because you experienced lift failures, you are now afraid to ride fixed route buses. The form also indicated that you stated to the evaluator that your condition did not prevent you from riding the bus or train.

ASI has an FTA approved appeals process that separates the appeal determination from the original decision maker. This allows the person to have two opportunities to have his or her application considered. You requested and were granted an appeal from ASI. Your appeal was assigned by ASI to a physical therapist outside of ASI to make a final eligibility determination independent of the original decision made by ASI. The documentation provided by ASI confirms that the results of your appeal evaluation indicated that your disabilities do not prevent you from using the fixed route buses.

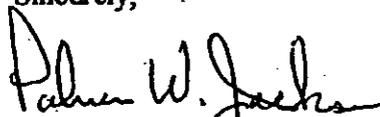
Based on the information compiled in your complaint file, we concur with ASI's decision to deny you eligibility for its ADA complementary paratransit service.

2. Section 37.163 of the DOT ADA regulation requires a public transit provider to establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative. Vehicle operators must report any lift that is discovered to be inoperative. The transportation provider must take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service. When a vehicle is operating with an inoperative lift, and the schedule between accessible vehicles on the route exceeds 30 minutes, the transportation provider must promptly provide alternative transportation to individuals with disabilities. Section 37.173 states that the transportation provider must ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely.

Although you state that you have experienced lift failures on numerous occasions, without further information, such as the name of the transit provider, the bus number and route, and the date and time of occurrence, we will be unable to take any action on this allegation. Should you encounter any future lift failures, we recommend that you report it immediately and directly to the transit provider. If you are required to wait for longer than 30 minutes and are not offered alternative transportation, you also should report that to the transit provider.

Based on the information provided by you and ASI, we will take no further action on your complaint unless we receive information from you, within 30 days from the date of this letter, that would substantially alter our understanding of these facts. Please identify the FTA complaint number in any correspondence with this office. If you have any questions, please contact Cylinda Queen, Equal Opportunity Specialist, may be reached at (202) 366-0796 or at her electronic mail address: queenc@tcr.dot.gov.

Sincerely,



Palmer W. Jackson, Jr.
Chief, Operations Division
Office of Civil Rights

Enclosure

cc: Richard DeRock, Administrator (ASI)



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 24 1996



Re: FTA Complaint No. 96094

Dear 

This letter responds to your complaint regarding the Metropolitan Atlanta Rapid Transit Authority (MARTA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. The elevator at the Chamblee station was inoperable on March 30, 1996;
2. After helping you up the escalator, MARTA staff did not provide you with assistance to come down the escalator on your return trip;
3. MARTA did not provide adequate notification that the elevator was out of service; and
4. A MARTA police supervisor was discourteous to you.

We informed MARTA of your allegations and requested information relating to your complaint; reviewed the information presented by MARTA and yourself; and made a

We understand that MARTA responded to your complaint about the incident in an April 26, 1996, letter of explanation and apology. It is only appropriate that they responded promptly in light of your unfortunate experience.

3. MARTA did not provide adequate notification that the elevator was out of service.

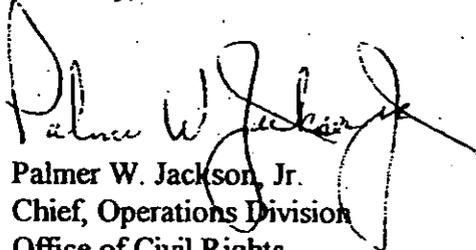
Section 37.167(f) of the DOT ADA regulations requires that, "adequate information concerning transportation services" is available to persons with disabilities. We have no facts to ascertain that the signage MARTA purports to have been in place, including notification in MARTA's Rider's Digest was not adequate.

4. A MARTA police supervisor was discourteous to you.

You stated in your letter that the police supervisor "was rude and acted irritated to be bothered with us." Section 37.173 of the DOT ADA regulations requires MARTA's personnel to be trained to interact with persons with disabilities in a courteous and respectful manner. Although MARTA meets this training requirement, this particular employee apparently did not appropriately demonstrate his knowledge of the subject. MARTA has been unable to identify the employee, but has apologized to you for his behavior and states that it has taken steps to "enhance employee awareness in dealing with persons requiring station elevator service."

In conclusion, we find that although this incident was unfortunate and caused you significant inconvenience, it does not appear to constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter. If you have any questions regarding this decision, please feel free to contact Roger Peralta, Equal Opportunity Specialist, of my staff, at (202) 366-2285 or at his electronic mail address: roger.peralta@fta.dot.gov. Thank you for bringing this matter to our attention.

Sincerely,


Palmer W. Jackson, Jr.
Chief, Operations Division
Office of Civil Rights

Enclosure

cc: Richard J. Simonetta
General Manager, MARTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 13 1996

[REDACTED]

Re: FTA Complaint Number 95041

Dear [REDACTED]

This letter responds to your complaint regarding the PACE Suburban Bus Division (PACE), of the Regional Transportation Authority (RTA), in Arlington Heights, Illinois and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement. We understand your allegations to be as follows:

1. PACE's paratransit service is not available on Sundays;
2. PACE charges more for Saturday/weekend paratransit fare (\$10) than weekday paratransit fare (\$3);
3. All buses purchased by PACE since 1988 are not wheelchair accessible; and
4. PACE drivers are rude and insensitive to persons with disabilities.

-2-

We informed PACE of your allegations and requested information relating to your complaint; reviewed the information presented by PACE and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. PACE's paratransit service is not available on Sundays.

Section 37.131(e) of the DOT ADA regulation requires complementary paratransit service to be available through out the same hours and days as the entity's fixed route service. PACE advised FTA that the area in which you lived, at the time this complaint was filed, did not receive fixed route service on Sundays. Therefore, PACE was not obligated to provide ADA complementary paratransit service in the area on Sunday and is not a violation of the DOT ADA regulation.

2. PACE charges more for Saturday/weekend paratransit fare (\$10) than weekday paratransit fare (\$3).

The DOT ADA regulation at Section 37.131(c) allows for paratransit fares to be twice the fare for a fixed route trip similar in length, at a similar time of day, and without regard to discounts. PACE's fare of \$1.50 each way for ADA complementary paratransit service compared to \$1.15 for fixed route does not violate the DOT ADA regulation. However, the higher paratransit fare that you reference is the fare for "Special Services" a non-ADA paratransit service. This particular paratransit service is provided in areas that do not have fixed route service available on weekends. Since this paratransit service is not complementary to fixed route service, the fares may higher than twice the fixed route fare and does not violate the provisions of the ADA.

3. All buses purchased by PACE since 1988 are not wheelchair accessible.

The DOT ADA regulations at Section 37.71 requires that each public entity operating a fixed route system making a solicitation after *August 25, 1990*, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. All paratransit and fixed route vehicles purchased by PACE since March, 1989 (one year prior to the ADA implementation date) are accessible. FTA reviewed PACE's procurement records regarding these purchases and approximately two-thirds of its fixed route bus fleet is accessible. This percentage will gradually increase as new vehicles are purchased and older, non-accessible vehicles are retired. This "phasing in" of accessible vehicles does not constitute a violation of the ADA.

4. PACE's drivers are rude, insensitive to persons with disabilities.

The DOT ADA regulation requires that transit providers educate personnel to treat persons with disabilities with courtesy. The regulation states at Section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with

-3-

disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

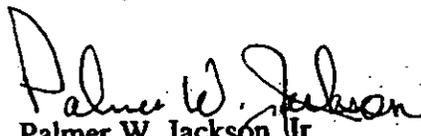
PACE provided FTA materials from its ADA training (that all drivers receive yearly), that is devoted to disability awareness and procedures such as, lift and securing wheelchairs, securement devices, boarding and alighting, and disability familiarization. PACE's collective bargaining agreements with drivers include management's rights to expect adherence to rules and disciplinary action for infractions. FTA reviewed copies of disciplinary records for substantiated driver infractions involving passengers with disabilities. These records revealed that PACE disciplined three drivers for rule infraction involving passengers with disabilities. These infractions dealt with bus operators who were rude, made insulting remarks or refused to assist passengers with disabilities. PACE terminated two of these drivers and suspended one from work for five (5) days. FTA has determined that PACE's actions meet the requirements of the ADA regulations.

These findings conclude the data collection and analysis phases of FTA's complaint investigation process in which we determined that there is no basis to find discrimination. Given these circumstances, and in consideration of FTA policy, if you do not express dissatisfaction with our determination within 30 days from the date of this letter, we will consider your complaint to be resolved and closed. If you have any questions, you may contact Ms. Adams (312) 419-1911 or write to:

Ms. Sandra Schroud, Senior Consultant
Ralph G. Moore and Associates, Inc.
211 West Wacker Drive, Suite 900
Chicago, Illinois 60606

All correspondence and/or communication regarding your complaint should reference the above-noted complaint number.

Sincerely,


Palmer W. Jackson, Jr.
Chief, Operations Division
Office of Civil Rights

cc: RGMA, Inc.

TCK-60



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 1 1996



Re: FTA Complaint No. 96115

Dear [REDACTED]

This letter responds to your complaint regarding the Pioneer Valley Transit Authority (PVTa) and potential non-compliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly

implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the

matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

- 1. Fixed route bus drivers sometimes do not announce bus stops sufficiently to keep persons with visual impairments oriented to their location;**
- 2. Fixed route bus drivers do not announce their destination to potential passengers waiting at bus stops, even if a person with an obvious visual impairment is waiting;**
- 3. Some drivers will not allow persons with service animals to board their buses;**
- 4. Bus schedules are not available in alternate formats;**

- 1. Fixed route bus drivers sometimes do not announce bus stops sufficiently to keep persons with visual impairments oriented to their location.**

The DOT ADA regulation states at Section 37.167(b) that stop announcement shall be made at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments to be oriented to their locations.

In response to our request, PVRTA provided several different types of documentation that verified its stop announcement policy is in accordance with the DOT ADA regulation. The documentation includes the following: a copy of PVRTA's "Stop Enunciation Policy"; a copy of its "Employee Customer Service Guide"; a copy of a training contract to be signed by the employee that he/she has been

trained and agrees to implement the ADA requirements; and a statement that, "Every hour a verbally taped message is sent out over the two-way radio system reminding all operators to announce all stops required to comply with the ADA regulation."

It appears that through its procedures, PVRTA is in compliance with our requirements. Based on the documentation provided, we have determined that PVRTA has procedures in place to comply with the stop announcement requirement and will take no further action at this time on this allegation. However, providing training and having a proper policy does not guarantee that PVRTA employees actually announce stops. We recommend that you immediately report to PVRTA any bus operator who does not comply with the stop announcement requirement. You should include identifying information, such as the bus number, operator number, route number and time of

day that you noted the deficiency. PVRTA has been again reminded of its obligation. If your experience continues, or we receive similar complaints of this nature, we will consider further action.

- 2. Fixed route bus drivers do not announce their destination to potential passengers waiting at bus stops, even if a person with an obvious visual impairment is waiting.**

The DOT ADA regulation states at Section 37.167(c):

Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

In reviewing the documentation submitted by PVRTA for stop announcements, we did not find that the requirement to identify the route to waiting passengers was emphasized. We have brought this to PVRTA's attention and instructed it to remedy the situation (See enclosure.)

3. Some drivers will not allow persons with service animals to board their buses.

The DOT ADA regulation at Section 37.167(d) requires transit providers to permit service animals to accompany individuals with disabilities.

PVRTA provided documentation that it has a correct policy regarding service animals. Once again, PVRTA has been informed that they must ensure that its employees adhere to the ADA requirements and that it is not enough to have policies in place without

ensuring that they have been fully implemented. We will take no further action on this allegation at this time. As with your complaint about stop announcements, we recommend that you report directly to PVRTA when confronted with a bus operator who will not allow you to board with a service animal. If this situation continues, we will consider further action.

4. Bus schedules are not available in alternate formats.

The DOT ADA regulation at Section 37.167(f) requires that the transit provider make adequate information concerning transportation services available to persons with disabilities through accessible formats. No one specific format is required.

PVRTA supplied a copy of an enlarged schedule that is approximately 14 point type. We acknowledge that for many persons with

visual impairments, 14 point type is not sufficient to meet their needs. However, PVRTA also has an information line (413-781-7882) that provides route information upon request. We anonymously tested the line at 9:00 a.m. on October 28, 1996, and were pleased to receive courteous and prompt service. Based on the availability of route information by telephone, we will take no further action regarding your allegation.

During our review of PVRTA's documentation, we did not see notice of a telephone number for telecommunication devices for deaf persons. We have brought this to the attention of PVRTA and will be following up on this point.

5. The ADA paratransit fare schedule is inconsistent with the DOT ADA regulation.

The DOT ADA regulation at Section 37.131(c) allows the paratransit provider to charge up to twice the fare that would be charged to an individual paying full fare for a trip of similar length, at a similar time of day, on the transit provider's fixed route.

PVTA is in compliance with this requirement.

6. PVTA has denied you ADA paratransit trips with your companion because your companion did not begin the trip with you at your origination.

As we understand the situation from your letter and from speaking with you and [REDACTED], your companion is your client whom you escort to and from various destinations. To accommodate your schedule, you make a series of one way trips. For its own convenience, PVTA has combined the trips so that you are picked up

from your home and taken to your client's home where you pick her up and continue on to your destination. The reverse is true of your trip back to your home. This was working satisfactorily for you until PVRTA informed you that it could no longer service your client because she was not at the same origin or destination as you.

The DOT ADA regulation at Section 37.123(f)(3) states that an individual who accompanies the paratransit eligible individual must have the same origin and destination as the eligible individual. However, the DOT ADA regulation at Section 37.131 also prevents the paratransit provider from implementing restrictions for trip purposes or on the number of trips that an eligible person takes.

Ms. Roberta Wolgast, Equal Opportunity Specialist of this office, spoke to [REDACTED] regarding this issue and informed her of the

Office of Civil Rights' position that no restrictions can be placed upon your one way trips. Ms. Wolgast also spoke to you about this issue and learned that [REDACTED] had called you and apologized for the misunderstanding. FTA's position has been reiterated in writing and provided to PVRTA. Based on this information, we will take no further action regarding this allegation.

7. PVRTA receives input from the local Councils on Aging, rather than from persons with disabilities.

Under Section 37.137(c) of the DOT ADA regulation, PVRTA has an ongoing requirement to include persons with disabilities in the development and assessment of para-transit services to persons with disabilities. PVRTA advised us that its ADA Advisory Board is comprised on individuals with disabilities as well as individuals from agencies which work with people with disabilities.

PVTA plans to regionalize its paratransit service into 5 regional providers and will be setting up Advisory Boards in each region that will be comprised of riders, advocates, operators and staff.

In summary, PVTA has been informed through discussion, and in writing, of your experiences and the importance of its ensuring that its procedures are being followed. In some circumstances we provided technical assistance to make sure that our requirements were being accurately implemented. Based on the information provided by you and PVTA, we will take no further action on your complaint unless we receive information from you, within 30 days from the date of this letter, that would substantially alter our understanding of the facts. Please identity the FTA complaint number in any correspondence with this office. If you have any questions, please contact Roberta Wolgast at (202) 366-2285

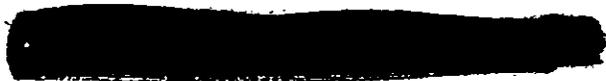
or at her electronic mail address:
Roberta.Wolgast@fta.dot.gov. Thank you for
bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: Marlene B. Conner
Administrator, PVRTA



Enclosure



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 1 1996

[REDACTED]

Re: FTA Complaint No. 96058

Dear [REDACTED]

This letter responds to your allegation that the Pinellas Suncoast Transit Authority (PSTA), of Clearwater, Florida, is in violation of Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. PSTA's wheelchair tie down straps are not in compliance with the DOT ADA regulations because they do not fit on custom-made wheelchairs, and some buses have worn out, damaged tie downs;
2. Some PSTA drivers are not trained to proficiency to use the tie downs correctly and some do not treat persons with disabilities with courtesy and respect;
3. PSTA is unresponsive to your complaints;

4. PSTA requires you to request "private transport" (Dial-A-Ride Transit (DART)) 24 hours in advance; and
5. PSTA charges more for DART rides than for regular fixed route bus rides.

We informed PSTA of your allegations and requested information relating to your complaint; reviewed the information presented by PSTA and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determinations follow:

1. **PSTA's wheelchair tie down straps are not in compliance with the ADA because they do not fit on custom-made wheelchairs, and some buses have worn out, damaged tie downs.**

Under Section 37.165, the DOT ADA regulation requires that the entity must use best efforts to restrain or confine a wheelchair, given its securement system and the type of wheelchair. An entity may require that an individual permit his or her wheelchair to be secured, but it may not deny transportation to a wheelchair user because the wheelchair cannot be secured or restrained by a vehicle's securement system to the entity's satisfaction. We understand that PSTA's safety and training supervisor demonstrated to you that using PSTA's pull type Q-Straint and American seating tie downs will not damage or bend the wheels of your wheelchair when secured. We will, therefore, consider this issue resolved.

Section 37.161 of the DOT ADA regulation requires that accessibility features must be repaired promptly if they are damaged or out of order. We have reminded PSTA of this requirement in light of the information that you have brought to our attention. (See enclosure.)

2. **Some PSTA drivers are not trained to proficiency to use the tie downs correctly and some do not treat persons with disabilities with courtesy and respect.**

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

PSTA has a Safety and Training Division and provided documentation that it trains its staff as required by the ADA. However, training to proficiency requires that staff should be able to properly perform their duties whenever necessary. In the circumstances that you have described, drivers do not appear to be adequately trained. We have requested PSTA to review its training procedures to ensure that its staff is, in fact, adequately trained. Please keep PSTA advised if this continues to be a problem.

3. PSTA is unresponsive to your complaints.

The DOT ADA regulation does not address the manner in which customer complaints to transit providers are processed. Without this guidance, we have no authority to address your complaint regarding PSTA's handling of your complaint.

4. PSTA requires you to request "private transport" (Dial-A-Ride Transit (DART)) 24 hours in advance.

Subpart F of the DOT ADA regulation, "Paratransit as a Complement to Fixed Route Service," requires that public transportation entities provide comparable complimentary paratransit service to persons with disabilities who cannot access the regular fixed route service. PSTA implements this requirement with its DART paratransit service. The regulation has certain service stipulations with which DART must comply. Under 49 CFR Part 37.131(b), the regulation requires that DART must provide next day service for reservations made 24 hours in advance. There is no requirement to provide service on the same day it is requested. PSTA's policy of requiring you to call 24 hours in advance to reserve a DART ride meets the minimum ADA service requirement for response time.

5. PSTA charges more for DART rides than for regular fixed route bus rides.

The DOT ADA regulation At Section 37.131(c) allows for paratransit fares to be twice the fare for a fixed route trip similar in length, at a similar time of day, and without regard to discounts. PSTA's fare of \$2.00 each way for paratransit service compared to \$1.00 for fixed route does not violate the DOT ADA regulation.

If you have any questions regarding this decision, please feel free to contact Roger Peralta, Equal Opportunity Specialist, of my staff, at (202) 366-2285 or at his electronic mail address: roger.peralta@fta.dot.gov. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

Enclosure

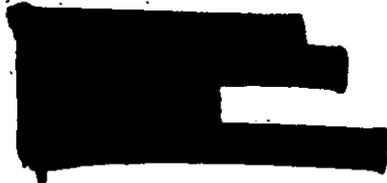
cc: Roger Sweeney
Executive Director, PSTA



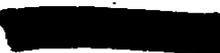
U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 8 1996



Re: FTA Complaint No. 95184

Dear 

This letter responds to your complaint regarding Intercity Transit, Olympia, Washington, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27,37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Intercity Transit suspended your usage of provided services for a period of three months;
2. Intercity Transit demanded that you be accompanied by a personal care attendant at all times in order to continue utilizing their services after the three month suspension; and
3. A number of Dial-A-Lift, (paratransit service) drivers do not carry your grocery bags and other packages into your home or onto your doorstep after dropping you off at home.

-3-

disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities."

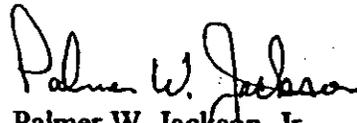
Intercity Transit's policy states that drivers must stay with in view of their vehicles while assisting passengers with retrieval of items. The ADA is quite clear that drivers must operate equipment and vehicles safely, as well as treat individuals with disabilities with courtesy; however, the regulations are silent regarding your request for assistance for personal belongings. Although some drivers are kind enough to assist you by taking your packages to your door or inside your home, those drivers that decline to assist you are not in violation of the ADA.

In conclusion, we find that the actions taken by Intercity Transit do not constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter. If you have any questions regarding this decision, please feel free to contact:

Ms. Stacey Snowden, Program Manager
Gardner Consulting Planners
22010 S. Wilmington Avenue, Suite 109
Carson, California 90745
(310) 522-9584

Thank you for bringing this matter to our attention. All correspondence and/or communication regarding your complaint should reference the above-noted complaint number.

Sincerely,


Palmer W. Jackson, Jr.
Chief, Operations Division
Office of Civil Rights

cc: Gardner Consulting Planners



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters.

400 Seventh St. S.W.
Washington, D.C. 20330

DEC 19 1996

[REDACTED]

Re: FTA Complaint No. 96078

Dear [REDACTED]

This letter responds to your complaint regarding the San Francisco Municipal Railway (MUNI) and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. [REDACTED] was not notified of her eligibility status until 18 months after applying for ADA paratransit service;
2. [REDACTED] was incorrectly denied eligibility;
3. Personnel at Cerenio Management Group (CMG), the Paratransit Broker acting on behalf of MUNI, were not responsive to your complaints; and

4. MUNI vehicle operators do not ask riders who do not have apparent disabilities to allow a person with a disability to sit in the seats set aside for persons with disabilities.

We informed MUNI of your allegations and requested information relating to your complaint; reviewed the information presented by MUNI and you; and made a determination on each of your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. [REDACTED] was not notified of her eligibility status until 18 months after applying for ADA paratransit service.

[REDACTED] paratransit application was signed on September 12, 1994, and CMG received it on September 14, 1994. There is no indication that the application was reviewed until July 24, 1995. A letter of denial was not issued until February 8, 1996. MUNI's application instructions stated that a determination regarding eligibility would be made within 21 days. Clearly, the processing time for [REDACTED] application greatly exceeded the 21 day goal, and apparently she was not offered interim service until a decision on her eligibility was rendered.

Section 37.125(c) of the DOT ADA regulation requires that if a decision has not been made on a person's eligibility by the 21st day after a complete application is submitted, the person shall be treated as eligible and provided service until and unless the application is denied.

MUNI attributes this delay to a large backlog of applications that it has on hand to be reviewed. Based on your experience and the facts provided by MUNI, their failure to provide interim service to individuals whose applications had not been responded to within the 21st day of submission was a violation of the DOT ADA regulation. MUNI has been informed of this decision and requested to confirm that their policies will be changed to come into compliance with the regulation. The delay in processing time does not excuse MUNI of its obligation to provide interim service. (See enclosure).

2. [REDACTED] was incorrectly denied eligibility.

The ADA is a civil rights statute, not a transportation or social service program statute. It emphasizes nondiscriminatory access to fixed route service, with complementary paratransit acting as a "safety net" for those who cannot use the fixed route, including those who cannot "navigate the system." As such, on its surface, [REDACTED] statement to CMG that he was able to use MUNI when necessary would be sufficient to disqualify him from paratransit eligibility. However, upon appeal, [REDACTED] was granted eligibility. The same may hold true for [REDACTED]

Although we understand your frustration with CMG's handling of your initial application, your next step should be to file an appeal to the denial. The DOT ADA regulation at Section 37.125(g)(1) states that the transit provider may require that an appeal be filed within 60 days

of the date of the denial letter. However, we encourage you to submit an appeal with an explanation of the delay along with a copy of this letter. If CMG will not allow you to appeal, you should submit a new application. If you submit a new application and do not receive a response within 21 days, and are not provided interim service then you should contact us again. Until [REDACTED] has pursued this appellate process, we will be unable to make a determination on the allegation that she was incorrectly denied eligibility.

3. Personnel at CMG, the Paratransit Broker acting on behalf of MUNI, were not responsive to your complaints.

In [REDACTED] letters of complaint, he recited excerpts from conversations that he claims took place between him and CMG staff. In summary, he stated, "My wife and I both feel that these people are arrogant, don't care, and almost sadistic in the way they handled our applications."

Section 37.173 of the DOT ADA regulation requires that:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

A search of recent ADA complaints filed against MUNI does not reveal a "pattern or practice" of allegations of a similar nature. However, we have provided copies of your March 20, 1996, and April 12, 1996, letters, in which you describe the contacts that you have had with CMG, to the Director of Public Transportation for MUNI. We have also reminded the Director that CMG "stands in the shoes" of MUNI, thus triggering the training requirement.

4. MUNI vehicle operators do not ask riders who do not have apparent disabilities to allow a person with a disability to sit in the seats set aside for persons with disabilities.

The DOT ADA regulation at Section 37.167(j)(1) requires that the vehicle operator ask (emphasis added) persons without apparent disabilities, except for the elderly, to move to another seat when a person with a disability enters the vehicle.

MUNI is aware of this requirement and provided documentation that its vehicle operators are trained. However, as this is our second recent notice alleging that MUNI vehicle operators do not comply with this requirement, we have suggested that MUNI reissue guidance to its employees and see that it is being followed. At the same time, please understand that if a rider without an apparent disability chooses not to move from a designated seat after being requested to do so by the driver, the rider cannot be forced to move.

For your information, we have enclosed a copy of our letter to MUNI regarding your complaint. We hope that with our assistance your transportation difficulties will be somewhat lightened. If you have any questions regarding our actions on your complaint, please feel free to contact Roger Peralta, Equal Opportunity Specialist, at (202) 366-2285 or at his electronic mail address: *roger.peralta@fia.dot.gov*. If we do not hear from you within 30 days, we will consider your complaint file to be closed.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Emilio Cruz
Director, Public Transportation

Cerenio Management Group

Enclosure

Federal Transit Administration
TCR-20:PERALTA 07/09/96:x66745
Revised 9/13/96
Copies to: TRO-9, TPM-20, TCR-1, TCR-20
(PJackson, Peralta, Wolgast), Chron/Subject
0:PERALTA\KBIERLI.SAM

Chen



U.S. Department
of Transportation

Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

[REDACTED]

JAN 8 1997

Re: FTA Complaint No. 96105

Dear [REDACTED]

This letter responds to your complaint regarding the Triangle Transit Authority (TTA), of Research Triangle Park, North Carolina, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations regarding the TTA fixed route bus system to be as follows:

1. TTA's administration, dispatchers, and bus operators are not knowledgeable about the ADA as it relates to their jobs;
2. Buses frequently breakdown because the bus maintenance program is inadequate;
3. The TTA telephone system is inadequate;
4. You have not been allowed to speak at TTA Board meetings; and
5. Neither minorities nor public transit dependent persons are TTA Board members.

We informed TTA of your concerns and received a response. Our determination, based on our review of your allegations, TTA's response, and the DOT ADA regulation follows:

1. TTA's administration, dispatchers, and bus operators are not knowledgeable about the ADA as it relates to their jobs;

You alleged an incident in which a TTA office staff person failed to understand and comply with the ADA in refusing to sell a discounted bus fare card to a person with a disability. The requirement for discounted fare cards for the elderly and "handicapped" individuals using a fixed route system actually falls under Section 5307(d)(1)(D) of the Federal Transit Laws, as codified (Title 49 of the United States Code, Chapter 53). This law requires public transit operators to extend the half-fare benefit to the elderly and to "handicapped" individuals who require special facilities, planning or design to use mass transit, such as lifts, ramps, elevators, and detectable warnings. We agree that TTA staff should be knowledgeable of this requirement. Possibly even more important is the requirement under Section 37.173 of the DOT ADA regulation that public transportation providers must train personnel "to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities in a respectful and courteous way."

TTA states that its bus operators must attend sensitivity training classes on working with persons with disabilities before being allowed to operate a bus and receive "sustainment training" on an ongoing basis to maintain their level of knowledge. TTA conducted "Passenger Assistance Training" in April 1993, September 1994, March 1995, June 1995, September 1995, March 1996, and June 1996. Bus operators who are found to be "substandard" in any area are given remedial training and are periodically re-evaluated.

In the incident that you described, the Operations Manager appropriately corrected the staff person's mistake. We have determined that your allegation does not constitute a deficiency under the DOT ADA regulations. However, we have reminded TTA of its obligation to ensure that all of its employees who work with the public, including its dispatchers and information staff, are trained to the standard of the DOT ADA regulations.

2. Buses frequently breakdown because the bus maintenance program is inadequate;

Decisions regarding general bus maintenance of a fixed route system are left to the option of the transit provider. Further, the quality of fixed route bus service affects all users of the system equally. Inadequate bus maintenance is not addressed in the DOT ADA regulations and thus, cannot be considered a deficiency under the regulations.

3. The TTA Telephone system is inadequate;

The telecommunications of a fixed route transit system, exclusive of the service affecting hearing-impaired persons, is not addressed under the DOT ADA regulations as the quality of the telephone service affects all persons equally. Although this issue is not covered by the DOT ADA regulations, at your suggestion, my staff called TTA several times, and experienced no difficulty in reaching TTA through publicly available telephone numbers. Hopefully the problems that you experienced in the past with the TTA telephone system have been alleviated.

4. You have not been allowed to speak at TTA Board meetings;

While the DOT ADA regulation does not specifically address public participation at board meetings of a fixed route system, 49 CFR 27.1 states that a "handicapped" individual cannot be excluded from participation in any program or activity receiving Federal financial assistance.

According to a copy of an April 11, 1996, letter to you from TTA, it appears that your request to address the April 1996, board meeting was received past the deadline for requesting to be placed on the agenda. The letter advised you of the May deadline and asked you to respond in writing if you wished to speak at the May meeting. TTA claims it did not hear from you regarding your wishes to speak at the May meeting. You indicated in your April 24, 1996, letter to Senator Faircloth that the TTA General Manager "preferred" for you to wait until it was more convenient for the Board. Based on the documentation, and because of the discrepancy in the representation of the facts between you and TTA, we are unable to make a determination on this allegation.

5. Neither minorities nor public transit dependent persons are TTA Board members.

Composition of a fixed route transit provider's board membership is not addressed by the DOT ADA regulations, and without that authority, we cannot make a determination on this issue. However, TTA cites a state statute addressing the appointment of members to the TTA Board by specific towns, cities, counties, and the North Carolina Secretary of Transportation. TTA claims that two representatives, one from the City of Raleigh and one North Carolina Secretary of Transportation representative, are African Americans.

Based on the above, we have determined that no further action is warranted on your complaint. If you have any questions regarding this decision, please feel free to contact Michael Virts, Equal Opportunity Specialist, of my staff, at (202) 366-2285 or at his electronic mail address, Michael.Virts@fta.dot.gov within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. We regret that we could not be of more assistance to you at this time regarding your concerns.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: James M. Ritchey, Jr.
General Manager, TTA



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.E.
Washington, D.C.

JAN 7, 1997

[REDACTED]

Re: FTA Complaint Number 96075

Dear [REDACTED]

This letter responds to your complaint regarding the Greyhound Bus Lines (Greyhound) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify a possible violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other type of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of ADA, the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Greyhound's restrooms in Marianna, Tampa, Ft. Myers, and Tallahassee, Florida are inaccessible.
2. Greyhound drivers in Marianna and Tampa, Florida failed to provide assistance to you at least three occasions. On at least two of these instances, the drivers were very rude to you.
3. Some drivers do not appear to be trained to provide assistance or be sensitive to the needs of persons with disabilities.

We informed Greyhound of your allegations and requested information relating to your complaint; reviewed the information presented by you and Greyhound; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. **Greyhound's restrooms in Marianna, Tampa, Ft. Myers, and Tallahassee, Florida are inaccessible.**

According to the DOT ADA regulations at 49 CFR 37.45:

In constructing and altering transit facilities, private entities shall comply with the regulations of the Department of Justice implementing Title III of the ADA (28 CFR part 36).

28 CFR 36.402(a)(1) states that:

Any alteration to a place of public accommodation or a commercial facility, after January 25, 1992, shall be made so as to ensure that to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

Greyhound has advised FTA that the Greyhound facilities in Marianna, Tampa, Ft. Myers, and Tallahassee, Florida were constructed prior to 1992. In any event, Greyhound states that the restrooms in the Greyhound facilities in Ft. Myers and Tampa were renovated in February 1996 and November 1995, respectively, to comply with ADA accessibility requirements. The restrooms in the Tallahassee facility are scheduled for renovations by the third quarter of 1997 or before. The Marianna facility is not owned by Greyhound and has an independent standard agreement with an agent. However, Greyhound will survey this facility within forty-five days and will take any appropriate action necessary to ensure the restrooms comply with the ADA requirements. We find that these actions taken by Greyhound ensures compliance with this provision of the ADA and consider this issue to be resolved.

2. **Greyhound drivers in Marianna and Tampa, Florida failed to provide assistance to you on at least three occasions. On at least two of these instances, the drivers were very rude to you.**

According to 49 CFR 37.169(b), which states:

The private entity shall provide assistance, as needed, to individuals with disabilities in boarding and disembarking, including moving to and from the bus seat for the purpose of boarding and disembarking. The private entity shall ensure that personnel are trained to provide this assistance safely and appropriately.

Greyhound has re-communicated to their drivers, customer service personnel and other staff that Greyhound personnel shall provide assistance, as needed, to individuals with disabilities in

boarding and disembarking, including moving to and from the bus seat for the purpose of boarding and disembarking. Persons with disabilities, however, should make such need for assistance known to Greyhound personnel in advance if possible to ensure they receive the assistance needed.

With regards to your allegation that certain drivers have failed to provide you assistance, Greyhound states that these drivers have been identified and one driver in particular, has a history of complaining about lifting passengers and negativity toward people with mobility disabilities and corrective measures have been taken. Greyhound also advised that employees have been retrained on ADA policies and procedures with sensitivity towards persons with disabilities as the primary focus. We understand that Mrs. Eva Starnes, the terminal manager of Marianna, Florida and her husband are willing to meet your bus after hours to provide the driver with assistance that is needed; and Mrs. Starnes has provided you with her home telephone number for that purpose. Greyhound has requested that you call its ADA Assist Telephone Line or Mrs. Starnes for any assistance you may need while traveling to your destination.

In order to ensure that employees strictly adhere to its ADA policies and procedures, Greyhound has taken overall action to ensure that persons with disabilities are treated with courtesy and respect. Greyhound has advised FTA that its Customer Assistance department "red-flags" station who have had an inordinate number of complaints and conducts systematic investigations. Among tools utilized are the "mystery shopper" and "mystery rider" programs where Greyhound personnel ride the buses incognito to identify service problems that may exist. If problems with particular employees are identified, corrective measures will be taken including retraining, counseling and other appropriate actions. We find that these actions taken by Greyhound ensures compliance with this provision of the ADA and consider this issue to be resolved.

3. **Some drivers do not appear to be trained to provide assistance and are insensitive to the needs of persons with disabilities.**

49 CFR 37.173 states that:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Since you filed your complaint on April 15, 1995, Greyhound advised FTA that it has provided the following ADA training to its personnel:

- (a) The ADA staff provided a "train-the-trainer" seminar in October 1996 on lifting techniques especially geared toward lifting mobility-impaired passengers. All drivers and other customer service personnel. All drivers and other customer service personnel are expected to receive this training.

- (b) **Driver Managers have been trained as a group on ADA requirements and the company's ADA policy, with extensive question and answer interaction. These seminars took place May 16, 1995 and May 15, 1996.**
- (c) **Drivers receive information in "Greyhound's Guide for ADA Sensitivity," used in conjunction with the video, "Understanding the Needs and Capabilities of Special Passengers." This is a three-hour seminar.**
- (d) **In-depth two-hour seminars which took place during February 13, 1995 through November 2, 1995, using a combination of overhead projections, handouts and question and answer sessions were used to enhance ADA awareness and were provided to all eleven district managers located throughout the country as well as Area Sales Managers, Customer Service Managers, Real Estate Group personnel, and Public Relations personnel.**
- (e) **Other driver information/education programs include:**
 - (i) **Monthly posters displayed on driver bulletin boards focusing a positive ADA message.**
 - (ii) **A condensed version of basic ADA policy has been distributed to all drivers.**
 - (iii) **Three "Telephone Information Centers" are maintained to take inbound fare and schedule (1-800) calls. Staff fielding ADA calls are given ADA training. Greyhound tracks all ADA-related calls to the information centers to determine extent of service assistance needed and specific city pairs so that it may improve service to passengers with disabilities.**
 - (iv) **Customer Assistance Department - handles customer service complaint calls. Personnel are trained to handle calls from persons with disabilities involving ADA situations.**
 - (v) **Greyhound's computerized ticketing system includes a scroll-through menu of ADA questions and answers providing immediate assistance to the ticket agent as the customers are purchasing their tickets.**
 - (vi) **Greyhound newspaper, The Mirror, distributed to all employees, periodically features an ADA column which outlines ADA policies and procedures as well as articles highlighting drivers and other employees demonstrating excellent customer service.**

In addition to the above training, Greyhound says that they are presently working on a future project called Interactive Voice Response (IVR) which will allow potential customers to obtain ADA information and services directly by touch-tone telephone and will provide the caller an option to be connected directly with the ADA Assist Line. We find that these corrective actions

-5-

taken by Greyhound ensures compliance with the training requirements of ADA and we consider this issue to be resolved and closed.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although these incidents caused you significant inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff at (202) 366-2285, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. In the future, all Greyhound complaints will be referred to the Department of Justice for disposition. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: JDG Associates, Inc.

-6-

Federal Transit Administration

TCR-20: SMCCREA 01/08/97: x60803

Copies to: TCR-1, TCR-20 (SMcCrea, BSligh), Chron/Subject, JDG (Fax), Region 6, Richard Wong (TCC)

"O:\MCCREA" [REDACTED] 1.SAM) SMcCrea



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 24 1997

[REDACTED]

Re: FTA Complaint No. 96147

Dear [REDACTED]

This letter responds to your allegation that the Long Beach Transit (LBT) of Long Beach, California, is in violation of Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that although you have a disability, an LBT bus operator "demanded" that you leave the seating set aside for persons with disabilities and move to the back of the bus. You request that the bus driver be "reprimanded and educated" and that you be guaranteed access to the set aside seating.

We informed LBT of your allegation and requested information relating to your complaint; reviewed the information presented by LBT and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determinations follow.

Section 37.167(j)(1) of the DOT ADA regulation states:

...the entity shall ask the following persons to move in order to allow the individual with a disability to occupy the seat or securement location: (i) Individuals, except other individuals with a disability or elderly persons, sitting in a location designated as priority seating for elderly and handicapped persons (or other seat as necessary); ...

Section 37.167(j)(3) of the DOT ADA regulation states:

The entity is not required to enforce the request that other passengers move from priority seating areas or wheelchair securement locations.

It is possible that the bus operator may not have been aware of your disability when he requested that you move to the back of the bus; however, the regulation specifically states that the operator only has the authority to request, not enforce. In reviewing the written documentation supplied by LBT, it appears that it has not stressed the above requirements in its training of bus operators. We have informed LBT of this apparent deficiency and requested it to take corrective actions. This should not be interpreted to mean that you may obstruct an aisle with your outstretched leg or put your leg up on a seat.

LBT interviewed the bus operator who was driving Bus 9014, Coach Run 1050 on Route 51 on May 17, 1996. The driver had no recollection of the incident, and based on the interview, LBT decided to take no disciplinary action regarding your allegation.

In conclusion, we find that although this incident caused you inconvenience, it does not appear to constitute a pattern or practice of noncompliance with the DOT ADA regulations. We appreciate your taking the time to advise us of your experience. At this time, however, we can take no further action on your complaint and will consider your file to be closed unless we hear from you within 30 days from the date of this letter. If you have any questions regarding this decision, please feel free to contact Roger Peralta, Equal Opportunity Specialist, of my staff, at (202) 366-2285 or at his electronic mail address: Roger.Peralta@fta.dot.gov.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Laurence W. Jackson
President, Long Beach Transit



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St. S.W.
Washington, D.C. 20590

JAN 30 1997

[REDACTED]

Re: FTA Complaint No. 96095

Dear [REDACTED]

This letter responds to your complaint regarding the Mass Transportation Authority of Flint, Michigan, (MTA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violation of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

Since 1992, you have experienced various difficulties in using the MTA fixed route bus system, including lift failures which have often left you stranded for more than 30 minutes; bus drivers driving accessible buses who have purposely passed you by when their buses were not fully occupied; and some bus drivers who have singled you out for harassment. You state that you have attempted to resolve these difficulties at the local level "to no avail."

We informed MTA of your allegations and received information relating to your complaint (copy enclosed); reviewed the information presented by MTA and you; and made a determination on your allegations based on our analysis of the complied information in relation to the DOT ADA regulations. For clarity, we have restated your allegations, followed by our determination.

Lift failures have left you stranded for more than 30 minutes.

In summary, Section 37.163 of the DOT ADA regulation requires a public transit provider to establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative. The vehicle operators must report any lift that is discovered to be inoperative. The transit provider must take the vehicle out of service and ensure that the lift is repaired before the beginning of the vehicle's next service day. When a vehicle is operating without a working lift, and the schedule between accessible vehicles on the route exceeds 30 minutes, the transit provider must promptly provide alternative transportation to individuals with disabilities.

MTA provided documentation of its policy that is in compliance with the DOT ADA regulation. However, although evidence of the existing policy was presented, we have no verification of implementation.

In the September 18, 1995, incident that you described, MTA states that its maintenance records indicate that a new power switch was installed in bus #100 after the non-functioning lift was reported. MTA also stated that the headway to the next bus (#98) was 30 minutes. They do not have records to verify if the driver notified Dispatch that you had been passed by because of a lift failure, but claim that the outcome was satisfactory in that a wheelchair passenger (presumably you) was picked up by bus #98 at 8:30 a.m. on September 18, 1995.

MTA's investigation of this specific incident has brought to its attention areas where its procedures and implementation needed strengthening. MTA has agreed to take appropriate measures to:

- document when a driver notifies Dispatch of a lift failure;
- document what action the dispatcher takes in response; and
- ensure that bus drivers are aware of their responsibility to notify Dispatch immediately following a lift failure rather than at the end of the day.

MTA informed us that since May 1996, New Flyer low-floor buses equipped with ramps that can be manually operated are assigned to its primary routes. MTA expects this to improve accessibility for passengers who use wheelchairs.

Based on the information collected, we believe that MTA has an ADA compliant policy regarding lift failures in place. Although we acknowledge that having a policy does not necessarily guarantee that the policy is being properly followed, we accept MTA's statement that it will tighten its procedures to ensure improved service to persons who use wheelchairs. Therefore, we will take no further action, at this time, on this allegation. We are now aware of the situation in case other incidents of this nature come to our attention.

Bus drivers have purposely passed you by when their accessible buses were not fully occupied.

From your letters, copies of old complaints, and newspaper clippings, we understand that since 1992, you allege to have been passed on numerous occasions by buses that were not full; that bus drivers have falsely told you that their lifts were inoperable; that one bus driver told you that picking up a wheelchair passenger puts him behind schedule; and that your complaints have had no effect.

The DOT ADA regulation at Section 37.167(e) states, "The entity shall ensure that vehicle operators and other personnel make use of accessibility-related equipment or features..."

The allegations which you have persistently reported indicate that a "pattern or practice" of ADA deficiencies regarding this requirement may exist. We have informed MTA of this finding and will be following up with MTA to ensure that this type of behavior is not tolerated. (See enclosure.)

Some bus drivers who have singled you out for harassment.

You allege various incidents involving bus drivers who taunted you, passed you by, moved the lift before you were positioned, and made your life "miserable."

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Further, the DOT ADA regulation at Section 27.123 (e) expressly prohibits intimidating or retaliatory against a person because the person has made a complaint. There should be zero tolerance for retaliation at any transit property. Although MTA's training is in accordance with

the DOT ADA regulation we have brought this matter to its attention and expect to receive assurances that this is in fact its policy.

Should you have any future public transportation problems that you are unable to resolve with MTA, please contact us again. We hope that your future transit needs with MTA will be adequately served. Please identify the FTA complaint number in any correspondence with this office. If you have any questions, please contact Cylinda Queen, of my staff, at (202) 366-0796 or at her electronic mail address: *cylinda.queen@fta.dot.gov*.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

Enclosure

cc: Robert J. Foy, General Manager (MTA)

TK20



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 8 1997

[REDACTED]

Re: FTA Complaint No. 95199

Dear [REDACTED]

This letter responds to your complaint regarding the Santa Clara Valley Transportation District and OUTREACH, its paratransit service provider, both in San Jose, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. On August 28, 1995, because of a medical emergency, you requested that an OUTREACH driver deviate from your scheduled drop off, and take you to a different Kaiser Facility, but your request was refused; and
2. The OUTREACH driver then reported you as a no-show regarding the return trip.

We informed Santa Clara Valley Transportation Authority of your allegations and requested information relating to your complaint; reviewed the information presented by Santa Clara Valley Transportation Authority and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. **On August 28, 1995, because of a medical emergency, you requested that an OUTREACH driver deviate from your scheduled drop off, and take you to a different Kaiser Facility, but your request was refused.**

The DOT ADA regulation at 49 CFR 37.129 states:

Except as provided in this section, complementary paratransit service for ADA paratransit eligible persons shall be origin-to-destination service.

Since the DOT ADA regulation does not require transit providers to comply with last minute, special requests from passengers, we do not find that OUTREACH violated this provision of the DOT ADA regulation. However, in response to your concerns, we contacted [REDACTED] Program Manager for Accessible Services who interviewed OUTREACH's Paratransit Manager regarding this incident.

According to their records the driver contacted dispatch for instruction and was instructed to take you home as originally scheduled or return to the point of origin, which was another Kaiser facility. The provider records indicate that the driver returned to the Kaiser facility and dropped you off at the original pick-up location. The dispatch records indicate that you were dropped off on the sidewalk immediately in front of the medical facility. Later that same day, you were again picked-up from the Kaiser facility and transported home.

Per your request, the following is the emergency policy for OUTREACH:

1. Ask if they would like to go home or to doctor, center or elsewhere;
2. Advise dispatch where you will be taking client;
3. In van needs to be cleaned, request dispatch if you can return to base after last client has been dropped off;
4. Wear rubber gloves if there is any chance you might come in contact with any body fluids;
5. Put sawdust or bleach solution over affected area or equipment;
6. Drop off other clients and apologize for delay; and
7. Complete an incident report at the end of shift or when you return to base to clean van.

We believe that OUTREACH accommodated your immediate needs by taking you to the closest medical facility. Since OUTREACH was not in violation of the DOT ADA regulation, we consider this issue to be resolved.

2. **The OUTREACH driver then reported you as a no-show regarding the return trip.**

Since the DOT ADA regulation does not specifically state under what circumstances no-show policies are to be administered, we are unable to determine if any violations of the DOT ADA regulation occurred. We were advised that it is OUTREACH's policy to use the term no-show when service is not performed as originally scheduled, for route service tracking purposes. This

-3-

does not always indicate that the client did not show up for his/her ride. It is our understanding that [REDACTED] Paratransit Operations Manager, sent your mother an apology letter dated September 15, 1995, regarding any inconvenience this incident may have caused. The apology letter was sent to your mother because she sent the original complaint letter.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although OUTREACH's actions caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact, Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Gardner Consulting Planners



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 13 1997

[REDACTED]

Re: FTA Complaint Number 95172

Dear [REDACTED]

Thank you for your letter dated October 30, 1996, to [REDACTED] of Ralph G. Moore and Associates, Incorporated (RGMA), concerning the complaint you filed with the Federal Transit Administration (FTA) regarding the Chicago Transit Authority (CTA) Chicago, Illinois. The Action on Smoking and Health (ASH) also sent a letter dated November 4, 1996, to RGMA on your behalf supporting your request that FTA reconsider its decision on your complaint.

The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement. We understand your allegations to be as follows:

1. CTA's lack of enforcement of its "No Smoking" policy in the 5556 North Harlem Avenue transit building makes the transportation facility inaccessible to you.

We reviewed the information you presented and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We concluded that your issue is not within the jurisdiction of FTA. We have restated your allegations, followed by our determinations, below:

1. **CTA's lack of enforcement of its "No Smoking" policy in the 5556 North Harlem Transit Building makes the transportation facility inaccessible to you.**

The DOT ADA regulation at 49 CFR 37.9 states:

... "transportation facility shall be considered to be readily accessible to and usable by individuals with disabilities if it meets the requirements of this part and the standards set forth in appendix A to this part."

Appendix A of 37.9 describes accessible features of a transportation facility as ramps, elevators or other circulation devices, fare vending or other ticketing areas, and the location of fare collection areas to minimize the distance in which wheelchair users and other persons who cannot negotiate steps may have to travel compared to the general public. Regrettably, smoking or air quality is not mentioned in Part 37 or appendix A.

In your correspondence, you stated 28 CFR Part 35 (the Department of Justice's ADA regulations) governs matters not covered by 49 CFR Part 37 (The Department of Transportation's regulations). Specifically, the ADA at 28 CFR 35.132 states:

This part does not preclude the prohibition of, or the imposition of restrictions on smoking in transportation covered by this part.

Section 35.132 restates that section 501(b) of the ADA does not prevent the prohibition of, or imposition of restrictions on smoking in transportation facilities covered by title II. The reference to smoking in section 501, however, merely clarifies that the ADA does not require public entities to accommodate smokers by permitting them to smoke in transportation facilities, nor does it require transit properties to enact or enforce anti-smoking requirements. Consequently, our previous determination, that CTA is in compliance with the ADA remains unchanged.

We again recommend that you pursue this matter by contacting the City of Chicago, Department of Public Health. The Department of Public Health has the enforcement authority over smoking ordinances within the City of Chicago, including all transit stations. We have been advised by [REDACTED] of the Department of Public Health, that the Mayor's Office at (312) 744-5000 is the appropriate place to file a formal complaint. You may also wish contact the Department of Justice's "ADA Information Line" at 1-800-514-0301.

We regret we could not assist you in this matter. Given these circumstances, and in consideration of FTA policy, we consider this matter resolved and closed. If you have any questions, please contact Sandra McCrea, Equal Opportunity Specialist of my staff at (202) 366-2285, or at her electronic mail address, Sandra.McCrea@fta.dot.gov. All correspondence and/or communications regarding your complaint should reference the above-noted complaint number.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: RGMA, Inc.



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 20 1997

[REDACTED]

Re: FTA Complaint Number 95200

Dear [REDACTED]

This letter responds to your complaint regarding the Dallas Area Rapid Transit (DART) in Dallas, Texas and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

- 1) DART's fixed route bus drivers do not announce bus routes for passengers with visual impairments at transfer locations.
- 2) DART does not have an ADA Complaint Procedure that allows you to bring your concerns to its attention.
- 3) DART drivers are rude and insensitive.
- 4) DART denied your eligibility for its paratransit system, Handi-Rides.
- 5) DART denied you subscription service.

-2-

We informed DART of your allegations and requested information relating to your complaint, reviewed the information presented by DART and yourself. We made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. Below, we have restated your allegations followed by our determinations.

- 1) **DART's fixed route bus drivers do not announce bus routes for passengers with visual impairments at transfer locations.**

Per your January 14, 1997, telephone conversation with [REDACTED] of Ralph G. Moore and Associates (RGMA), you advised [REDACTED] that this allegation of your complaint has been resolved to your satisfaction. Based upon the foregoing we consider this issue to be resolved at this time.

- 2) **DART does not have an ADA Complaint Procedure that allows you to bring your concerns to its attention.**

The DOT ADA regulation does not address the manner in which customer complaints to transit providers are processed. Without this guidance, we have no authority to address your complaint regarding DART's handling of your concerns. It is FTA policy that we prefer that complaints be resolved at the local level, however, please do not hesitate to contact us in the future if we can be of assistance.

- 3) **DART drivers are rude and insensitive.**

The DOT ADA regulations at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

A review of DART's training materials and training procedures appears that DART has the minimum ADA procedures in place but this is no assurance that they are in being implemented. DART requests that any incidents of rudeness or insensitivity brought to its attention by calling its Paratransit Services Control Center. DART contends that all complaints will be investigated and that if infractions are substantiated, drivers will be disciplined.

DART has been informed that their commitment to ensure that drivers treat passengers with disabilities with courtesy and respect is to be commended, but this does not relieve their responsibility to ensure that all employees, including dispatchers and reservation personnel comply with this and all requirements of the ADA. Based upon the foregoing we will consider this issue to be resolved at this time. If you find that DART's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, please keep us advised and we will consider further action if appropriate.

4) **DART denied you eligibility for its paratransit system, Handi-Rides.**

DART advised FTA that you have been eligible for its paratransit service since 1988 and your eligibility has been re-certified under the current ADA eligibility requirements. FTA reviewed your most recent paratransit application provided by DART but absent is any documentation that indicates DART denied your eligibility for ADA paratransit services. Therefore, without further information, FTA has determined this issue to be resolved.

5) **DART denied your request subscription service.**

The DOT ADA regulations at 49 CFR 37.133 states:

This part does not prohibit the use of subscription service by public entities as part of a complementary paratransit system, subject to the limitations in this section. Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is non-subscription capacity. Notwithstanding any other provision of this part, the entity may establish waiting lists or other capacity constraints and trip purpose restrictions or priorities for participation in the subscription service only.

Although subscription service is not required by the ADA, DART informed FTA that it does provide subscription service as a convenience to its riders. However, as of October 1995, applications for subscription service were no longer accepted to ensure compliance with the 50% maximum subscription requirement when request for demand response service are not being met. Since the DOT ADA regulation does not require subscription service, FTA does not have the jurisdiction to address your concern based on the facts presented. We therefore consider this issue to be resolved.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although these incidents caused you significant inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff at (202) 366-2285 or at her electronic mail address: Sandra.McCrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 26 1997

[REDACTED]

Re: FTA Complaint No. 96008

Dear [REDACTED]

This letter responds to your complaint regarding the City of Davenport (Davenport) and Bi-State Regional Commission, Davenport, Iowa (Bi-State) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Bi-State scheduled a public hearing in an inaccessible building and location;
2. The fare charged by Great River Bend, Inc. (GRB), the paratransit service for MetroLINK (Davenport's transit system), is three times the regular fixed route bus.
3. Telephones are required to schedule transportation;
4. Street and/or sidewalk closures or obstructions, create safety hazards; and
5. The City of Davenport failed to provide advance notice of street closures per a U.S. Department of Housing and Urban Development (HUD) agreement.

We informed Davenport and Bi-State of your allegations and requested information relating to your complaint, reviewed the information presented by Davenport and Bi-State and you, and made a determination based on our analysis of the complied information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. Bi-State scheduled a public hearing in an inaccessible building and location.

Section 37.137 of the DOT ADA regulation specifies that public hearings held regarding the ADA Paratransit Plan update must be accessible to those with disabilities and notice of the hearing must be accessible as well. By your own admission, the building itself was completely accessible. Other conditions, such as street closures and detours (not created by the transit provider) made your journey and other persons with and without disabilities (who used public transportation) more difficult, but not impossible. There is no Federal law which prohibits public entities from re-routing transit service that equally affects all persons who use the system. Street closures and detours that impact all citizens, not just one specific group such as persons with disabilities, is not discriminatory. Therefore, we consider this issue to be resolved.

2. The fare charged by Great River Bend, Inc. (GRB), the paratransit service for MetroLINK's (Davenport's transit system), is three times the regular fixed route bus.

The DOT ADA regulations at 49 CFR 37.131(c) states that:

The fare for a trip charged to an ADA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare (i.e. without regard to discounts) for a trip of similar length, at a similar time of day, on the entity's fixed route system.

MetroLINK advised FTA that it charges \$0.50 for its service and GRB charges \$1.00 for a ride anywhere in the Davenport fixed route jurisdiction. Consequently, GRB's fare structure does not constitute a violation of the ADA and we consider this allegation to be resolved.

3. Telephones are required to schedule paratransit service.

Section 37.131(b) of the DOT ADA regulations requires:

An entity shall make its reservation service available during at least all normal business hours of the entity's administrative offices, as well as during times comparable to normal business hours, on a day when the entity's offices are not open before a service day. Reservations may be taken by reservation agents or by mechanical means.

The regulations do not address the issue that transit providers must provide other forms of reservation service, such as mail-in or walk-in reservations. Without this guidance, we have no authority to address your complaint regarding Bi-States's scheduling by telephone requirement. Therefore, we consider this issue to be resolved.

4. Street and/or sidewalk closures or obstructions, create safety hazards.

FTA's jurisdiction under Title II of the ADA refers to the design, construction and alteration of transportation building, facilities and vehicles. According to Title II, Section 35.150 of the ADA, the U.S. Department of Justice has jurisdiction over issues involving architectural barriers in public facilities and right-of-ways such as street closures and obstructions. You may wish to pursue your complaint by contacting the Department of Justice whose ADA Information Line is 1-800-514-0301.

5. The City of Davenport failed to provide advance notice of street closures per a U.S. Department of Housing and Urban Development (HUD) agreement.

Your concern regarding the City of Davenport's failure to provide advance notice of street closures refers to the agreement executed in July 1992 between you, HUD and the City of Davenport. Any alleged violations of this agreement would fall under the jurisdiction of HUD, not FTA. Therefore, you may wish to pursue these allegations by writing to:

The U.S. Department of Housing and Urban Development
Region 7
400 State Avenue
Kansas City, Kansas 66101- 2421.

You may contact Deborah Jones, Director of Program Compliance at 913-551-5897 or Floyd O. May, Director of Fair Housing and Equal Opportunity at 913-551-6958 regarding your concerns.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although these incidents caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff at (202) 366-2285, or at her electronic mail address: Sandra.McCrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: JDG Associates, Inc.



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 26 1997

[REDACTED]

Re: FTA Complaint No. 95096

Dear [REDACTED]

This letter responds to your complaint regarding Martha's Vineyard Transit Authority (MVTA), of Edgartown, Massachusetts, and [REDACTED] a MVTA contract paratransit provider, and potential noncompliance with Title II of the Americans With Disabilities Act (the ADA) and/or the Department of Transportation's (DOT) regulations at 49 CFR Parts 27, 37 and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA. The ADA does not provide FTA authority to directly seek compensatory or other monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of complainants. If FTA cannot resolve apparent violations of the Act or the DOT regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. The FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

- 1) On August 18, 1994, [REDACTED] service notified you that a wheelchair accessible van was unavailable for a trip you wished to make on August 21, 1994.
- 2) On August 21, 1994, you observed an non-disabled passenger hail and receive service from a [REDACTED] wheelchair accessible van.

We informed MVTA and its paratransit provider, [REDACTED] of your allegations and requested information relating to your complaint, reviewed the information presented by MVTA and [REDACTED] and yourself, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, presented the DOT ADA regulation requirements, followed by our determinations, below:

- 1) On August 18, 1994, [REDACTED] service notified you that a wheelchair van was unavailable for a trip you wished to make on August 21, 1994.

According to the ADA at 49 CFR 37.127:

Each public entity required to provide complementary paratransit service... shall make that service available to visitors... A visitor is an individual with disabilities who does not reside in the jurisdiction(s) served by the public entity or other entities with which the public entity provides coordinated complementary paratransit service within a region... Each public entity shall treat as eligible for its complementary paratransit service all visitors who present documentation that they are ADA paratransit eligible... in the jurisdiction in which they reside.

The MVTA advised FTA that [REDACTED] contract was terminated as of September 24, 1993. Since that date, Island Transport, Inc. has been the sole dispatcher and operator for all elderly and disabled van services, alleviating future miscommunication and assuring proper compliance with the DOT ADA regulations. There have been no complaints received against Island Transport since the termination of [REDACTED]. MVTA expressed regrets that you had this most unfortunate experience and "hope that you and your family will return to enjoy the pleasures of Martha's Vineyard again." We commend MVTA for their actions but have reminded them that simply changing contractors does not alleviate their responsibilities for violations of the ADA under the law. Since MVTA does not have a pattern and practice of this type of violation we consider this issue to be resolved.

- 2) On August 21, 1994, you observed a non-disabled passenger hail and receive service from a [REDACTED] wheelchair accessible van.

According to MVTA, the non-disabled passenger you observed on August 21, 1994, is the father of a disabled child whose family was visiting Martha's Vineyard. The couple had reserved the wheelchair accessible van, and it was scheduled to pick this family up at the Oak Bluff ferry terminal to transport them to Edgartown. MVTA stated that the mother, father, and son were told that it was a short distance to Edgartown from the Oak Bluffs ferry terminal and had decided to walk. After proceeding some distance, and realizing that it would be a longer walk than they anticipated, the father returned to the terminal, leaving the mother and son near Waban Park. The father proceeded to hail the wheelchair accessible Marlene's van to retrieve his son and wife and to take them to Edgartown.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although this incident caused you some inconvenience, we do not have evidence at this time that MVTA has a pattern and practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

-3-

If you have any questions regarding this decision, please contact Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff at (202) 366-2285 or at her electronic mail address: Sandra.McCrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



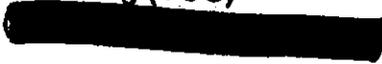
Arthur Andrew Lopez
Director
Office of Civil Rights

cc: CompuCon, Inc.

Federal Transit Administration

TCR-20: SMCCREA 02/25/97: x60803

Copies to: TCR-1, TCR-20 (SMcCrea, BSligh), Chron/Subject, CompuCon (Fax)
Region 1, Richard Wong (TCC)

"O:\MCCREA" 



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 27, 1997

[REDACTED]

Re: FTA Complaint No. 95007

Dear [REDACTED]

This letter responds to your complaint regarding the New Hampshire Department of Transportation (NHDOT), of Concord, New Hampshire and potential noncompliance with Title II of the Americans With Disabilities Act (ADA) and/or the Department of Transportation's (DOT) regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of transportation properly implement the ADA, the DOT ADA regulations and section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory or other monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of complainants. If FTA cannot resolve apparent violations of the Act or the DOT regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. The FTA also may refer the matter to the U.S. Department of Justice for enforcement. We understand your allegations to be as follows:

- 1) The Advanced Transit system is not fully accessible, making it difficult to know when an accessible bus is available;
- 2) The Grofton Senior Citizens Council and the United Development Services do not offer their services to the general public;
- 3) The Grofton Senior Citizens Council and the United Development Services paratransit systems should be coordinated since these systems often travel on the same routes.

We informed NHDOT of your allegations and requested information relating to your complaint, reviewed the information presented by NHDOT and yourself, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

- 1) **The Advanced Transit system is not fully accessible, making it difficult to know when an accessible bus is available.**

The DOT ADA regulations at 49 CFR 37.71 requires:

"...each public entity operating a fixed route system making a solicitation after August 25, 1990, to purchase or lease a new bus or other vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs."

At the time you filed your complaint, NHDOT advised FTA that many of the vehicles in their bus fleet were purchased prior to August 25, 1990, and therefore not required to be accessible to person with disabilities. NHDOT stated that the Advance Transit fleet is now fully accessible, so riders can count on lift-equipped buses on every route. In view of this circumstance, we consider this issue to be resolved.

- 2) **The Grofton Senior Citizens Council and the United Development Services do not offer their services to the general public.**

The DOT ADA regulations at 37.121 state:

"...each public entity operating a fixed route system shall provide paratransit service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system."

NHDOT advised FTA that the United Development Services is a contractor of the Division of Mental Health and Developmental Services and offers specialized transportation for its patrons. Likewise, the Grofton County Senior Citizens Council offers services to senior citizens and is under contract to the Division of Elderly and Adult Services. Neither systems are contracted to provide complementary paratransit service for the fixed route systems in your area, (Advance Transit or Community Transportation). These services are independent to the complementary paratransit that is provided by NHDOT and are not required to provide services to the general public. We agree that coordination between transit services is an essential component to providing America with required transportation. FTA is working on this issue with the Department of Health and Human Services. However, the DOT ADA regulations does not apply to either of your services. We consider this issue to be resolved.

- 3) **The Grofton Senior Citizens Council and the United Development Services paratransit systems should be coordinated since these systems often travel on the same routes.**

Although your concerns about the coordination of services are not without merit, the DOT ADA regulation does not address the manner in which bus services are to be coordinated. Without this authority, we have no jurisdiction to address this matter and consider this issue to be closed.

Given these circumstances and in consideration of FTA policy, we will take no further action on your complaint and consider your file to be closed unless we hear from you within thirty days from the date of this letter. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, at (202) 366-2285, or at her electronic mail address: sandra.mccrea@fta.dot.gov. All correspondence and /or communication regarding your complaint should reference the above noted complaint number.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: CompuCon, Inc.

Federal Transit Administration

TCR-20: SMCCREA 01/30/97:x60803

Rewritten: 02/27/97

Copies to: TCR-1, TCR-20 (SMcCrea, BSligh), Chron/Subject, Region 1, CompuCon (Fax)

Richard Wong (TCC)

"O:\MCCREA" [REDACTED] SMcCrea

74 1



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 3 1997

[Redacted]

Re: FTA Complaint No. 96133

Dear [Redacted]

This letter responds to your complaint regarding the Metro-Dade Transit Agency (MDTA), Miami, Florida, and potential non-compliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA may also refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Paratransit vehicle operators do not give fare receipts;
2. Some paratransit vehicles have missing or defective seatbelts;
3. Paratransit vehicle operators are discourteous and operate vehicles unsafely; and
4. Paratransit vehicle operators do not make change for fares.

We informed MDTA of your allegations and requested information relating to your complaint; reviewed the information presented by MDTA along with your allegations; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We restated your allegations, followed by our determination, below:

1. Paratransit vehicle operators do not give fare receipts.

The DOT ADA regulations do not address the issue of fare receipts, so we cannot make a determination on this issue. However, MDTA confirmed to us that it does have a policy requiring paratransit vehicle operators to give fare receipts to customers upon request. If a driver fails to give you a receipt, you may request a computerized summary of your trips from Gwen at COMSIS Mobility Services, Inc. The telephone number is 305-265-3350.

2. Some paratransit vehicles have missing or defective seatbelts.

Section 38.23(d)(7) of the DOT ADA regulation states that:

For each wheelchair or mobility aid securement device provided, a passenger seatbelt and shoulder harness, complying with all applicable provisions of part 571 of this title, shall also be provided for use by wheelchair or mobility aid users. Such seatbelts and shoulder harnesses shall not be used in lieu of a device which secures the wheelchair or mobility aid itself.

The DOT ADA regulation requires seatbelts be available to passengers on paratransit. In its response, MDTA acknowledged there was a problem with operative seatbelts on one of the two paratransit vehicles you use. MDTA states this problem was corrected in April 1996, and that both vehicles were again inspected in September 1996, and found to have operative seatbelts available for the maximum number of passengers on both vehicles.

Based on this information, we will take no further action on this allegation. However, please keep MDTA advised of this situation if it occurs again.

3. Paratransit vehicle operators are discourteous and operate vehicles unsafely.

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

MDTA has provided documentation which shows it has trained its paratransit vehicle operators in accordance with the requirements of the DOT ADA regulation, including the vehicle operator you identified in your May 10, 1996, letter of complaint. MDTA also has a contractual requirement that after five unrelated complaints, the driver is no longer allowed to operate paratransit vehicles. Although MDTA does not state a reason, the two drivers about whom you complained no longer work for MDTA.

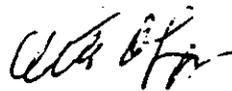
Based on MDTA's documentation that it provides training for its vehicle operators in compliance with the DOT ADA regulations, and that it has a disciplinary policy in effect, and that the drivers you are concerned about are no longer employed, we will take no further action at this time on this allegation. Please contact us again should you continue to encounter similar difficulties with drivers that you are unable to resolve with MDTA.

4. Paratransit vehicle operators do not make change for fares.

As the DOT ADA regulation does not address this issue, we will take no action on your allegation.

If you have any questions regarding this determination, please contact Michael Virts, Equal Opportunity Specialist, at (202) 366-2285 or at his electronic mail address: Michael.Virts@fta.dot.gov. If we do not hear from you within 30 days from the date of this letter, we will consider your complaint to be closed. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing your concerns to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Chester E. Colby
Director, MDTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20560

MAR 5 1997



Re: FTA Complaint No. 96123

Dear 

This letter responds to your complaint regarding Black and White Cabs (B&W), Norfolk, Virginia, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA), Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. On May 22, 1994, a driver for B&W refused to accept you and your service animal as passengers; and
2. The same B&W driver was extremely rude and discourteous towards you.

We informed B&W of your allegations and requested information relating to your complaint; reviewed the information presented by B&W and yourself, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

-2-

1. **On May-22, 1994, a driver for B&W refused to accept you and your service animal as passengers.**

According to the DOT ADA regulations at 49 CFR 37.169 (d), which state:

Service animals shall always be permitted to accompany their user in any private or public transportation vehicle or facility.

B&W advised FTA that there was a clear violation of this provision and as soon as they were made aware of the violation, [REDACTED] General Manager, investigated the complaint and took immediate steps to remedy the incident. B&W stated that the offending driver's contract was terminated on May 23, 1994, and other drivers received notifications that persons with service animals must be allowed to ride in all B&W taxicabs. We believe that actions B&W has taken in regard to your concerns ensures compliance with this provision of the DOT ADA regulations and consider this issue to be resolved.

2. **The same B&W driver was extremely rude and discourteous towards you.**

The DOT ADA regulations at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the differences among individuals with disabilities.

To ensure compliance with the ADA, B&W informed FTA that it maintains a policy prohibiting discrimination against persons with disabilities and that all new drivers are given a copy of this policy prohibiting discrimination against persons with disabilities during new driver orientation. B&W stated that the company also conducts awareness training which includes a review of the company's policy and a demonstration of how to properly assist persons with disabilities. Finally, B&W states that the "Taxicab Lease Agreement" that all drivers must sign, requires each driver to comply with all applicable Federal, state and municipal laws, ordinances, statutes, rules and regulation. Based upon the foregoing, we will consider this issue to be resolved at this time.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although these incidents caused you significant inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

-3-

If you have any questions regarding this decision, please contact Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff at (202) 366-2285, or at her electronic mail address: Sandra.McCrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

CompuCon, Inc.



U.S. Department
of Transportation

Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 17 1997

[REDACTED]

Re: FTA Complaint No. 96153

Dear [REDACTED]

This letter responds to the complaint you filed on behalf of your client, [REDACTED] regarding the Washington Metropolitan Area Transit Authority (WMATA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand [REDACTED] allegations to be as follows:

She was denied access to the WMATA Pentagon Station because the WMATA employee on duty refused to retrieve her money from her personal belongings to allow her to purchase a fare card. The station attendant's inappropriate behavior publicly humiliated [REDACTED]

We informed WMATA of your allegations and requested information relating to your complaint; reviewed the information presented by WMATA and yourself, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determination follows.

Section 37.5 of the DOT ADA regulations is the general nondiscrimination section of the transportation requirements. At Section 37.5(a) and (b) it states:

(a) No entity shall discriminate against an individual with a disability in connection with the provision of transportation service. (b) . . . an entity shall not, on the basis of a disability, deny to any individual with a disability the opportunity to use the entity's transportation service for the general public, if the individual is capable of using that service.

WMATA's policy regarding persons who need assistance in processing "fare media" is to retrieve it from an empty, easily accessible container or holder. If the fare media is not held in such a place, the WMATA employee is to politely offer a courtesy trip pass with an explanation that he or she is not allowed to retrieve a farecard from a patron's personal belongings. In addition WMATA states, "In the future, once our riders are fully aware of these guidelines, a trip pass will no longer be issued." We find that this policy is reasonable and in keeping with the DOT ADA regulation quoted above.

However, according to [REDACTED] description of the incident, corroborated by an objective bystander who apparently was unknown to [REDACTED] it appears that the WMATA employee did not follow the stated policy. First, she would not open the door to assist [REDACTED] who could not reach the counter from her wheelchair, thus denying [REDACTED] access. Second, although she would not retrieve [REDACTED] money from her personal belongings in accordance with WMATA's stated policy, she did not offer her a trip pass which is also in accordance with WMATA's policy. There is no indication that [REDACTED] was aware of WMATA's policy as she has stated that some employees have helped her and others have refused to help her.

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

WMATA provided documentation that the employee involved received ADA training in March 1996, but did not state whether she had previously been trained per the ADA regulation. Regardless of whether she was trained, according to the description of the incident, she did not treat [REDACTED] with courtesy and respect, nor did she follow WMATA's policy regarding assisting persons with fare media.

In conclusion, WMATA's policy that does not allow its employees to retrieve anything from a rider's personal belongings, but which still provides program access by offering a trip pass is not violative of the ADA DOT regulation if it is implemented. Clearly in this instance it was not. Simply having a policy in writing does not meet the requirements of the regulation. We have informed WMATA of our decision (see enclosure) and have advised it to re-issue guidance to its employees to ensure proper implementation of this policy. If this matter continues we will consider further action.

Unless we receive information from you or [REDACTED] within the next 30 days that substantially alters the facts of this complaint, we will consider this complaint to be closed. We thank you for bringing this matter to our attention, and regret our delay in replying to your letter. Should you have any questions regarding our decision, please call Roberta Wolgast, Equal Opportunity Specialist, at 202-366-2285 or at her electronic mail address: roberta.wolgast@fta.dot.gov.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

Enclosure

cc: [REDACTED]

100-1



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 12 1997

[Redacted]

Re: FTA Complaint No. 97127

Dear [Redacted]

This letter responds to your complaint regarding the Northeast Illinois Regional Commuter Railroad Corporation (Metra), in Chicago, Illinois, and potential noncompliance with the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation ACT of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that Metra's decision to terminate the Rail Corridor Accessibility Program (RCAP) in the south sector first, is discriminatory. We informed Metra of your allegation, requested information relating to your complaint and reviewed the information presented by Metra and yourself. We made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

-2-

According to the DOT ADA regulation at 49 CFR 37.121, the following transit providers must provide ADA complementary paratransit service:

(a) Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system... (c) Requirements for complementary paratransit do not apply to commuter bus, commuter rail, or intercity rail systems.

Although the paratransit service in question is intended for persons with disabilities, it is not required by the ADA. The service was initiated voluntarily by Metra and later in accordance with an Illinois Human Rights Commission (the Commission) decision. It was to be offered until Metra's South Sector commuter rail line attained a specified level of accessibility, as determined by the Commission. We understand that Metra has complied with the Commission's requirements in the South Sector, therefore, the paratransit service in that area is being eliminated.

We understand how important the RCAP program is to passengers who use the system, but since this service is not required by the ADA, DOT can only intervene when compliance with a Federal law is at issue. According to the Federal Transit Laws at 49 U.S.C. §5324(c) which states:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and after a grant is made, may not regulate any charge for the system.

DOT is prohibited from becoming involved in operational matters of local jurisdiction such as setting fares, location, elimination, or temporary change of routes. For assistance in determining the transportation needs for persons with disabilities in the south sector, please contact Metra for assistance by calling (312) 322-6777.

Based on the determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Michael Virts, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511 or at his electronic mail address, michael.virts@fta.dot.gov within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. We regret that we are not able to be of more assistance to you on your concern.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 19 1997

[REDACTED]

Re: FTA Complaint No. 96164

Dear [REDACTED]

This letter responds to your complaint regarding Southeastern Pennsylvania Transportation Authority (SEPTA), Philadelphia, Pennsylvania, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. SEPTA's ADA paratransit system is consistently late for pick-ups and drop-offs.

We informed SEPTA of your allegations and requested information relating to your complaint; reviewed the information presented by SEPTA and yourself, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations.

The DOT ADA regulations at 49 CFR 37.131(f), states:

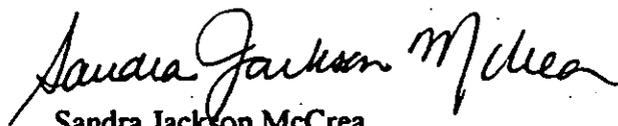
The entity shall not limit the availability of service to ADA paratransit eligible individuals because of an operational pattern or practice that significantly limits the availability of service, i.e., substantial number of significantly untimely pick-ups for initial and return trips.

As a result of the court case, *Suzanne B. Bacal v. SEPTA*, 94CV-6497 (Class Action Complaint, alleged SEPTA's paratransit service systematically violated DOT's ADA regulations; now settled conditionally), a consent decree was entered into in which SEPTA agrees to:

- Install a new computer scheduling system, the "Paratransit Automated Schedule System," at its control center for paratransit operations. This system will serve to improve paratransit performance through increased per hour vehicle productivity. The system will be capable of providing detailed operational reports; and,
- Meet predetermined paratransit performance standards.

We have determined that the allegations raised in your complaint will be addressed with the implementation of the settlement agreement. We appreciate, greatly, the time and attention that you have given to these matters, and consider your complaint to be resolved and closed. Should you have any questions, please contact me, at (202) 366-2285, or at my electronic mail address: sandra.mccrea@fta.dot.gov. We ask that you please refer to the assigned FTA complaint number when communicating with our office. Again, thank you for bringing this matter to our attention.

Sincerely,



Sandra Jackson McCrea
Equal Opportunity Specialist
Office of Civil Rights

cc: RGMA, Inc.

TCK-20



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20500

MAR 20 1997



Re: FTA Complaint No. 95171

Dear

This letter responds to your complaint regarding Kitsap Transit, Bremerton, Washington, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27,37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Kitsap Transit has recently determined you to be ineligible for ADA paratransit services, and will no longer provide you paratransit service.

We informed Kitsap Transit of your allegations and requested information relating to your complaint; reviewed the information presented by Kitsap Transit and yourself, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations.

According to the DOT ADA regulations at 37.123(e)(1), which states:

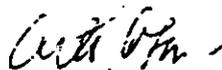
The following individuals are ADA paratransit eligible: Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable to individuals with disabilities.

The main issue in determining eligibility for ADA paratransit service is whether, as a practical matter, the individual can use fixed route transit in his or her own circumstances. This decision is a transportation decision and not a medical decision, although the evaluation by a physician may be used to help in determining this decision. Per your instructions listed in your complaint letters, we contacted your personal care assistant, [REDACTED] who informed us that he provided you training to use fixed route service, and that you have used the fixed route service effectively for many years. Moreover, although Kitsap Transit did provide paratransit service to you in the past as a courtesy, they are under no obligation under the DOT ADA regulation, to continue to provide you ADA paratransit service because you are able to use the fixed route service regularly and proficiently.

It is FTA's policy to encourage persons with disabilities who are able to use and successfully navigate an accessible fixed route system to use the fixed route, so that the ADA paratransit system is used only by those persons with disabilities who cannot navigate the fixed route system. We find that the actions of Kitsap Transit do not constitute a violation of the DOT ADA regulations, consider this issue to be resolved.

Given these circumstances and in consideration of FTA policy, we will take no further action on your complaint and consider your file to be closed unless we hear from you within thirty days from the date of this letter. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, at (202) 366-2285, or at her electronic mail address: sandra.mccrea@fta.dot.gov. All correspondence and /or communication regarding your complaint should reference the above noted complaint number.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: Gardner Consulting Planners



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 20 1997

[REDACTED]

Re: FTA Complaint No. 96203

Dear [REDACTED]

This letter responds to the complaint, filed on your behalf by [REDACTED] regarding the Transit Authority of River City (TARC) of Louisville, Kentucky, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violation of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be that you are no longer eligible for ADA complementary paratransit service because you live over three quarters of a mile from a TARC fixed-route bus stop.

We informed TARC of your allegations and received information relating to your complaint (copy enclosed); reviewed the information presented by TARC and you; and made a determination on your allegations based on our analysis of the complied information in relation to the DOT ADA regulations. Our determination follows:

Section 37.131(a) of the DOT ADA regulation states that transit providers are required to:

provide complementary paratransit services to origins and destinations within corridors with a width of three-fourths of a mile on each side of each fixed route. The corridor shall include an area with a three-fourths of a mile radius at the ends of each fixed route.

This is a minimum requirement under the DOT ADA regulations, beyond which, TARC is not required to provide service.

TARC informed us that in 1994, its paratransit service area was reduced from 1 1/2 miles to the ADA standard of 3/4 mile from fixed route service. To ease transition, TARC implemented a plan which "grandfathered" persons who had used the paratransit service at least once from October 1993 through June 1994. However, TARC's records indicated that you did not use the paratransit service during that time frame which made you ineligible to be grandfathered.

To be eligible for complementary paratransit service under the DOT ADA regulations, you do not necessarily have to live within the designated 3/4 mile service area. You are eligible for the service if you request a ride from a pickup point and to a destination point anywhere within the 3/4 mile area. In its August 15, 1994, letter to TARC paratransit riders, TARC correctly explained that if the rider lives outside the paratransit service area, he or she may come into the service area to receive paratransit service.

Based on the information provided, we find TARC's policy to be consistent with the minimal requirements of the DOT ADA regulations. Therefore, we will take no further action on your complaint. We regret that we could not be of further assistance. Should you have any future public transportation problems that you are unable to resolve with TARC, please contact us again. Please identify the FTA complaint number in any correspondence with this office. If you have any questions, please contact Cyllinda Queen, of my staff, at (202) 366-0796 or at her electronic mail address: cylinda.queen@fta.dot.gov.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

Enclosure

cc:

[REDACTED]
J. Barry Barker, Executive Director (TARC)



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 26 1997

[REDACTED]

Re: FTA Complaint No. 95111

Dear [REDACTED]

This letter responds to your complaint regarding the Orange County Transportation Authority (OCTA), Orange, California, and their paratransit provider Access Services, Incorporated (ASI), Los Angeles, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA), Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement. As a result of the tremendous influx of civil rights complaints, contractor's assistance has been procured. Gardner Consulting Planners (GCP), is the contractor assigned by FTA to investigate your complaint.

We understand your allegations to be as follows:

1. OCTA and ASI refuse to allow persons with apparent disabilities to serve as personal care attendants for other persons with disabilities.
2. OCTA and ASI will not accept round trip or multiple stop trip fares in advance, and require individuals to pay fares as the ride.
3. OCTA and ASI perform changes in scheduled pickup times by as much as one hour without prior notice.

4. **OCTA and ASI's reservation system is designed to limit use by persons with cognitive disabilities.**
5. **OCTA revoked the free lifetime bus passes for you and your family, that was part of an employee benefit retirement package.**

We informed OCTA and ASI of your allegations and requested information related to your complaint; reviewed the information presented by OCTA, ASI and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. **OCTA and ASI refuse to allow persons with apparent disabilities to serve as personal care attendants for other persons with disabilities.**

Per your September 18, 1996, and January 29, 1997, telephone conversations with [REDACTED] of GCP, you advised [REDACTED] that this allegation of your complaint has been resolved to your satisfaction. Based upon the foregoing we consider this issue to be resolved.

2. **OCTA and ASI will not accept round trip or multiple stop trip fares in advance, and require individuals to pay fares as the ride.**

Per your September 18, 1996, and January 29, 1997, telephone conversations with [REDACTED] of GCP, you advised [REDACTED] that this allegation of your complaint has been resolved to your satisfaction. Based upon the foregoing we consider this issue to be resolved.

3. **OCTA and ASI change scheduled pickup times by as much as one hour without prior notice.**

Per your September 18, 1996, and January 29, 1997, telephone conversations with [REDACTED] of GCP, you advised [REDACTED] that this allegation of your complaint has been resolved to your satisfaction. Based upon the foregoing we consider this issue to be resolved.

4. **OCTA and ASI's reservation system is designed to limit use by persons with cognitive disabilities.**

Per your September 18, 1996, and January 29, 1997, telephone conversations with [REDACTED] of GCP, you advised [REDACTED] that this allegation of your complaint has been resolved to your satisfaction. Based upon the foregoing we consider this issue to be resolved.

-3-

5. **OCTA revoked the free lifetime bus passes for you and your family, that was part of your employee benefit retirement package.**

Although your circumstances are most unfortunate, the FTA does not require employers to provide free passes or any other incidental benefits to their employees, nor does the FTA regulate their termination. Moreover, there is no provision in the DOT ADA that addresses the issue of retiring transit employee benefits. The provision of such benefits and their termination, is part of the terms and conditions of the employment contract between the employer and its employees and is beyond the jurisdiction of the FTA. We contacted OCTA on your behalf and we were informed that OCTA's ADA Compliance Officer, Ms. Dee Zasio, is the representative to contact in regards to this issue. If you have any questions or require assistance in this matter, please contact Ms. Zasio at (714) 560-5563.

Given these circumstances and in consideration of FTA policy, we will take no further action on your complaint and consider your file to be closed unless we hear from you within thirty days from the date of this letter. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, at (202) 366-2285, or at her electronic mail address: *Sandra.McCrea@fta.dot.gov*. All correspondence and /or communication regarding your complaint should reference the above noted complaint number.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: Gardner Consulting Planners

-4-

Federal Transit Administration
TCR-20: SMCCREA 02/13/97: x60803
Copies to: TCR-1, TCR-20 (SMcCrea, BSligh), Chron/Subject, GCP (Fax) Region 9,
Richard Wong (TCC)
"O:IMCCREA" ([REDACTED]) SMcCrea



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 27 1997

[REDACTED]

Re: FTA Complaint Number 96023

Dear [REDACTED]

This letter responds to your complaint regarding the Dallas Area Rapid Transit (DART) in Dallas, Texas, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement. We understand your allegations to be as follows:

1. DART restricted trips based on trip purpose.
2. DART will not allow you to expand your subscription service.
3. DART records all calls received in its control center.
4. DART did not process your complaints in accordance with ADA requirements.
5. Drivers and other DART personnel are engaged in retaliation because you have previously filed complaints.

We informed DART of your allegations and requested information relating to your complaint; reviewed the information presented by DART and yourself, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. DART restricts trips based on trip purpose.

The DOT ADA regulations at 49 CFR 37.131(d) states:

The entity shall not impose restrictions or priorities based on trip purpose.

Entities are prohibited from imposing restrictions or priorities based on trip purpose when providing complementary paratransit service. When a passenger makes a reservation, the only information a transit provider should require is the origin, destination, time of travel, and how many people are traveling. The entity does not need to know why the person is traveling, and that question should never be asked.

Per your December 9, 1996, telephone conversation with [REDACTED], it is my understanding that you advised her that DART did not, in fact, request the purpose of your trips. Based upon the foregoing we consider this issue to be resolved at this time.

2. DART will not allow you to expand your subscription service.

The DOT ADA regulations at 49 CFR 37.133 states:

Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is non-subscription capacity. Notwithstanding any other provision of this part, the entity may establish waiting lists or other capacity constraints and trip purpose restrictions or priorities for participation in the subscription service only.

Although subscription service is not required by the ADA, DART informed FTA that it does provide subscription service as a convenience to its riders. However, as of October 1995, applications for subscription service were no longer accepted to ensure compliance with the 50% maximum subscription requirement when request for demand response service are not being met. Since the DOT ADA regulation does not require subscription service, nothing provided in the facts presented shows that DART is in violation of the ADA DOT regulation with regards to subscription service. We therefore consider this issue to be resolved.

3. DART records all calls received in its control center.

Since the DOT ADA regulations do not address trip reservations or any other customer service phone calls, nothing provided in the facts presented shows that DART is in violation of the ADA DOT regulation with regards to this issue.

4. DART did not process your complaints in accordance with ADA requirements.

Although your concerns about DART's complaint process may not be without merit, since the DOT ADA regulations do not address the manner in which customer complaints to transit providers are to be processed, nothing in the facts presented shows that DART is in violation of the ADA DOT regulation with regards to this issue.

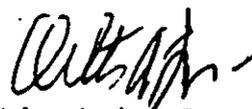
5. Drivers and other DART personnel are engaged in retaliation because you have previously filed complaints.

Per your December 9, 1996, telephone conversation with [REDACTED] you advised her that this allegation of your complaint has been resolved to your satisfaction. Based upon the foregoing we consider this issue to be resolved at this time.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although DART's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff at (202) 366-2285 or at her electronic mail address: Sandra.McCrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: RGMA, Inc.

Federal Transit Administration

TCR-20: SMCCREA 02/20/97: x60803

Copies to: TCR-1, TCR-20 (SMcCrea, BSlight), Chron/Subject, RGMA (Fax) Region 6, Richard Wong (TCC)

"O:\MCCREA" (MATHEWS.SAM) SMcCrea



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 27 1997

[REDACTED]

Re: FTA Complaint No. 96169

Dear [REDACTED]

This letter is in response to your complaint regarding DAVE Transportation Services, Inc. (DAVE), the paratransit service provider for the Massachusetts Bay Transportation Authority (MBTA), Boston, Massachusetts, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA the authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA may also refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. You were originally granted "temporary eligibility" for paratransit service, and contend that you should have been granted full eligibility up to the time of the next recertification; and
2. DAVE could not document charges for trips that it claims you took and for which it billed you.

We informed MBTA of your allegations and received a response to your complaint. We made the following determinations based on our review of your allegations and MBTA's response in relation to the DOT ADA regulations.

1. **You were originally granted "temporary eligibility" for paratransit service, and contend that you should have been granted full eligibility up to the time of the next recertification.**

The following two sections of the DOT ADA regulation apply to this issue. Section 37.123(c) states, "Individuals may be ADA paratransit eligible on the basis of a permanent or temporary disability." Section 37.125(f) states, "The entity may require recertification of the eligibility of ADA paratransit eligible individuals at reasonable intervals."

MBTA provided us a copy of your November 3, 1994, application in which you stated that your disability was temporary. MBTA states that this was why you received a temporary eligibility classification for ADA paratransit service. We understand that following your submission of an application for recertification and providing updated information regarding your disability on September 19, 1995, you were granted eligibility status without the temporary classification. We find MBTA's decisions reasonable and based on the facts presented, we have determined that it was in compliance with the DOT ADA regulation on this issue.

2. **DAVE could not document charges for trips that it claims you took and for which it billed you.**

Section 37.131(c) of the DOT ADA regulation on fares does not address the issue of receipts. There are discrepancies in facts between you and MBTA regarding the allegation in addition to an absence of adequate information to render a determination on this issue. This issue must be resolved between you and DAVE.

Based on the above, we have determined that we will take no further action at this time on your complaint. If you have any questions regarding this decision, please contact Michael Virts, Equal Opportunity Specialist, at (202) 366-2285 or at his electronic mail address, *michael.virts@fta.dot.gov* within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Patrick J. Moynihan
General Manager, MBTA

Federal Transit Administration
TCR Control No. 96000261
TCR-20:MVirts:mv:1/21/97:x62285
Copies to: TRO-1, TCC (Wong), TCR-1, TCR-20 Chron/Subj
Wolgast, Virts
O:\Virts:1DMcG.Sam



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 31 1997

[REDACTED]

Re: FTA Complaint No. 92078

Dear [REDACTED]

This letter responds to your complaint regarding the Long Island Railroad (LIRR) in Jamaica, New York, and the New York City Transit Authority (NYCTA), in Brooklyn, New York, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. The escalator at the Merrick Station on the LIRR is not accessible to persons who must use a cane.
2. NYCTA's subway station at 47th and 50th Streets (Rockerfeller Center) is not accessible to persons with disabilities.
3. NYCTA clerks refused your request for entry through the gates at several stations.
4. NYCTA employees treated you in an hostile and unprofessional manner.

We informed NYCTA and the LIRR of your allegations, requested information relating to your complaint and reviewed the information presented by LIRR, NYCTA, and yourself. We made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. Below, we have restated your allegations followed by our determinations.

1. **The escalator at the Merrick Station on the LIRR is not accessible to persons who must use a cane.**

The DOT ADA regulations at 49 CFR 37.161 states:

- (a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily usable by individuals with disabilities...
- (b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

While the DOT ADA regulation does not specify what measures are "reasonable," transit providers may take such "reasonable steps" by directing you to a working elevator or by providing you with paratransit service if an elevator is not available at that station. NYCTA has advised FTA that on April 11, 1996, you were certified as fully eligible for ADA complementary paratransit service. It is our understanding that currently, you are not riding the LIRR, nor do you have any concerns about the commuter rail or paratransit systems at this time. Based upon the foregoing, we consider this issue to be resolved at this time.

2. **NYCTA clerks refused your request for entry through the gates at several stations.**

The DOT ADA regulation at 49 CFR 37.5 state:

No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

NYCTA maintains that gate access has always been limited to those who are unable to use the turnstiles and advised FTA that in a letter dated August 30, 1993, at the time you filed your complaint, clerks were instructed only to open the gate for customers with bicycles, strollers, wheelchairs and other mobility-assistance devices. NYCTA stated that clerks have since been given the authority to open the service gates for customers who indicate they have a disability which makes it impossible to negotiate the new turnstiles.

In addition to the nondiscrimination provision of the ADA, the DOT ADA regulations at 49 CFR 37.173 state:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

NYCTA stated that its token booth clerks are instructed to exercise judgment as to whether an individual must access service through the gate instead of the turnstile because open gates lead to access by fare evaders, a problem that reached serious proportions in terms of lost revenue. Part of the fare evasion prevention program was to install locked gates that could only be accessed through token booth clerk operation, and install higher and narrower turnstiles to prevent turnstile jumping. NYCTA informed FTA that it would seem that token booth clerks made errors in judgment about your ability to use the turnstiles and perhaps were not sure how to respond when you insisted that you could not use the turnstiles.

Consequently, NYCTA advised FTA that one token booth clerk who failed to provide you access through the gate was given a letter of warning (a disciplinary action typically imposed for a first offense), and a second clerk resigned for unrelated reasons prior to any discipline being imposed. Unfortunately, NYCTA was unable to identify the token booth clerks from the information provided by you for the third and fourth complaints and therefore no disciplinary action could be taken against them.

Also, in response to your concerns, NYCTA informed FTA that it is presently in the process of replacing the old turnstiles for fare collection boxes that will permit persons with disabilities to access the gates autonomously, without having to rely on token booth clerk for access. Thus, your concern will disappear entirely once all the gates have been fully retrofitted.

Since you have been certified as fully eligible for ADA complementary paratransit service, it is our understanding that currently, you are not riding NYCTA's subway system, nor do you have any concerns about the subway or paratransit systems at this time. Based upon the foregoing, we consider this issue to be resolved at this time.

3. NYCTA employees are unprofessional and discourteous toward persons with disabilities.

As mentioned previously, the DOT ADA regulations at 49 CFR 37.173 state:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

A review of NYCTA's training materials and training procedures appears that NYCTA has the minimum ADA procedures in place but this is no assurance that they are in being implemented. NYCTA also advised FTA that it issues ADA bulletins and reminder notices regularly to reinforce its training efforts. NYCTA requests that any incidents of rudeness or insensitivity be brought to its attention by calling the subway station manager or the Division of Station's Customer Service line at (718) 330-3222. NYCTA contends that all complaints will be investigated and that if infractions are substantiated, clerks will be disciplined.

NYCTA has been informed that their commitment to ensure that token clerks treat passengers with disabilities with courtesy and respect is to be commended, but this does not relieve their responsibility to ensure that all employees comply with this and all requirements of the ADA. Based upon the foregoing, we will consider this issue to be resolved at this time. If you find that NYCTA's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, please keep us advised and we will consider further action if appropriate.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although LIRR's and NYCTA's actions caused you significant inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff at (202) 366-2285, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: RGMA, Inc.

TCK-20



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 31 1997

[REDACTED]

Re: FTA Complaint No. 92209

Dear [REDACTED]

This letter responds to your complaint regarding the Southeastern Pennsylvania Transportation Authority (SEPTA), in Philadelphia, Pennsylvania, and the potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. SEPTA's paratransit van drivers are rude to you, and on one occasion, a driver spoke to you angrily and made pay for your custodian.

We informed SEPTA of your allegations and requested information relating to your complaint; reviewed the information presented by SEPTA and yourself, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation.

The DOT ADA regulations at 49 CFR Part 37.173 state:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Although you were unable to provide more specific information, such as the identity of the paratransit carrier or the name of the driver, regarding this allegation, FTA requested that SEPTA verify that it conducts training on ADA sensitivity for its paratransit drivers. SEPTA advised FTA that it has a training program in place for all paratransit drivers, and that in September 1996, it hired a training coordinator to standardize paratransit driver training for all of its paratransit carriers. SEPTA states that all drivers must attend the course during the beginning months of their employment.

Although SEPTA meets the DOT ADA training requirements, they acknowledged that the driver you complained about, apparently did not appropriately demonstrate his/her knowledge of the subject. In spite of the fact that they could not identify the driver in this circumstance, SEPTA contends that all complaints against drivers will be investigated and that if infractions are substantiated, the driver will be disciplined.

SEPTA has been informed that their commitment to ensure that drivers treat passengers with disabilities with courtesy and respect is to be commended, but this does not relieve their responsibility to ensure that all employees, including dispatchers and reservation personnel comply with this and all requirements of the ADA. Based upon the foregoing we will consider this issue to be resolved at this time. If you find that SEPTA's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, please keep us advised and we will consider further action if appropriate.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although SEPTA's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

-3-

If you have any questions regarding this decision, please contact Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff at (202) 366-2285 or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: RGMA, Inc.

TCR-20



U.S. Department
of Transportation
Federal Transit
Administration

MAR 31 1997

400 Seventh St., S.W.
Washington, D.C. 20590

[REDACTED]

Re: FTA Complaint No. 96177

Dear [REDACTED]

This letter responds to your complaint regarding Access Services Incorporated (ASI), Los Angeles, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA. The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. On April 9, 1996, you were injured on an ASI van, and although you reported the incident to Customer Services at both ASI and San Gabriel Transit, they did not reply to your concerns in a timely manner.
2. An unidentified ASI staff person, who spoke with you regarding this accident, was unpleasant, and discounted the severity of your injuries.
3. ASI has not, as of December 12, 1996, agreed to pay for the physical therapy you desire.

We informed Access Services Incorporated of your allegations and requested information related to your complaint; reviewed the information presented by ASI and yourself, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. **On April 9, 1996, you were injured on an ASI van, and although you reported the incident to Customer Services at both ASI and San Gabriel Transit, they did not reply to your concerns in a timely manner.**

The DOT ADA regulations at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Access advised FTA that on July 18, 1996, it issued a letter to you to convey their deepest apology for this incident. In response to your concerns, ASI reprimanded the vehicle operator, and counseled him on system pick-up and drop-off procedures and protocol for alternative location requests. According to the facts provided it appears that ASI appropriately responded to your complaint and has taken appropriate steps to ensure that incidents such as this will not reoccur.

Although your concerns about the timeliness of ASI reponse to your complaint are not without merit, the DOT ADA regulation, does not address the manner in which customer complaints to transit providers are to be processed. Without this guidance, we are unable to address your complaint regarding ASI's handling of your concerns. FTA prefers that local complaints be resolved at the local level when possible. Please do not hesitate to contact us in the future if we can be of assistance.

2. **An unidentified ASI staff person ,who spoke with you regarding this accident, was unpleasant, and discounted the severity of your injuries.**

As mentioned previously, the DOT ADA regulations at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

ASI informed FTA that it trains its employees to be courteous and respectful to all persons with disabilities, but admits that this particular employee apparently did not appropriately demonstrate his or her training in this area. Unfortunately, ASI was unable to identify the employee, but has

-3-

apologized to you for this employee's behavior and states that it has taken steps to ensure that all customer service representatives treat persons with disabilities courteously, respectfully and politely. ASI has been informed that their commitment to ensure that drivers treat passengers with disabilities with courtesy and respect is to be commended but this does not relieve their responsibility to ensure that all employees, including dispatchers and reservation personnel comply with this and all requirements of the ADA. Based upon the foregoing, we will consider this issue to be resolved at this time. If you find that ASI's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect, please keep us advised and we will consider further action if appropriate.

3. ASI has not, as of December 12, 1996, agreed to pay for the physical therapy you desire for your right arm.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Therefore, we do not have any authority to address this aspect of your complaint and consider this issue to be closed.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although these incidents caused you significant inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff at (202) 366-2285, or at her electronic mail address: Sandra.McCrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: Gardner Consulting Planners



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 31 1997



Re: FTA Complaint No. 95176

Dear [REDACTED]

This letter responds to your complaint regarding the Los Angeles County Metropolitan Transportation Authority (MTA) and potential noncompliance with Title II of the Americans with Disabilities Act 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA. The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suite on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

- 1) You were informed by a MTA driver that the lifts are chronically inoperative when the buses are put into service each day.
- 2) The same MTA driver advised you that drivers are required to file incident/accident reports on their own time (unpaid), after their shifts end, and that assisting disabled passengers causes them to run late on their shifts.

We informed MTA of your allegations and requested information relating to your complaint; reviewed the information presented by LACMTA and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

- 1) **You were informed by a MTA driver that the lifts are chronically inoperative when the buses are put into service each day.**

According to the DOT ADA regulations at 49 CFR 37.163:

The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative... If there is no spare vehicle available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than five days (if the entity serves an area of 50,000 or less population) or three days (if the entity serves an area of over 50,000 population) from the day on which the lift is discovered to be inoperable... In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

The MTA advised FTA that its policy regarding pre-shift inspection, requires drivers to perform a pre-shift inspection of their assigned vehicle prior to leaving the bus yard each day. If a lift is found to be inoperable, it is immediately written up and reported to the bus operation control center. At that point, the bus is taken out of service for repair if another bus is available for replacement. If another bus is not available, the bus with the inoperable lift is still sent out on the route as to not have an interruption of service. The bus is then scheduled for immediate service/maintenance.

Moreover, MTA stated that its policy ensures that if the driver encounters a situation where the lift is needed and the lift is inoperable, the driver is required to contact the bus operation control center to inquire when the next bus, with an operating lift, will arrive at that stop. If another bus is not scheduled for that stop within 30 minutes, the bus operation control center makes arrangements for the paratransit service to pick-up the customer.

The MTA has been informed that their commitment to ensure that lifts are maintained is to be commended, but that to only maintain operable lifts does not alleviate their responsibilities to comply with all requirements of the ADA. If you find that MTA's actions to ensure that lifts are properly maintained is inconsistent with this statement, please keep us advised and we will consider further action if appropriate.

- 2) **The same MTA driver advised you that drivers are required to file incident/accident reports on their own time (unpaid), after their shifts end, and that assisting disabled passengers causes them to run late on their shifts.**

Although drivers are required to file reports at the end of a shift, MTA stated that all drivers are compensated for this additional time per their labor contract. The labor contract with the United Transportation Union states that in Article 18, *Making of Reports*: "Operators shall be allowed 30 minutes at straight time rate of pay for making out accident reports, and shall be allowed ten (10)

minutes at straight time rate of pay for making a required miscellaneous report." In light of the fact that you were unable to provide specific dates and times when drivers were not compensated for writing reports, we have been unable to verify this allegation. Based upon the foregoing, we will consider this issue to be resolved at this time. However, if you are able to provide specific incidents in which drivers have not been reimbursed for writing reports, please keep us advised and we will consider further action if appropriate.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although these incidents caused you significant inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff at (202) 366-2285 or at her electronic mail address: Sandra.McCrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: Gardner Consulting Planners



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 31 1997

[REDACTED]

Re: FTA Complaint No. 96150

Dear [REDACTED]

This letter responds to your complaint regarding the Southeastern Pennsylvania Transportation Authority (SEPTA), of Philadelphia, Pennsylvania, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA the authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA may also refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation regarding the SEPTA fixed route bus system is that there is no wheelchair-accessible bus assigned to fixed route number 64 in Philadelphia, Pennsylvania. Your friend, who uses a wheelchair, was not able to travel to his destination on route #64 of the SEPTA fixed route system.

We informed SEPTA of your allegation and received information relating to your complaint; reviewed the information presented by SEPTA and you; and made a determination on your allegations based on our analysis of the complied information in relation to the DOT ADA regulations. Our determination follows:

Section 37.71(a) of the regulation states that:

Each public entity operating a fixed route system making a solicitation after August 25, 1990, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

Section 37.121(a) of the regulation states that:

Each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

SEPTA states that it operates 24 wheelchair-accessible fixed bus routes in the City of Philadelphia; however, Route 64 is not yet accessible to wheelchair users. This is not a violation of the ADA, as the DOT ADA regulations do not require that buses be retrofitted with lifts to achieve accessibility. SEPTA anticipates that with the delivery of new accessible buses, Route 64 should be wheelchair-accessible sometime in the Spring of this year.

Disabled patrons requiring lift service have two options until the route becomes accessible. SEPTA operates a "Suburban On Call" system on its suburban routes which allows for persons with disabilities to request a wheelchair lift-equipped bus for a fixed route a day in advance. To request this service, call 215-580-3455 any day between 8:30 a.m. and 4:00 p.m. for next day service.

In addition, SEPTA has an ADA complementary paratransit service for persons with disabilities who have been certified as eligible because they are unable to use the fixed route bus system. For your convenience we have enclosed an application form for this service. The address and telephone number of SEPTA Paratransit is as follows:

SEPTA Paratransit
1234 Market Street - 4th Floor
Philadelphia, Pennsylvania 19107

(215) 580-7145

Based upon the above information, we do not find SEPTA to be in violation of the DOT ADA regulation, and will therefore take no further action on your complaint. If you have any questions regarding this decision, please feel free to contact Michael Virts, Equal Opportunity Specialist, at (202) 366-2285 or at his electronic mail address, michael.virts@fta.dot.gov, within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concern to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

Enclosure

cc: John K. Leary Jr.
General Manager, SEPTA

Federal Transit Administration
TCR-20:MVirts:mv:3/24/97:x62285
Copies to: TRO-3, TCC-Wong, TCR-1, TCR-20 Chron/Subj
Wolgast, Virts
O:\Virts: [REDACTED]



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 31 1997

[REDACTED]

Re: FTA Complaint No. 97004

Dear [REDACTED]

This letter responds to your complaint regarding the removal of bus stops in the City of Oceanside, California, and in San Diego County, California. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement Title II of the Americans with Disabilities Act of 1990 (the ADA), the Department of Transportation (DOT) ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

The removal of bus stops affects both persons with disabilities and those without disabilities equally. As the ADA is a civil rights law, the goal in public transportation is to offer the same access to persons with disabilities that is available to the general public. Therefore, we do not consider this issue to be a deficiency under the ADA. This determination is only in regard to your complaint concerning the removal of bus stops. We understand that both the Department of Justice and the Federal Highway Administration are reviewing the other complaint allegations that you brought forward in your letter of April 3, 1996.

Based on this determination, we will take no further action regarding this complaint allegation. If you have any questions regarding this decision, please contact Michael Virts, Equal Opportunity Specialist, at (202) 366-2285 or at his electronic mail address, *Michael.Virts@fta.dot.gov* within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint regarding the removal of bus stops to be closed. Please identify the FTA complaint number in any correspondence with this office.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

Federal Transit Administration
TCR-20:MVirts:mv:1/14/97:x62285
cc: TRO-9, TCR-1, TCR-20 Chron/Subj
Wolgast, Virts
O:\Virts: [redacted] Sam



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 10 1997



Re: FTA Complaint No. 96026

Dear 

Thank you for your letter dated January 26, 1997, concerning the complaint you filed with the Federal Transit Administration (FTA) regarding the New York City Transit Authority (NYCTA) in New York, New York. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your new allegations to be as follows:

- 1) NYCTA's category for persons with disabilities who received half fare cards is too limited and should be expanded to include other persons with disabilities;
- 2) NYCTA published a brochure in December 1996 that lists a large number of underground and elevated subway stations where one can buy or use a MetroCard, but does not list any other listings where persons with disabilities can purchase fare cards;
- 3) There are a number of NYCTA subway stations that you are unable to use in the summer because of extreme heat, and NYCTA has refused to correct this problem.
- 4) NYCTA failed to provide language in the new MetroCard brochure reflecting NYCTA's recognition of its obligation to comply with the Constitutional and statutory requirements prohibiting prejudice and discrimination against Americans with disabilities.

We informed NYCTA of your allegations and requested information relating to your complaint; reviewed the information presented by NYCTA and you; and made a determination based on our analysis of the complied information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

- 1) **NYCTA's category for persons with disabilities who received half fare cards is too limited and should be expanded to include other persons with disabilities;**

As previously stated in our January 8, 1997, correspondence to you, according to Title 49 USC Section 5307(d)(1)(D), formerly Section 5(m) of the Federal Transit Act ("the Act"), transit operators are required to provide half-fare benefits to elderly and "handicapped" riders during non-peak hours. The term "handicapped," according to Section 5302(a)(5) of Title 49 USC, is defined as "any individual who by reason of illness, age, congenital malfunction, or other permanent or temporary incapacity or disability, including any person who is wheelchair bound or has semi-ambulatory capabilities, is unable without special facilities or special planning or design to utilize public transportation facilities and services effectively."

The definition of "handicapped" was instituted by Congress and retained despite the subsequent enactment of the Americans with Disabilities Act of 1990 and codification of the Federal Transit Act in 1994. The FTA cannot amend the strict language of the provision without Congressional authorization. The half fare cards are a special benefit that is mandated and approved by Congress. Congress has the authority to provide programs and benefits to individuals with disabilities that are not provided to the general public and transportation for elderly and handicapped passengers is one of those programs. Based on the foregoing, we consider this issue to be resolved.

- 2) **NYCTA published a brochure in December 1996 that lists a large number of underground and elevated subway stations where one can buy or use a MetroCard, but does not list any other listings where persons with disabilities can purchase fare cards.**

Programs and activities operated by a public entity must be accessible to all individuals, including individuals with disabilities. The NYCTA should have "accessible" vending machines or sales locations and in response to your concerns, FTA inquired with NYCTA to ensure that there are sales locations available to persons with disabilities. FTA was advised by NYCTA that they do have accessible sales locations and provided FTA with a copy of a brochure for street level and wheelchair accessible stations (see attached). This brochure includes a complete listing of accessible sales locations in Brooklyn, Queens, Manhattan, and Staten Island. You may request this brochure by calling the MetroCard office at (212) 878-0165. Based on the foregoing, we consider this issue resolved.

- 3) **There are a number of NYCTA subway stations that you are unable to use in the summer because of extreme heat, and NYCTA has refused to correct this problem;**

Although your concerns about NYCTA's ventilation system may not be without merit, since the DOT ADA regulations do not address the method to improve comfort levels in the subway, nothing in the facts presented shows that NYCTA is in violation of the ADA DOT regulation with regards to this issue. However, we do encourage you to continue to work with NYCTA officials and subway advocacy groups, such as the Straphangers, to propose innovative methods to improve subway conditions for all riders. Based on the foregoing, we consider this issue to be resolved.

4. **NYCTA failed to provide language in the new MetroCard brochure reflecting NYCTA's recognition of its obligation to comply with the Constitutional and statutory requirements prohibiting prejudice and discrimination against Americans with disabilities.**

Certification for all Federal obligations is required by every grant agreement signed by NYCTA, and it is aware of its obligations to comply with the ADA and other civil rights statutes. While it might be useful to recite this information in its brochures, unfortunately, it is not required by Federal law. Again we encourage you to continue to work with NYCTA officials and other advocacy groups, to ensure improved communications with persons with disabilities. Based on the foregoing, we consider this issue to be resolved.

Given these circumstances and in consideration of FTA policy, we will take no further action on your complaint and consider your file to be closed. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on FTA's ADA Information Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Thank you for bringing this matter to my attention. If I can offer you further service, please do not hesitate to contact me.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

Enclosure

cc: RGMA, Inc.



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 10 1997

[REDACTED]

Re: FTA Complaint No. 96008

Dear [REDACTED]

Thank you for your letter dated March 6, 1997, concerning the complaint you submitted with the Federal Transit Administration (FTA) regarding the City of Davenport, Iowa, and the Bi-State Regional Commission. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your new allegations to be as follows:

1. The City of Davenport does not require a construction permit before contractors begin work, often creating obstructions to public rights of ways;
2. Great River Bend Services, Inc. (GRB), the paratransit service for MetroLINK (Davenport's transit system), gives preferences to long standing reservations (such as dialysis patients), and will not accept other reservations well in advance;
3. Numerous curb cuts and sidewalks are constantly blocked by parked vehicles, debris, or other barriers, creating safety hazards;
4. During construction to Locust Street in 1996, the City Council of Davenport required the #10 bus to skip several bus stops, making it difficult to have access to a major business district;

5. Locust's, Harrison's, Main's, and Brady's (all major arteries in the city of Davenport) curb cuts were inaccessible to persons with disabilities for months during construction;
6. In 1996, construction on River Drive (which is part of U.S. 61 and U.S. 67), created hazards for persons with disabilities, because wheelchair ramps were not properly aligned; and
7. In November 1996, the Festival of Trees Parade, created confusion for transit passengers.

We informed the City of Davenport and Bi-State of your allegations and requested information relating to your complaint; reviewed the information presented by Davenport and Bi-State and you; and made a determination based on our analysis of the complied information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. The City of Davenport does not require a construction permit before contractors begin work, often creating obstructions to public rights of ways.

The ADA does not provide FTA authority to require local governments to issue construction permits. Therefore, we do not have any authority to address this aspect of your complaint and consider this issue to be closed.

2. Great River Bend Services, Inc. (GRB), the paratransit service for MetroLINK (Davenport's transit system), gives preferences to long standing reservations (such as dialysis patients), and will not accept other reservations well in advance.

The DOT ADA regulations at 49 CFR 37.131(b)(4) states:

The entity *may* permit advance reservations to be made up to 14 days in advance of an ADA paratransit eligible individual's desired trips. When an entity proposes to change its reservations system, it shall comply with the public participation requirements equivalent to those of Sections 37.131(b) and (c).

GRB informed FTA that it does take reservation requests placed up to 14 days in advance. Unfortunately, since you did not provide specific dates regarding this allegations, GRB was unable to verify to FTA with detailed information about the circumstances given rise to this issue. [REDACTED] of GRB, advised FTA that the service that you have described is in fact subscription service that is provided separate and apart from the ADA complementary paratransit service required by the DOT ADA regulation.

According to the DOT ADA regulations at 49 CFR 37.133, which state:

This part does not prohibit the use of subscription service by public entities as part of a complementary paratransit system, subject to the limitations in this section. Subscription service may not absorb more than fifty percent of the number of trips available at a given

time of day, unless there is non-subscription capacity. Notwithstanding any other provision of this part, the entity may establish waiting lists or other capacity constraints and trip purpose restrictions or priorities for participation in the subscription service only.

Although subscription service is not required by the ADA, GRB informed FTA that it does provide subscription service as a convenience to its riders. However, GRB stated that there is currently a waiting list for subscription service to ensure compliance with the 50% maximum subscription requirement when request for demand response service are not being met. It appears that the subscription service being provided does not violate the DOT ADA regulation. Based on the facts presented, we consider this issue to be resolved. If you require any assistance, regarding GRB's subscription service, you may wish to contact Ms. Wilcox at (319) 386-1350 or by writing to:

Great Riverbend Service, Incorporated
7440 Vine Street Court
Davenport, Iowa 52806

3. Numerous curb cuts and sidewalks are constantly blocked by parked vehicles, debris, or other barriers, creating safety hazards.

FTA's jurisdiction under Title II of the ADA refers to the design, construction and alteration of transportation building, facilities and vehicles. According to Title II, Section 35.150 of the ADA, the U.S. Department of Justice has jurisdiction over issues involving architectural barriers in public facilities and right-of-ways such as street closures and obstructions. You may wish to pursue your complaint by contacting the Department of Justice whose ADA Information Line is 1-800-514-0301.

4. During construction to Locust Street in 1996, the City Council of Davenport required the #10 bus to skip several bus stops, making it difficult to have access to a major business district.

According to the Federal Transit Laws at 49 U.S.C. §5324(c) which states:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and after a grant is made, may not regulate any charge for the system.

This law prohibits DOT from involving itself in operational matters of local jurisdiction such as setting fares or location/elimination of bus routes. Consequently, bus routes and service cut backs are a matter left to local operators. According to MetroLINK, the route in question served not only persons with disabilities, but persons without disabilities as well. Unfortunately, this elimination of service affected riders on this bus route, not just persons with disabilities, and therefore under the DOT ADA regulation is not discriminatory. Based on the foregoing, we consider this issue to be resolved.

5. **Locust's, Harrison's, Main's, and Brady's (all major arteries in the city of Davenport) curb cuts were inaccessible to persons with disabilities for months during construction.**

FTA's jurisdiction under Title II of the ADA refers to the design, construction and alteration of transportation building, facilities and vehicles. According to Title II, Section 35.150 of the ADA, the U.S. Department of Justice has jurisdiction over issues involving architectural barriers in public facilities and right-of-ways such as street closures and obstructions. You may wish to pursue your complaint by contacting the Department of Justice whose ADA Information Line is 1-800-514-0301.

6. **In 1996, construction on River Drive (which is part of U.S. 61 and U.S. 67), created hazards for persons with disabilities, because wheelchair ramps were not properly aligned.**

FTA's jurisdiction under Title II of the ADA refers to the design, construction and alteration of transportation building, facilities and vehicles. However, we have referred this allegation to the Federal Highway Administration (FHWA), Office of Civil Rights. If you have any questions regarding this allegation, please contact FHWA's Office of Civil Rights at (202) 366-0693 or write to:

Director
Federal Highway Administration, Office of Civil Rights, HCR-1
400 7th Street, S.W.
Washington, D.C. 20590

7. **In November, 1996, the Festival of Trees Parade, created confusion for transit passengers.**

According to the Federal Transit Laws at 49 U.S.C. §5324(c) which states:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and after a grant is made, may not regulate any charge for the system.

This law prohibits DOT from involving itself in operational matters of local jurisdiction such as setting fares or location, elimination, or temporary change of bus routes. Consequently, temporary bus routes changes are a matter left to local operators. Unfortunately, this temporary change of service affected all riders on MetroLINK, not just persons with disabilities, and therefore under the DOT ADA regulation, it is not discriminatory. Based on the foregoing, we consider this issue to be resolved.

-5-

Given these circumstances and in consideration of FTA policy, we will take no further action on your complaint and consider your file to be closed. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on FTA's ADA Information Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. All correspondence and/or communication regarding your complaint should reference the above noted complaint number.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: RGMA, Inc.



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 23 1997

[REDACTED]

Re: FTA Complaint No. 92219

Dear [REDACTED]

This letter responds to your complaint regarding Southeastern Pennsylvania Transportation Authority (SEPTA), in Philadelphia, Pennsylvania, and the potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. SEPTA's paratransit van drivers are rude, disobey driver safety guidelines, and disregard the condition of their vehicles.

We informed SEPTA of your allegations and requested information relating to your complaint; reviewed the information presented by SEPTA and yourself, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation.

The DOT ADA regulations at 49 CFR Part 37.173 state:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Unfortunately, with the information you provided, SEPTA could not identify any incidents or accidents involving you during the period referenced in your complaint. However, FTA requested that SEPTA verify that it conducts formal ADA training for all paratransit drivers. SEPTA advised FTA that it has a training program in place for all paratransit drivers, and that in September 1996, it hired a training coordinator to standardize paratransit driver training for all of its paratransit carriers. This training includes a course on driver sensitivity toward persons with disabilities, scooter and wheelchair securement procedures, wheelchair lift operation/requirements and lift deployment. Also, this training includes a "Defensive Driving" course which teaches drivers how to avoid collisions, develop safer driving habits and focus on safe driving procedures. SEPTA states that all drivers must attend the course during the beginning months of their employment.

SEPTA also informed FTA that if a driver has been found to violate any ADA policies, the paratransit driver must undergo additional refresher courses depending upon the circumstance. When a driver has been found to commit a violation of a serious nature, or if there is a pattern of violations, SEPTA would either: (1) terminate the driver, or (2) direct the carrier to prohibit the driver from operating any vehicles other paratransit vehicles.

Although SEPTA meets the DOT ADA training requirements, they acknowledged that the drivers you complained about, apparently did not appropriately demonstrate his/her knowledge of the subject. In spite of the fact that they could not identify the drivers in these circumstances, SEPTA contends that all complaints against drivers will be investigated and that if infractions are substantiated, the driver will be disciplined.

SEPTA has been informed that their commitment to ensure that drivers treat passengers with disabilities with courtesy and respect is to be commended, but this does not relieve their responsibility to ensure that all employees, including dispatchers and reservation personnel comply with this and all requirements of the ADA. Based upon the foregoing, we will consider this issue to be resolved at this time. If you find that SEPTA's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, please keep us advised and we will consider further action if appropriate.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although SEPTA's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further

-3-

action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on FTA's ADA Information Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: RGMA, Inc.

-4-

Federal Transit Administration

TCR-20: SMCCREA 03/25/97: x60803

Copies to: TCR-1, TCR-20 (SMcCrea, BSligh, RWolgast), Chron/Subject, RGMA (Fax)
Region 3, Richard Wong (TCC)

"O:\MCCREA" [REDACTED] SMcCrea



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 23 1997



Re: FTA Complaint Number 95037

Dear 

This letter responds to your complaint regarding the Dallas Area Rapid Transit (DART), in Dallas, Texas, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement. As a result of the tremendous influx of civil rights complaints, contractor's assistance has been procured. Ralph G. Moore and Associates, Incorporated (RGMA) was the contractor assigned by FTA to investigate your complaint.

We understand your allegations to be as follows:

1. DART would not accept your reservation requests up to 14 days in advance.
2. DART's drivers are often late, getting lost, or failing to show up at the scheduled times.
3. DART's drivers are rude and insensitive.
4. DART refused you subscription services.

-2-

5. **DART does not have an ADA Complaint Procedure that allows you to bring your concerns to its attention.**

We informed DART of your allegations, requested information relating to your complaint and reviewed the information presented by DART and yourself. We made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. Below, we have restated your allegations followed by our determinations.

- 1). **DART would not accept your reservation requests up to 14 days in advance.**

The DOT ADA regulations at 49 CFR 37.131(b)(4) states:

The entity *may* permit advance reservations to be made up to 14 days in advance of an ADA paratransit eligible individual's desired trips. When an entity proposes to change its reservations system, it shall comply with the public participation requirements equivalent to those of Sections 37.131(b) and (c).

DART informed FTA that at the time you filed your complaint it did take reservation requests placed up to 14 days in advance. Unfortunately, since you did not provide specific dates regarding this allegations, DART was unable to verify to FTA with detailed information about the circumstances given rise to this issue. However, DART did submit to FTA its record of your reserved advanced trips for the month of June 1996. This record indicates that DART did accept requests from you for reserved advanced trips from five to nine days in advance to your trip date.

However, please be advised that since the DOT ADA regulations does not *require*, but rather, only *allows* transit providers to accept reservations up to 14 days in advance, effective January 1, 1997, DART changed its advance reservation system to only accept reservations two days in advance. Since the DOT ADA regulation does not require 14 day advanced reservation, nothing in the facts presented shows that DART is in violation of the DOT ADA regulation with regards to this issue. Therefore, we consider this issue to be resolved.

2. **DART's drivers are often late, getting lost, or failing to show up at the scheduled times.**

The DOT ADA regulations at 49 CFR 37.131(f) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: (a) Substantial numbers of significantly untimely pickups for initial or return trips; (b) Substantial numbers of trip denials or missed trips; (c) Substantial numbers of trips with excessive trip lengths.

Unfortunately, DART informed FTA that the incident reports you filed prior to December 1994, could not be accessed since the contractor of record is no longer providing paratransit service. However, DART did provide FTA with documentation on three incidents you filed after February 1996. FTA verified that DART did discipline each driver when the incidents you brought to its

attention were substantiated. Also during your January 13, 1997, telephone conversation with [REDACTED] of RGMA, you advised that presently, you have very few problems with DART Handi-Rides, and therefore, we consider this issue to be resolved.

3. DART's drivers were rude and insensitive.

The DOT ADA regulations at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

DART informed FTA that it no longer uses the services of the contractor who provided paratransit services at the time you filed your complaint. A review of DART's training materials and training procedures appears that DART has the minimum ADA procedures in place but this is no assurance that they are being implemented. DART requests that any incidents of rudeness or insensitivity brought to its attention by calling its Paratransit Services Control Center. DART contends that all complaints will be investigated and that if infractions are substantiated, drivers will be disciplined.

DART has been informed that their commitment to ensure that drivers treat passengers with disabilities with courtesy and respect is to be commended, but this does not relieve their responsibility to ensure that all employees, including dispatchers and reservation personnel comply with this and all requirements of the ADA. Based upon the foregoing, we will consider this issue to be resolved at this time. If you find that DART's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, please keep us advised and we will consider further action if appropriate.

4. DART denied your request subscription service.

The DOT ADA regulations at 49 CFR 37.133 states:

This part does not prohibit the use of subscription service by public entities as part of a complementary paratransit system, subject to the limitations in this section. Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is non-subscription capacity. Notwithstanding any other provision of this part, the entity may establish waiting lists or other capacity constraints and trip purpose restrictions or priorities for participation in the subscription service only.

Although subscription service is not required by the ADA, DART informed FTA that it does provide subscription service as a convenience to its riders. However, as of October 1995, applications for subscription service were no longer accepted to ensure compliance with the 50% maximum subscription requirement when request for demand response service are not being met. Since the DOT ADA regulation does not require subscription service, nothing in the facts

-4-

presented shows that DART is in violation of the DOT ADA regulation with regards to this issue. Therefore, we consider this issue to be resolved.

5 **DART does not have an ADA Complaint Procedure that allows you to bring your concerns to its attention.**

Although your concerns about DART's complaint process may not be without merit, since the DOT ADA regulations do not address the manner in which customer complaints to transit providers are to be processed, nothing in the facts presented shows that DART is in violation of the DOT ADA regulations with regards to this issue.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although DART's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on FTA's ADA Information Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: RGMA, Inc.

-5-

Federal Transit Administration
TCR-20: SMCCREA 02/20/97: x60803
Copies to: TCR-1, TCR-20 (SMcCrea, BSligh), Chron/Subject, RGMA (Fax) Region 6,
Richard Wong (TCC)
"O:IMCCREA" [REDACTED] SMcCrea



U.S. Department
of Transportation

Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

APR 24 1997

[REDACTED]

Re: FTA Complaint No. 96175

Dear [REDACTED]

This letter responds to your complaint regarding the Santa Clara Valley Transportation Authority (TA) of San Jose, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violation of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

From July 1994, through September 1996, you have experienced difficulties in using Outreach, the TA's ADA complementary paratransit service.

1. Drivers are often late or early for pickups.
2. Many of the vans have no ramp or lift, no seat belts for the passengers, or in one case a steep, rickety ramp that the driver described as "homemade."

3. Some drivers do not come to the door to pick you up.
4. Drivers sometimes mistreat you by being rude and threatening; one driver injured your ankle by flipping up the footrest before you could move your foot.
5. You believe Outreach is retaliating against you because of your complaints.

We informed TA of your allegations and received information relating to your complaint (copy enclosed); reviewed the information presented by TA and you; and made a determination on your allegations based on our analysis of the complied information in relation to the DOT ADA regulations. For clarity, we have restated your allegations, followed by our determination.

1. Drivers are often late or early for pickups.

Under the DOT ADA regulation at Section 37.131(b), a transit provider:

shall schedule and provide paratransit service to any ADA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day... The entity may negotiate pickup times with the individual, but the entity shall not request an ADA paratransit eligible individual to schedule a trip to begin more than one hour before or after the individual's desired departure time.

The DOT ADA regulation further states that the entity may not limit the availability of service by an operational "pattern or practice" of providing "substantial numbers of significantly untimely pickups for initial or return trips."

According to TA, it has set 15 minutes before or after a scheduled pickup for its service standard for on-time service. TA contracts with Outreach, which in turn contracts with Grosvenor/Grayline to provide paratransit service in your area. If Grosvenor/Grayline arrives more than 15 minutes late for pick-up for 3 percent or greater of its scheduled rides, it is subject to penalties and corrective action. These penalties are assessed on a monthly basis. TA provided reports based on customer complaints, showing that during the period from July 1995, through August 1996, Grosvenor/Grayline had a late rate of less than 3 percent. TA stated that its staff met with you on October 30, 1996, and asked that you contact Outreach immediately regarding late pickups so that it can better monitor the vendor's performance.

Based on the measures taken by TA to ensure prompt pickups, we do not feel that further action is warranted regarding this allegation. Rather we commend TA for including this concern for timely pickups in its contracts and for implementing proper oversight in this area. We encourage you to continue to work directly with Outreach regarding this issue.

2. Many of the vans have no ramp or lift, no seat belts for the passengers, or in one case a steep, rickety ramp that the driver described as "homemade."

There is no provision in the DOT ADA regulation that requires each ADA complementary paratransit vehicle to be lift or ramp equipped. There is a requirement at Section 37.161 of the DOT ADA regulation that accessibility features must be maintained and kept in operative condition. Also, ramps must meet the specifications spelled out in Section 38.23(c) of the DOT ADA regulation (copy enclosed).

In response to your allegations, TA's staff visited the Grosvenor/Grayline site where the vehicles are deployed. They observed that Grosvenor/Grayline vehicles consist of mini-vans with manual ramps, 2 small passenger buses that are used to transport customers to senior centers, and mini-vans without ramps that are used for ambulatory customers only. The visit did not include an assessment of the ramps for compliance with the ADA specifications. Outreach requires by contract that Grosvenor/Grayline must have seat belts for every seating position in its vehicles and confirms that it complies.

Concerning your request for a sedan rather than a ramp-equipped van, TA indicated that local city ordinances prohibit the use of this vehicle, or require licensing of such vehicles as taxi cabs. However, TA and Outreach staff will pursue this issue with the local municipality to determine whether other options may exist to allow the use of sedans in instances based on customer needs.

We understand that on occasion a van without a lift, which you cannot utilize, has been dispatched to you. This is an obvious mistake, and we have cautioned TA to ensure that appropriate vehicles are dispatched to its clients. We also expect that TA will continue in its oversight of its contractors to see that the seat belt issue is implemented as TA has represented to the Federal government. Based on the above, we will take no further action on this allegation.

3. Some drivers do not come to the interior door to pick you up.

The DOT ADA regulation at 37.129 requires only that ADA complementary paratransit service be origin-to-destination. The decision to provide curb-to-curb service or exterior door-to-door service is left to the transit provider's option. By going into your building to assist you at your interior door, Outreach has made an exception for your benefit. It is under no obligation to do so. Therefore, we will take no action regarding this allegation.

4. Drivers sometimes mistreat you by being rude and threatening; one driver injured your ankle by flipping up the footrest before you could move your foot.

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Grosvenor/Grayline operators are required to complete an eight hour training course and five days of on-the-job training. Outreach also requires operators to attend its training, which focuses on operating requirements and policies of the paratransit program. TA will review the training materials to ensure that adequate emphasis is placed on sensitivity training. We also expect TA to confirm on a regular basis that the procedures in place are in fact being implemented.

We understand that training alone does not guarantee that the operators treat you with courtesy. In appreciation of that fact, TA has provided you with a direct contact to its Accessible Services Program Manager, [REDACTED] should you experience further treatment that you consider offensive. We find this measure to be appropriate and will take no further action regarding this allegation.

5. You believe Outreach is retaliating against you because of your complaints.

Section 503(a) of the ADA, "Prohibition Against Retaliation and Coercion" strictly forbids retaliation:

No person shall discriminate against any individual because such individual has opposed any act of practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

FTA has a zero tolerance policy regarding retaliation. There should be zero tolerance for retaliation at any transit property, and TA has firmly stated that it does not tolerate retaliation by any staff member or by any TA contractors. Although we have addressed the issues that you have brought to our attention, we have found no evidence that indicates any of the matters that you have discussed involves retaliation. In response to this allegation also, TA asks you to call [REDACTED] directly should you experience any further incidents that you believe are retaliatory in origin.

TA has provided documentation that Outreach has made an earnest effort to work with you to resolve the problems you have reported. Outreach has assigned an employee to personally handle your scheduling, and continues to accommodate you by assisting you upstairs to your apartment, even though this is not required by the ADA. The manager of Grosvenor/Grayline has met with you to evaluate your transit needs, and TA staff members have met with you to discuss this complaint and to inform you of its response. We believe that TA and Outreach have acted in good faith to mitigate your transportation difficulties, and based upon the facts presented, compliment them on their efforts. Therefore, we will take no further action on this complaint.

If you have any questions, please contact Cylinda Queen, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line 1-888-446-4511, or at her electronic mail address: cylinda.queen@fta.dot.gov If we do not hear from you within 30 days of the date of this letter, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. We hope that your future transit needs with TA will be adequately served.

Sincerely,



for Arthur Andrew Lopez
Director, Office of Civil Rights

Enclosures (2)

cc: Peter M. Cipolla, General Manager
William Allen, Director of Operations
Martin DeNero, Accessible Services Program Manager

Federal Transit Administration
TCR Control 96000365
TCR-13 CQueen:cq:1/9/97-60796:1/15/97-FINAL.4/18/97 FTA Complaint #96175
Copies to: TRO-9, TCC (Wong), TCR-1, TCR-20 Chron/Subject, Wolgast/Queen
O\Queen: [REDACTED]

10-70



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

APR 24 1997

[REDACTED]
[REDACTED]
[REDACTED] nc.
[REDACTED]
[REDACTED]

Re: FTA Complaint Number 96212

Dear [REDACTED]

This letter responds to your complaint regarding the Dallas Area Rapid Transit (DART) of Dallas, Texas, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. DART officials propose to take visually impaired persons off its ADA complementary paratransit system; and
2. DART officials propose to increase the fare for its ADA complementary paratransit system from \$1.00 to \$2.00 per trip.

We informed DART of the allegations and requested information relating to this complaint; reviewed the information presented by DART and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. We have restated your allegations, followed by our determinations, below:

1. DART officials propose to take visually impaired persons off its ADA complementary paratransit system.

Under the DOT ADA regulation at Section 37.125, DART is required to establish a process for determining ADA paratransit eligibility. The process is used to determine whether the individual has the functional ability to use fixed route transportation. This is a transportation decision, not a medical decision. The process may include functional evaluation or testing of applicants. In addition, Section 37.125(g) requires DART to establish an administrative appeals process through which individuals who are denied eligibility can appeal the decision. The administrative appeals process is intended to give applicants who have been denied eligibility the opportunity to have their cases heard by some official other than the one who turned them down in the first place.

Currently, DART certifies persons who are totally or legally blind for paratransit services on an unconditional basis. However in the future, DART plans to evaluate visually impaired persons to determine if they are a candidate for conditional eligibility based on their ability to travel independently on certain trips after receiving travel training. An Orientation and Mobility (O&M) training program will be implemented in 1997, to assist in training riders with visual impairments, on a voluntary basis, to determine if conditional eligibility is applicable.

In keeping with the spirit of the ADA to provide equal access to public transportation for persons with disabilities, the Department encourages transit providers to conduct mobility training to assist individuals to use fixed route service rather than paratransit service. Based on the information provided, we do not find DART's current or proposed process for certifying individuals for its ADA complementary paratransit service to be deficient under the DOT ADA regulations.

2. DART officials propose to increase the fare for its ADA complementary paratransit system from \$1.00 to \$2.00 per trip.

Section 37.131(c) of the DOT ADA regulation states:

The fare for a trip charged to an ADA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the entity's fixed route system.

Public meetings were held regarding DART's proposed fare increase for ADA complementary paratransit service in September and October 1996. On November 26, 1996, DART's Board of Directors decided to increase the fare for complementary paratransit service from \$1.00 to \$2.00 beginning January 1, 1997. This is twice the amount of DART's fixed route bus and rail fare of \$1.00. The public was notified of this fare increase through DART's Instant Access Newsletter.

The increase in DART's ADA complementary paratransit fare is not a deficiency under the DOT ADA regulation, as it does not exceed twice the fare that would be charged to an individual paying full fare on its fixed route. Further, barring a finding of discrimination, the FTA is prohibited by Federal Transit Laws, as codified under 49 U.S.C., Section 5324(c) "Prohibitions Against Regulating Operations and Charges" from becoming involved in local decisions regarding transit operations. This includes decisions affecting fare increases.

Based on the above information, we will consider your complaint to be closed unless we receive information from you, within 30 days from the date of this letter, that would substantially alter the facts in this complaint. In any future communication with this office, please include the FTA complaint number on your correspondence. If you have any questions, please contact Cylinda Queen, of my staff, at our toll free FTA ADA Assistance Line 1-888-446-4511 or at her electronic mail address: cylinda.queen@fta.dot.gov.

Sincerely,



A Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Mr. Roger Snoble, President/Executive Director
Mr. Doug Douglas, Paratransit Services
Mr. Marcus Moore, ADA Compliance Officer

CORRECTED COPY



U.S. Department
of Transportation

Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

APR 24 1997

[REDACTED]

Re: FTA Complaint Number 96213

Dear [REDACTED]

This letter responds to the complaint regarding the Dallas Area Rapid Transit (DART) of Dallas, Texas, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand the allegations to be as follows:

1. DART officials propose to take visually impaired persons off its ADA complementary paratransit system; and
2. DART officials propose to increase the fare for its ADA complementary paratransit system from \$1.00 to \$2.00 per trip.

We informed DART of the allegations and requested information relating to this complaint; reviewed the information presented by DART and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. We have restated the allegations, followed by our determinations, below:

1. DART officials propose to take visually impaired persons off its ADA complementary paratransit system.

Under the DOT ADA regulation at Section 37.125, DART is required to establish a process for determining ADA paratransit eligibility. The process is used to determine whether the individual has the functional ability to use fixed route transportation. This is a transportation decision, not a medical decision. The process may include functional evaluation or testing of applicants. In addition, Section 37.125(g) requires DART to establish an administrative appeals process through which individuals who are denied eligibility can appeal the decision. The administrative appeals process is intended to give applicants who have been denied eligibility the opportunity to have their cases heard by some official other than the one who turned them down in the first place.

Currently, DART certifies persons who are totally or legally blind for paratransit services on an unconditional basis. However in the future, DART plans to evaluate visually impaired persons to determine if they are a candidate for conditional eligibility based on their ability to travel independently on certain trips after receiving travel training. An Orientation and Mobility (O&M) training program will be implemented in 1997, to assist in training riders with visual impairments, on a voluntary basis, to determine if conditional eligibility is applicable.

In keeping with the spirit of the ADA to provide equal access to public transportation for persons with disabilities, the Department encourages transit providers to conduct mobility training to assist individuals to use fixed route service rather than paratransit service. Based on the information provided, we do not find DART's current or proposed process for certifying individuals for its ADA complementary paratransit service to be deficient under the DOT ADA regulations.

2. DART officials propose to increase the fare for its ADA complementary paratransit system from \$1.00 to \$2.00 per trip.

Section 37.131(c) of the DOT ADA regulation states:

The fare for a trip charged to an ADA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the entity's fixed route system.

Public meetings were held regarding DART's proposed fare increase for ADA complementary paratransit service in September and October 1996. On November 26, 1996, DART's Board of Directors decided to increase the fare for complementary paratransit service from \$1.00 to \$2.00 beginning January 1, 1997. This is twice the amount of DART's fixed route bus and rail fare of \$1.00. The public was notified of this fare increase through DART's Instant Access Newsletter.

The increase in DART's ADA complementary paratransit fare is not a deficiency under the DOT ADA regulation, as it does not exceed twice the fare that would be charged to an individual paying full fare on its fixed route. Further, barring a finding of discrimination, the FTA is prohibited by Federal Transit Laws, as codified under 49 U.S.C., Section 5324(c) "Prohibitions Against Regulating Operations and Charges" from becoming involved in local decisions regarding transit operations. This includes decisions affecting fare increases.

Based on the above information, we will consider the complaint to be closed unless we receive information from you, within 30 days from the date of this letter, that would substantially alter the facts in this complaint. In any future communication with this office, please include the FTA complaint number on your correspondence. If you have any questions, please contact Cylinda Queen, of my staff, at our toll free FTA ADA Assistance Line 1-888-446-4511 or at her electronic mail address: cylinda.queen@fta.dot.gov.

Sincerely,



A Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Mr. Roger Snoble, President/Executive Director
Mr. Doug Douglas, Paratransit Services
Mr. Marcus Moore, ADA Compliance Officer



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

APR 24 1997

[REDACTED]

Re: FTA Complaint Number 96214

Dear [REDACTED]

This letter responds to your complaint regarding the Dallas Area Rapid Transit (DART) of Dallas, Texas, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that DART officials are proposing to take visually impaired persons off its complementary paratransit system.

We informed DART of your allegation and requested information relating to your complaint; reviewed the information presented by DART and yourself, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. Our determination follows:

Under the DOT ADA regulation at Section 37.125, DART is required to establish a process for determining ADA paratransit eligibility. The process is used to determine whether the individual has the functional ability to use fixed route transportation. This is a transportation decision, not a medical decision. The process may include functional evaluation or testing of applicants. In addition, Section 37.125(g) requires DART to establish an administrative appeals process through which individuals who are denied eligibility can appeal the decision. The administrative appeals process is intended to give applicants who have been denied eligibility the opportunity to have their cases heard by some official other than the one who turned them down in the first place.

Currently, DART certifies persons who are totally or legally blind for paratransit services on an unconditional basis. However in the future, DART plans to evaluate visually impaired persons to determine if they are a candidate for conditional eligibility based on their ability to travel independently on certain trips after receiving travel training. An Orientation and Mobility (O&M) training program will be implemented in 1997, to assist in training riders with visual impairments, on a voluntary basis, to determine if conditional eligibility is applicable.

In keeping with the spirit of the ADA to provide equal access to public transportation for persons with disabilities, the Department encourages transit providers to conduct mobility training to assist individuals to use fixed route service rather than paratransit service. Based on the information provided, we do not find DART's current or proposed process for certifying individuals for its ADA complementary paratransit service to be deficient under the DOT ADA regulations.

Based on the above information, we will consider your complaint to be closed unless we receive information from you, within 30 days from the date of this letter, that would substantially alter the facts in this complaint. In any future communication with this office, please include the FTA complaint number on your correspondence. If you have any questions, please contact Cylinda Queen, of my staff, at our toll free FTA ADA Assistance Line 1-888-446-4511 or at her electronic mail address: cylinda.queen@fta.dot.gov.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Mr. Roger Snoble, President/Executive Director
Mr. Doug Douglas, Paratransit Services
Mr. Marcus Moore, ADA Compliance

Federal Transit Administration

(Control No. 96002786 Due Date: 2/19/97)

TCR-13:QUEEN:cq:2/11/97:60796:3/21/97:FINAL:4/23/97 [FTA Complaint #96214]

cc: TOA1, 2, TPA1, TPA, TPM, TRO6, TCC (Wong), TCR1,

TCR20 Chron/Subject, Wolgast/Queen

O:\Queen:L-BEA.SAM



U.S. Department
of Transportation
**Federal Transit
Administration**

Administrator

400 Seventh St., S.W.
Washington, D.C. 20590

APR 24 1997

[REDACTED]

Re: FTA Complaint No. 96183

Dear [REDACTED]

This letter responds to your complaint, filed on behalf of your daughter, regarding the Port Authority of Allegheny County of Pittsburgh, Pennsylvania (PAT) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violation of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Your daughter, [REDACTED], has ridden on a bus without operable wheelchair restraints; one driver did not secure the wheelchair restraints properly; and on one occasion, the bus operator stated that he did not know how to use the wheelchair restraints and required your daughter to leave the bus.

2. On July 3, 1996, [REDACTED] were informed by bus drivers in three successive incidents that the lift was not operating.

We informed PAT of your allegations and received information relating to your complaint; reviewed the information presented by PAT and you; and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. For clarity, we have restated your allegations, followed by our determination.

1. Your daughter, [REDACTED], has ridden on a bus without operable wheelchair restraints; one driver did not secure the wheelchair restraints properly; and on one occasion, the bus operator stated that he did not know how to use the wheelchair restraints and required [REDACTED] to leave the bus.

The DOT ADA regulation at Section 38.23(d) requires that accessible buses must have securement devices to restrain wheelchairs. Section 37.161 of the DOT ADA regulation requires that all accessible features must be maintained in operative condition and Section 37.165(c)(1) of the DOT ADA regulation states that the entity shall use the securement system to secure wheelchairs. (See enclosed copy of the DOT ADA regulations.)

The DOT ADA regulation also requires that transit providers educate personnel in working with persons with disabilities and with accessibility features. The regulation states at Section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

PAT attempted to investigate these allegations, but based on the information provided, was unable to identify the bus operators. However, in an August 22, 1996, letter responding to [REDACTED]'s mobility trainer, [REDACTED], stated that the following measures would be taken to improve service to the PAT's disabled customers:

1. Operators will include checking the condition and supply of securement straps as part of the required pre-trip bus inspection; and
2. During refresher training for all operators, increased emphasis will be placed on properly securing wheelchairs. Additionally, notices will be posted in all locations reiterating the procedure for securing wheelchairs.

Based on PAT's willingness to take these corrective measures, we will take no further action regarding this allegation. However, we have requested PAT to provide assurances that these measures are in fact in place. It is commendable that they are willing to put in place procedures, but based upon these incidents, procedures without implementation are not sufficient.

2. On July 3, 1996, [REDACTED] were informed by bus drivers in three successive incidents that the lift was not operating.

Section 37.163 of the DOT ADA regulation requires a public transit provider to establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative. The transit provider must ensure that vehicle operators report any failure of a lift to operate and with some minor exceptions, the vehicle must be taken out of service and repaired before the beginning of the vehicle's next service day.

[REDACTED] informed PAT that this incident occurred on July 10, involving a route 71A, bus #2353 and an unidentified route 81B bus at Centre and Neville about 9:45 a.m. PAT's records showed no record for July 10, but indicates that a pair of route 71A buses #2358 and #2086, reported inoperative lifts at that location and approximate time that you reported the incidents on July 3. PAT states that it identified one bus operator who passed [REDACTED] and has counseled him regarding his responsibilities under the ADA.

PAT provided documentation that it has a proper procedure for promptly repairing accessibility features. Additionally, as required by the DOT ADA regulation at 37.163(f), PAT has a policy for providing alternate transportation to persons who have to wait for longer than 30 minutes for the next accessible bus. Apparently the policy was not instituted on the day that the incidents occurred.

In response to this complaint, PAT states that it increased undercover monitoring of routes 71A, 54C, and 61B by Quality Assurance Observers for three months. These monitors are employed by PAT as an undercover rider(s) to monitor operator compliance with the DOT ADA requirements. The individuals use a wheelchair to report on the operator's compliance with lift and securement requirements, and other requirements of the DOT ADA regulation. PAT has offered to meet with you and [REDACTED] directly to acquaint you with its complaint procedure and to give you information regarding reporting injuries to the Claims Department.

Based on the documentation in the file, we find that PAT has correct ADA policies for accessible features in place. Although we acknowledge that having a proper policy does not guarantee that the policy will always be followed correctly, in our opinion, PAT has taken appropriate steps to take corrective actions where procedures have broken down. Therefore, we will take no further action at this time regarding your complaint. Should you encounter similar problems in the future, we recommend that you contact PAT directly for resolution. If you are unable to resolve the issues with PAT, please do not hesitate to contact us again.

When communicating with this office, please identify the FTA complaint number on your correspondence. If you have any questions regarding our decision, you may contact Cylinda Queen, Equal Opportunity Specialist, at 1-888-446-4511 or at her electronic mail address: cylinda.queen@fta.dot.gov.

Sincerely,



fa Arthur Andrew Lopez
Director, Office of Civil Rights

2 Enclosures

cc: Katherine Bouch
Paul P. Skoutelas, Executive Director
Thomas V. Letky, Director of Transit Operations

Federal Transit Administration
TES Control No. 96002147 - TCR Control No. 96000307
TCR-13:CQueen:cq:3/25/97:60796:4/16/97:FINAL:4/23/97 [FTA Complaint #96183]
Copies to: TRO-3, TCR-1, TCR-20, Chron/Subject, Wolgast/Queen
O:\QUEENPAT.SAM



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

APR 29 1997

[REDACTED]

Re: FTA Complaint No. 96146

Dear [REDACTED]

This letter responds to your complaint regarding the Access Services, Incorporated (ASI) and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. You were denied eligibility for paratransit service by ASI;
2. ASI personnel "were rude, taunting, and seemed to delight in watching you suffer;" and
3. ASI denied you service even though you have an eligibility card issued by the Long Beach Transit.

We informed ASI of your allegations and requested information relating to your complaint; reviewed the information presented by ASI and you; and made a determination on each of your

allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. You were denied eligibility for paratransit service by ASI.

Under the DOT ADA regulation at Section 37.125, ASI is required to establish a process for determining ADA complementary paratransit eligibility. The process is used to determine whether the individual has the ability to use fixed route transportation and is based on a person's functional ability rather than on a medical diagnosis. The DOT ADA regulation requires that the process "shall strictly limit" ADA complementary paratransit eligibility to those who cannot use fixed route transit.

In addition, Section 37.125(g) states:

The entity shall establish an administrative appeals process through which individuals who are denied eligibility can obtain review of the denial.

The administrative appeals process is intended to give applicants who have been denied eligibility the opportunity to have their cases heard by some official other than the one who turned them down in the first place.

In considering your allegation, we reviewed all of the documentation submitted by you and by ASI. In your first interview with Metro Access on September 11, 1995, the records indicate that you traveled by public transportation, as well as by taxi, private vehicle, and the local Dial-A-Ride. Based on this information, ASI denied you eligibility. You appealed the determination and were evaluated by a physical therapist on March 29, 1996. The functional simulation assessment conducted by the physical therapist confirmed ASI's initial determination that you could board, ride, and disembark from a regular fixed route bus. You apparently were dissatisfied with the evaluator and once again appealed the decision. ASI granted you a second and final appeal. This final appeal included a medical examination by a medical specialist in October 1996, who also upheld ASI's original determination.

Based on the documentation received, we have determined that ASI's appeal process was handled in accordance with the DOT ADA regulation. Further, ASI went beyond the requirements of the DOT ADA regulation and its own internal policy by providing you with two opportunities to appeal. Therefore, we will take no further action on this allegation.

2. ASI personnel "were rude, taunting, and seemed to delight in watching you suffer."

We understand from your October 17, 1996, letter to us that this statement refers to [REDACTED] the physical therapist who conducted an evaluation of your functional ability for your first appeal. Appendix D to Part 37 of the DOT ADA regulation Section 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." As we

have had no other complaints of this nature against ASI's physical therapy contractor, C.A.R.E. Evaluators, we will take no further action on this allegation at this time. However, ASI is aware of your allegation in case further complaints of this nature against C.A.R.E. Evaluators arise.

3. **ASI denied you service even though you have an eligibility card issued by Long Beach Transit.**

Section 37.127(c) of the DOT ADA regulation states:

Each public entity shall treat as eligible for its complementary paratransit service all visitors who present documentation that they are ADA paratransit eligible in the jurisdiction in which they reside. However, the entity is **not** required to provide service to a visitor for more than 21 days from the date of the first paratransit trip used by the visitor. In order to receive service beyond the 21 day period, the individual may apply for eligibility.

As you live within the service area for ASI, it is under no obligation to provide you with visitor service. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, of my staff, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. If we do not hear from you within 30 days of the date of this letter, we will consider your complaint to be closed. Please include the FTA complaint number on any correspondence with this office. We regret that we are unable to assist you further.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: [REDACTED]



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

APR 29 1997

[Redacted]

Re: FTA Complaint No. 96173

Dear [Redacted]

This letter responds to your complaint regarding Access Services, Incorporated (ASI) and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be ASI improperly denied you ADA complementary paratransit eligibility during a re-evaluation process conducted June 14, 1996. We informed ASI of your allegations and requested information relating to your complaint; reviewed the information presented by ASI and you; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations.

The documentation in your file indicates that you appealed ASI's decision on July 8, 1996, but did not accept ASI's attempts to schedule appointments for you to be evaluated by two of three outside "appeals professionals." You did keep an appointment with Olympic Medical Evaluations, but refused to sign the release of information/consent form and left without completing the evaluation.

The DOT ADA regulation requires that persons who are denied eligibility are granted an objective appeal. Section 37.125(g) states the following:

The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial. (1) The entity may require that an appeal be filed within 60 days of the denial of an individual's application. (2) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it.

Access Services is operating under an appeals process that appears to be in accordance with the DOT ADA regulation. We acknowledge that having an acceptable process in place does not guarantee that it will be implemented as written. We have reviewed all of the documentation in your complaint file and have determined that ASI has acted in accordance with its approved process. To evaluate all of the various disabilities which you indicate affect your ability to ride fixed route transit, ASI proposed to have three appeals professionals evaluate your functional abilities. These professionals are independent of ASI and have both education and experience in the types of disabilities that you have: a physical therapist to evaluate your mobility impairment; an internist to evaluate your respiratory difficulties; and a psychologist to evaluate your cognitive disorder. It is our understanding that it was a psychologist who recommended you for temporary unconditional eligibility the last time you appealed in 1995.

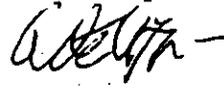
Our policy when reviewing complaints concerning eligibility determinations is to verify that the transit provider is properly following an FTA-approved process. There is nothing in your complaint file to indicate that ASI is not acting in accordance with its stated process. Therefore, we encourage you to cooperate with ASI to complete the appeal process which you started in July 1996. Although ASI stated in its November 27, 1996, letter to you that it would close your appeal as of January 15, 1997, we will request ASI to reopen your appeal on the grounds that you fully cooperate with the three evaluations (see enclosure). Should you decide to continue with your appeal, please contact ASI directly to make the appropriate arrangements.

Should you be granted eligibility, this does not ensure that you will be allowed to ride in the front seat exclusively. You may certainly request to ride in the front seat, but under the DOT ADA regulation, ASI is not required to provide you with front seat transportation.

Based on our determination, we consider your complaint to be closed. If you have any questions regarding our actions on your complaint, please contact Roger Peralta,

Equal Opportunity Specialist, at (202) 366-2285 or at his electronic mail address: *roger.peralta@fta.dot.gov*. If we do not hear from you within 30 days, we will consider your complaint file to be closed.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc:





U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 2 1997

[REDACTED]

Re: FTA Complaint No. 94157

Dear [REDACTED]

This letter responds to your complaint regarding the Greater Colorado Springs Transportation Company (GCSTC), Colorado Springs, Colorado, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. GCSTC's taxi cabs are not accessible to persons with disabilities.
2. Many GCSTC taxi cab drivers will not carry your groceries into your apartment.
3. GCSTC's taxi cab meters run too fast.

We informed the GCSTC of your allegations and requested information relating to your complaint; reviewed the information presented by the GCSTC and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. GCSTC's taxi cabs are not accessible to persons with disabilities.

According to the ADA at 49 CFR 37.29 (b), which states:

Providers of taxi service are not required to purchase or lease accessible automobiles. When a provider of taxi service purchases or leases a vehicle other than an automobile, the vehicle is required to be accessible unless the provider demonstrates equivalency as provided in 37.105 of this part. A provider of taxi service is not required to purchase vehicles other than automobiles in order to have a number of accessible vehicles in its fleet.

Unfortunately, GCSTC, as a taxi service provider, is under no obligation under the DOT ADA regulations to purchase accessible vehicles. Since the DOT ADA regulation does not require taxi companies to purchase accessible vehicles, nothing in the facts presented shows that GCSTC is in violation of the DOT ADA regulation with regards to this issue. Therefore, we consider this issue to be resolved.

2. Many GCSTC taxi cab drivers will not carry your groceries into your apartment.

The DOT ADA regulations at 49 CFR 37.29 (c) states:

Private entities providing taxi service shall not discriminate against individuals with disabilities by actions including, but not limited to, refusing to provide service to individuals with disabilities who can use taxi service vehicles, refusing to assist with the stowing of mobility devices, and charging higher fares or fees for carrying individuals with disabilities and their equipment than are charged to other persons.

Taxi operators are only required to assist individuals with disabilities with the stowing of mobility devices and equipment. Since the DOT ADA regulation does not require taxi companies to carry packages, including groceries, into passengers' homes, nothing in the facts presented shows that GCSTC is in violation of the DOT ADA regulation with regards to this issue. Therefore, we consider this issue to be resolved.

3. GCSTC's taxi cab meters run too fast.

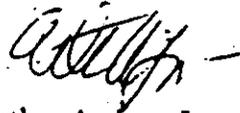
Although your concerns about GCSTC's meters may not be without merit, since the DOT ADA regulations do not address the manner in which taxi cab meters are to run, nothing in the facts presented shows that GCSTC is in violation of the DOT ADA regulations with regards to this issue.

However, we do encourage you to contact the Public Utilities Commission of the State of Colorado regarding this issue, because they are responsible for monitoring taxi cab meters and rates in your area. You may contact [REDACTED] Chief of Transportation, Public Utilities Commission State of Colorado at (303) 894-2000.

-3-

We regret that we could not assist you in this matter. We will take no further action on your complaint and consider your file to be closed unless we hear from you within thirty days from the date of this letter. If you have any questions, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. All correspondence and/or communication regarding your complaint should reference the above noted complaint number.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: Gardner Consulting Planners

-4-

Federal Transit Administration

TCR-20: SMCCREA 04/24/97: x60803

Copies to: TCR-1, TCR-20 (SMcCrea, BSligh), Chron/Subject, RGMA (Fax) Region 8,
Richard Wong (TCC)

"O:IMCCREA" [REDACTED] SMcCrea



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 3 1997

[REDACTED]

Re: FTA Complaint No. 96043

Dear [REDACTED]

This letter responds to your complaint regarding the City of West Hollywood, California (the City), and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27,37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. If FTA can not resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. The Taxi Cab Coupon program run by the City does not include respiratory disabilities, as an eligibility criteria.
2. The City Hall building where transportation meetings are held is not wheelchair accessible.

We informed the City of West Hollywood of your allegations and requested information relating to your complaint; reviewed the information presented by the City of West Hollywood and yourself; made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations below:

1. **The Taxi Cab Coupon program run by the City does not include respiratory disabilities, as an eligibility criteria.**

According to the DOT ADA regulations at 49 CFR 37.3, which states:

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individuals; a record of such an impairment; or being regarded as having such an impairment.

Furthermore, the DOT ADA regulation at 49 CFR 37.121 states:

... each public entity operating a fixed route operating a fixed route system shall provide paratransit service to individuals with disabilities that is comparable to the level of service that is provided to individuals without disabilities who use the fixed route system.

Unfortunately, the taxi cab coupon program is not part of the ADA complementary paratransit service provided to persons with disabilities who are unable to use the City's fixed route transit system. Since this program does not provide the ADA complementary paratransit service, the eligibility standards, including the definition of disability, do not have to comply with the standards set forth in the DOT ADA regulations. Therefore, the City may establish its own eligibility criteria. The only requirements that the coupon program must comply with are Subparts D and E of the DOT ADA regulation which requires that the vehicles meet ADA accessibility standards, and subpart G which requires drivers and personnel to be appropriately trained.

Although not required to change its eligibility requirements, the City advised FTA that during the September 3, 1996, City Council meeting, Agenda Item 2.1 (a recommendation from the Disability Advisory Council and the Department of Transportation and Public Work to expand the criterion for taxi coupon eligibility), was approved. This new provision re-defines the City's eligibility criteria to include any individual with a severe impairment that renders a person unable to walk unassisted (exclusive of walking aids requiring the use of one hand), for 500 feet or the length of a typical city block. Certification of such an impairment must be made by competent medical authority and submitted on a form provided by the City. These new eligibility standards took effect in December 1996. Based upon the foregoing, we will consider this issue to be resolved.

2. **The City Hall building, where transportation meetings are held, is not wheelchair accessible.**

The DOT ADA regulations at 49 CFR 37.61(a) states:

A public entity shall operate a designated public transportation program or activity conducted in an existing facility so that, when viewed in its entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

Between May and September 1996, the City installed "Handicap Surface Mounted Motorized Door Control" devices on the front and rear doors of the West Hollywood City Hall building.

-3-

These devices were acquired in order to increase accessibility to City Hall for persons with disabilities. These doors are designed for wheelchair access and are operated by pushing a waist high button. Persons with disabilities should be able to access these doors without any assistance. In addition, both entrances are wheelchair accessible with ramps.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although the City of West Hollywood's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: [REDACTED]

-4-

Federal Transit Administration
TCR-20: SMCCREA 04/24/97: x60803
Copies to: TCR-1, TCR-20 (SMcCrea, BSligh, RWolgast), Chron/Subject, GCP (Fax)
Region 9, Richard Wong (TCC)
"O:IMCCREA" [REDACTED]



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 6 1997

[REDACTED]

Re: FTA Complaint Number 94130

Dear [REDACTED]

This letter responds to your complaint regarding the Southeastern Pennsylvania Transportation Authority (SEPTA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that SEPTA's Paratransit drivers are rude and insensitive to you. We informed SEPTA of your allegation, requested information relating to your complaint and reviewed the information presented by SEPTA and yourself, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

The DOT ADA regulations at 49 CFR Part 37.173 state:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Unfortunately, with the information you provided, SEPTA could not identify or verify the incidents or accidents involving you during the period referenced in your complaint. However, FTA requested that SEPTA verify that it conducts formal ADA training for all paratransit drivers. SEPTA advised FTA that it has a training program in place for all paratransit drivers, and that in September 1996, it hired a training coordinator to standardize paratransit driver training for all of its paratransit carriers. This training includes a course on driver sensitivity toward persons with disabilities, scooter and wheelchair securement procedures, wheelchair lift operation/requirements and lift deployment. Also, this training includes a "Defensive Driving" course which teaches drivers how to avoid collisions, develop safer driving habits and focus on safe driving procedures. SEPTA states that all drivers must attend the course during the beginning months of their employment.

SEPTA also informed FTA that if a driver has been found to violate any ADA policies, the paratransit driver must undergo additional refresher courses depending upon the circumstance. When a driver has been found to commit a violation of a serious nature, or if there is a pattern of violations, SEPTA would either; (1) terminate the driver, or (2) direct the carrier to prohibit the driver from operating any vehicles other paratransit vehicles.

Although SEPTA meets the DOT ADA training requirements, they acknowledged that the drivers you complained about, apparently did not appropriately demonstrate his/her knowledge of the subject. In spite of the fact that they could not identify the drivers in these circumstances, SEPTA contends that all complaints against drivers will be investigated and that if infractions are substantiated, the driver will be disciplined.

SEPTA has been informed that their commitment to ensure that drivers treat passengers with disabilities with courtesy and respect is to be commended, but this does not relieve their responsibility to ensure that all employees, including dispatchers and reservation personnel comply with this and all requirements of the ADA. Based upon the foregoing, we will consider this issue to be resolved at this time. If you find that SEPTA's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, please keep us advised and we will consider further action if appropriate.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although SEPTA's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further

-3-

action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



for Arthur Andrew Lopez
Director
Office of Civil Rights

cc: RGMA, Inc.

-4-

Federal Transit Administration
TCR-20: SMCCREA 04/24/97: x60803
Copies to: TCR-1, TCR-20 (SMcCrea, BSligh, RWolgast), Chron/Subject, RGMA (Fax)
Region 3, Richard Wong (TCC)
"O:\MCCREA" 



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 6 1997

[REDACTED]

Re: FTA Complaint Number 95106

Dear [REDACTED]

This letter responds to your complaint regarding the Southeastern Pennsylvania Transportation Authority (SEPTA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be that on one occasion, a SEPTA paratransit driver picked up a personal friend and stopped at the post office, causing you to be late for work. Also, on another occasion, a SEPTA's paratransit driver operated the van in a hazardous manner.

We informed SEPTA of your allegations, requested information relating to your complaint and reviewed the information presented by SEPTA and yourself, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

The DOT ADA regulations at 49 CFR Part 37.173 state:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Unfortunately, with the information you provided, SEPTA could not identify or verify the incidents or accidents involving you during the period referenced in your complaint. However, FTA requested that SEPTA verify that it conducts formal ADA training for all paratransit drivers. SEPTA advised FTA that it has a training program in place for all paratransit drivers, and that in September 1996, it hired a training coordinator to standardize paratransit driver training for all of its paratransit carriers. This training includes a course on driver sensitivity toward persons with disabilities, scooter and wheelchair securement procedures, wheelchair lift operation/requirements and lift deployment. Also, this training includes a "Defensive Driving" course which teaches drivers how to avoid collisions, develop safer driving habits and focus on safe driving procedures. SEPTA states that all drivers must attend the course during the beginning months of their employment.

SEPTA also informed FTA that if a driver has been found to violate any ADA policies, the paratransit driver must undergo additional refresher courses depending upon the circumstance. When a driver has been found to commit a violation of a serious nature, or if there is a pattern of violations, SEPTA would either; (1) terminate the driver, or (2) direct the carrier to prohibit the driver from operating any vehicles other paratransit vehicles.

Although SEPTA meets the DOT ADA training requirements, they acknowledged that the drivers you complained about, apparently did not appropriately demonstrate his/her knowledge of the subject. In spite of the fact that they could not identify the drivers in these circumstances, SEPTA contends that all complaints against drivers will be investigated and that if infractions are substantiated, the driver will be disciplined.

SEPTA has been informed that their commitment to ensure that drivers treat passengers with disabilities with courtesy and respect is to be commended, but this does not relieve their responsibility to ensure that all employees, including dispatchers and reservation personnel comply with this and all requirements of the ADA. Based upon the foregoing, we will consider this issue to be resolved at this time. If you find that SEPTA's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, please keep us advised and we will consider further action if appropriate.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although SEPTA's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further

-3-

action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: RGMA, Inc.

-4-

Federal Transit Administration

TCR-20: SMCCREA 04/24/97: x60803

Copies to: TCR-1, TCR-20 (SMCrea, BSligh, RWolgast), Chron/Subject, RGMA (Fax)
Region 3, Richard Wong (TCC)

"O:IMCCREA" [REDACTED] McCrea



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 8 1997

[REDACTED]

Re: FTA Complaint Number 92226

Dear [REDACTED]

This letter responds to your complaint regarding the Southeastern Pennsylvania Transportation Authority (SEPTA), and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. SEPTA drivers are rude and insensitive to you;
2. On one occasion, a lift on a paratransit van failed to operate properly, causing it to be very difficult to disembark;
3. In May 1993, a driver on the #42 bus initially refused to deploy the lift, when you protested, he stated that the lift did not work; and
4. On one occasion, the SEPTA paratransit van driver did not properly secure your wheelchair.

We informed SEPTA of your allegations, requested information relating to your complaint and reviewed the information presented by SEPTA and yourself; and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determination, below:

1. SEPTA drivers are rude and insensitive to you.

The DOT ADA regulations at 49 CFR Part 37.173 state:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Although you were unable to provide more specific information, such as the identity of the paratransit carriers or the name of the drivers, regarding this allegation, FTA requested that SEPTA verify that it conducts training on ADA sensitivity for its paratransit drivers. SEPTA advised FTA that it has a training program in place for all paratransit drivers, and that in September 1996, it hired a training coordinator to standardize paratransit driver training for all of its paratransit carriers. SEPTA states that all drivers must attend the course during the beginning months of their employment.

Although SEPTA meets the DOT ADA training requirements, they acknowledged that the driver you complained about, apparently did not appropriately demonstrate his/her knowledge of the subject. In spite of the fact that they could not identify the driver in this circumstance, SEPTA contends that all complaints against drivers will be investigated and that if infractions are substantiated, the driver will be disciplined.

SEPTA has been informed that their commitment to ensure that drivers treat passengers with disabilities with courtesy and respect is to be commended, but this does not relieve their responsibility to ensure that all employees, including dispatchers and reservation personnel comply with this and all requirements of the ADA. Based upon the foregoing we will consider this issue to be resolved at this time. If you find that SEPTA's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, please keep us advised and we will consider further action if appropriate.

2. On one occasion, a lift on a paratransit van failed to operate properly, causing it to be very difficult to disembark.

According to the DOT ADA regulations at 49 CFR 37.163, which states:

- (b) The entity shall establish a system or regular and frequent maintenance checks of lifts sufficient to determine if they are operative.

- (c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.
- (d) Except as provided in paragraph (e) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service.
- (e) If there is no spare vehicle available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than five days (if the entity serves an area of 50,000 or less population) or three days (if the entity serves an area of over 50,000 population) from the day on which the lift is discovered to be inoperative.

Although you did not give more specific information regarding this allegation, such as the identity of the paratransit carrier, the number of the van, or the name of the driver, FTA requested that SEPTA verify that it maintains all accessible features on its paratransit vehicles. To address the issue of lift failures, SEPTA informed FTA that in June 1995, its paratransit division met with the wheelchair lift manufacturer, Ricon, in which an agreement was made for Ricon to make all necessary lift repairs. Moreover, Ricon agreed to conduct more intensive on-site training for all paratransit maintenance staff in July 1995 regarding trouble-shooting techniques and the electrical and hydraulic systems on the lifts.

SEPTA advised FTA that on a daily basis, its Paratransit Contract Compliance staff conducts daily, unannounced "Compliance Observations," which are visual and mechanical inspections of Paratransit vehicles. SEPTA stated that these inspections are performed in all of the Paratransit service providers' maintenance shops and at vehicle destination points. SEPTA provided FTA with copies of the Compliance Observation Reports for the period of April 1996-June 1996. Based upon the foregoing we will consider this issue to be resolved at this time. If you find that SEPTA's commitment to ensuring that lifts remain operational is inconsistent with these statements, please keep us advised and we will consider further action if appropriate.

3. **In May 1993, a driver on the #42 fixed route bus initially refused to deploy the lift, when you protested, he stated that the lift did not work.**

The DOT ADA regulations at 49 CFR Part 37.173 state:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Furthermore, as previously mentioned, the DOT ADA regulation at 49 CFR Part 37.163 states:

- (b) The entity shall establish a system or regular and frequent maintenance checks of lifts sufficient to determine if they are operative.
- (c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.
- (d) Except as provided in paragraph (e) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service.
- (e) If there is no spare vehicle available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than five days (if the entity serves an area of 50,000 or less population) or three days (if the entity serves an area of over 50,000 population) from the day on which the lift is discovered to be inoperative.
- (f) In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

SEPTA informed FTA that it was unable to verify this allegation for the date that this incident occurred. However, SEPTA advised FTA that the James vs. SEPTA lawsuit settlement reached in March 1994, requires that paratransit riders may be issued five (5) free tokens to use fixed route service whenever a number of verifiable complaints are received by SEPTA within a thirty (30) day period for wheelchair lift failures or ride pass-ups. Although this settlement was reached after your incident and in spite of the fact that they could not identify the driver in this circumstance, SEPTA contends that all complaints against drivers will be investigated and that if infractions are substantiated, the driver will be disciplined.

Based upon the foregoing we will consider this issue to be resolved at this time. If you find that SEPTA's commitment to ensuring that all fixed route drivers treat persons with disabilities with courtesy and respect, is inconsistent with these statements, please keep us advised and we will consider further action if appropriate.

4. On one occasion, the SEPTA paratransit van driver did not properly secure your wheelchair.

As previously mentioned, the DOT ADA regulations at 49 CFR Part 37.173 state:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Unfortunately, since you were unable to provide more specific information, such as the identity of the paratransit carrier or the name of the driver, regarding this allegation, FTA requested that SEPTA verify that it conducts training on securement devices for its paratransit drivers. SEPTA advised FTA that it has a training program in place for all paratransit drivers, and that in September 1996, it hired a training coordinator to standardize paratransit driver training for all of its paratransit carriers. SEPTA states that all drivers must attend the course during the beginning months of their employment.

Although SEPTA meets the DOT ADA training requirements, they acknowledged that the driver you complained about, apparently did not appropriately demonstrate his/her knowledge of the subject. In spite of the fact that they could not identify the driver in this circumstance, SEPTA contends that all complaints against drivers will be investigated and that if infractions are substantiated, the driver will be disciplined.

Based upon the foregoing we will consider this issue to be resolved at this time. If you find that SEPTA's commitment to ensuring that all drivers properly secure passengers is inconsistent with these statements, please keep us advised and we will consider further action if appropriate.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although these incidents caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations.

We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

cc: RGMA, Inc.

Federal Transit Administration
TCR-20: SMCCREA 04/07/97: x60803
Copies to: TCR-1, TCR-20 (SMCCrea, B.S.)
Chron/Subject, RGMA (Fax) Region 3.



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 2 1997

[REDACTED]

Re: FTA Complaint No. 96141

Dear [REDACTED]

This letter responds to your complaint regarding the Riverside Transit Authority (RTA) of Riverside, California, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Riverside Yellow Cab Company (Riverside Yellow Cab), a paratransit provider for RTA, denied you service even though you informed them that you were certified by the Orange County Transportation Authority (OCTA); and
2. A Riverside Yellow Cab staff person spoke to you in a hostile manner and used profanity.

We informed RTA of your allegations and requested information relating to your complaint; reviewed the information presented by RTA and you; and made a determination on each of your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. **Riverside Yellow Cab denied you service even though you informed them that you were certified by the Orange County Transportation Authority (OCTA).**

Section 37.127(c) of the DOT ADA regulation requires that:

each public entity shall treat as eligible for its complementary paratransit service all visitors who present documentation that they are ADA paratransit eligible, under the criteria of § 37.125 of this part, in the jurisdiction in which they reside.

We understand that you were certified ADA complementary paratransit eligible by OCTA in September 1993, when you lived in Buena Park, California. However, when you moved to Riverside, California, you became ineligible for RTA service under the visitor policy because you established residence within the jurisdiction of RTA. RTA explained to us that because you did not complete the certification process, it withdrew your application. (See enclosure.) RTA maintains that it did not deny you eligibility.

Additionally, this allegation is far beyond the 180 day regulatory deadline for filing complaints under the ADA. We suggest that the most appropriate way for you to resolve this issue is to re-apply to RTA for ADA complementary paratransit service.

2. **A Riverside Yellow Cab staff person spoke to you in a hostile manner and used profanity.**

Although you allege that you were treated discourteously, without further information, such as the name of the person and the date and time of occurrence, we will be unable to take any action on this allegation.

In conclusion, we do not find RTA or its former paratransit contractor, Riverside Yellow Cab, to be deficient under the DOT ADA regulation with regard to your allegations. If you have

any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511 or at his electronic mail address: roger.peralta@fta.dot.gov. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

Enclosure

cc: Susan Haffner
General Manager, RTA



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 10 1997

[REDACTED]

Re: FTA Complaint No. 97073

Dear [REDACTED]

This letter responds to your complaint regarding the Rail Corridor Accessibility Program (RCAP), a paratransit service provided by Northeast Illinois Regional Commuter Railroad Corporation (METRA) and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that METRA, which operates RCAP, plans to discontinue paratransit services for persons with disabilities in its South sector. We have reviewed the DOT ADA regulation relating to your complaint and made a determination on your allegation based on the section cited below.

The DOT ADA regulation at Section 37.121(c), "Requirement for Comparable Complementary Paratransit Service," states that:

Requirements for complementary paratransit do not apply to commuter rail, or intercity rail systems.

Although METRA currently provides paratransit service for persons with disabilities, it is under no obligation to do so. Therefore, METRA's decision to discontinue paratransit service is not a deficiency under the ADA.

You may be eligible for ADA complementary paratransit service through Chicago's PACE bus system or through the Chicago Transit Authority. We recommend that you pursue both possibilities.

Based on our determination, we consider your complaint to be closed. If you have any questions regarding our actions on your complaint, please contact Eugene Jenkins, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511 or at his electronic mail address: eugene.jenkins@fta.dot.gov. If we do not hear from you within 30 days, we will consider your complaint file to be closed. We regret that we could not assist you further and wish you well in resolving your transportation needs.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Mr. Phillip Pagano
Executive Director
METRA



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 13 1997

[REDACTED]

Re: FTA Complaint No. 92225

Dear [REDACTED]

This letter responds to your complaint regarding the Southeastern Pennsylvania Transportation Authority (SEPTA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice (DOJ), for enforcement.

As a result of the tremendous influx of civil rights complaints, contractor's assistance has been procured to assist in the investigation of discrimination complaints. Ralph G. Moore and Associates, Inc. (RGMA), is the contractor assigned by the Office of Civil Rights to investigate your complaint.

We understand your allegations to be as follows:

1. SEPTA's Paratransit drivers are rude and insensitive to you.
2. On numerous occasions, SEPTA's Paratransit drivers have failed to properly secure your scooter.

We informed SEPTA of your allegations, requested information relating to your complaint and reviewed the information presented by SEPTA and yourself, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determination, below:

1. SEPTA's Paratransit drivers are rude and insensitive to you.

The DOT ADA regulation at 49 CFR 37.173, states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

FTA requested that SEPTA verify that it conducts training on ADA sensitivity for its paratransit drivers. SEPTA advised FTA that it has a training program in place for all paratransit drivers, and that in September 1996, it hired a training coordinator to standardize paratransit driver training for all of its paratransit carriers. SEPTA states that all drivers must attend the course during the beginning months of their employment. Furthermore, to ensure that ADA sensitivity training is correctly administered, SEPTA also informed FTA that it works closely with local organizations such as yours, Liberty Resources and Inglis House, to conduct training of its drivers regarding sensitivity toward paratransit riders.

Although SEPTA could not identify the specific drivers against whom you made allegations, it contends that all complaints against drivers will be investigated, and that if infractions are substantiated, the driver will be disciplined. However, at the time you filed your complaint, SEPTA informed FTA that your carrier, Metro Care, did not have a written policy for administering discipline to employees. SEPTA advised FTA that it requested, and Metro Care has agreed to formalize, its disciplinary procedures into an official written policy. SEPTA has forwarded a draft copy of Metro Care's disciplinary policy to FTA and a copy is enclosed for your review.

SEPTA has been informed that its commitment to ensure that drivers treat passengers with disabilities with courtesy and respect is to be commended, but this does not relieve its responsibility to ensure that all employees, including dispatchers and reservation personnel comply with this and all requirements of the ADA. Based upon the foregoing we will consider this issue to be resolved at this time. If you find that SEPTA's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, please keep us advised and we will consider further action if appropriate.

2. **On numerous occasions, SEPTA's Paratransit drivers failed to secure your scooter.**

As previously mentioned, the DOT ADA regulation at 49 CFR 37.173, states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

SEPTA advised FTA that it has a training program in place for all paratransit drivers which includes training on scooter and wheelchair securement procedures, wheelchair lift operation/requirements and lift deployment. Per your March 11, 1997, telephone conversation with [REDACTED] of RGMA, you advised that this allegation of your complaint has been resolved to your satisfaction. Based upon the foregoing we consider this issue to be resolved.

Given these circumstances and in consideration of our policy, we will take no further action on your complaint and consider your file to be closed, unless we hear from you within thirty days from the date of this letter. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,

Arthur Andrew Lopez
Director, Office of Civil Rights

cc: RGMA, Inc.

195-1



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 3 1997

[Redacted]

Re: FTA Complaint No. 96200

Dear [Redacted]

This letter responds to your complaint regarding the East Volusia Transportation Authority (VOTRAN) of South Daytona, Florida, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA the authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA may also refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations regarding the VOTRAN fixed route bus system to be as follows:

1. VOTRAN bus operators require you and other wheelchair users to use a seatbelt on fixed route buses, but do not require other passengers who are not disabled to wear seatbelts;
2. VOTRAN bus operators have been "rude, harassing, and provoked altercations" in trying to get you to wear a seatbelt on fixed route buses; and
3. You have been denied service because of fixed route buses with inoperative wheelchair lifts or with wheelchair lifts removed for repair.

We informed VOTRAN of your concerns and received a response. Our determination, based on our review of your allegations, VOTRAN's response, and the DOT ADA regulations follows:

1. **VOTRAN bus operators require you and other wheelchair users to use a seatbelt on fixed route buses, but do not require other passengers who are not disabled to wear seatbelts;**

Although the DOT ADA regulation requires that each wheelchair securement position must have a seatbelt and shoulder harness available, the regulation does not require that persons who use wheelchairs must use the devices. To require only wheelchair users, rather than all passengers, to wear seatbelts on fixed route buses conflicts with the nondiscrimination requirement in Section 37.5(a) of the DOT ADA regulation:

No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

VOTRAN states that it changed its seatbelt policy in September 1996, in response to your complaint and provided us with a copy of its revised "Fixed Route Operator Rulebook" that states its new seatbelt policy. Based upon this, we consider this issue to be resolved and will take no further action on this allegation.

2. **VOTRAN bus operators have been "rude, harassing, and provoked altercations" in trying to get you to wear a seatbelt on fixed route buses.**

You described several incidents in which bus operators "yelled at you and verbally abused you."

Section 37.173 of the DOT ADA regulation states that personnel are to "...treat individuals with disabilities who use the service in a respectful and courteous way..." If documented, the bus operator misconduct you allege would be a violation of the DOT ADA regulation. However, because you have decided not to divulge the names of the bus operators against whom your allegations are directed, we cannot adequately investigate this issue. We have conveyed your allegations to VOTRAN for its information. In response, VOTRAN provided documentation that it has trained its bus operators in passenger assistance/sensitivity training that specifically addresses ADA service issues. We understand that training does not necessarily translate into action and suggest that you contact VOTRAN immediately should this continue to be a problem.

3. **You have been denied service because of fixed route buses with either inoperative wheelchair lifts or wheelchair lifts removed for repair.**

In your complaint you allege that you were denied boarding on two buses within ten minutes because of an inoperative wheelchair lift on one of the buses and the wheelchair lift having been removed from the other bus for repair.

The DOT ADA regulation at Sections 37.161-37.163 requires that accessible features shall be maintained in operative condition and repaired promptly if damaged or out of order. It also requires that the transit entity shall establish a system of frequent maintenance checks of lifts and that any malfunctions are reported "by the most immediate means available." In addition to these safeguards, the regulation requires the following:

In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

VOTRAN provided documentation that shows it regularly inspects, maintains, and immediately repairs the wheelchair lifts on its buses. For the time period from October 1995, through September 1996, VOTRAN claims a 99.5 percent reliability rate for its lifts on fixed route buses. It also provided documentation of a proper policy and training regarding the requirement to provide alternate accessible transportation within thirty minutes if a lift is inoperable.

Based on the above, it appears that VOTRAN complies with the DOT ADA regulation requirements to keep its lifts in operative condition. We base findings of noncompliance on a "pattern or practice" kinds of problems rather than isolated operational errors. In this case, we have determined that no further action is necessary at this time on this complaint allegation.

We believe that our investigation has resulted in corrective actions by VOTRAN regarding the issues that you brought forward. We hope that with VOTRAN's increased understanding of its responsibilities under the ADA, your experiences on its fixed route system have improved. However, please do not hesitate to let VOTRAN know of your everyday experience as a rider on the system. Based on VOTRAN's actions, we have determined that we will take no further action at this time on your complaint.

If you have any questions regarding this decision, please contact Michael Virts, Equal Opportunity Specialist, of my staff, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address, michael.virts@fta.dot.gov within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concerns to our attention.

Sincerely,



for Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Kenneth R. Fischer
General Manager, VOTRAN



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 25 1997

[REDACTED]

Re: FTA Complaint No. 95183

Dear [REDACTED]

This letter responds to your complaint regarding the Washington Metropolitan Area Transit Authority (WMATA), in Washington, D.C., and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. The design of the pedestrian bridges at National Airport connecting the new Main Airport Terminal to the North and South Mezzanines of the National Airport Metrorail Station and to the parking garage, requires an individual using the elevator to travel an extra 400-500 linear feet with a total slope of 20 vertical feet.
2. The absence of an elevator at the North Mezzanine violated Section 10.3.2(5) of the ADA Accessibility Guidelines (ADAAG), which require all new direct connections to commercial, retail, or residential facilities to have an accessible route.

We informed WMATA of your allegations, requested information relating to your complaint and reviewed the information presented by WMATA and yourself; and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determination:

- 1. The design of the pedestrian bridges at National Airport connecting the new Main Airport Terminal to the North and South Mezzanines of the National Airport Metrorail Station and to the parking garage, requires an individual using the elevator to travel an extra 400-500 linear feet with a total slope of 20 vertical feet.**

Section 10.3.2(5) of the ADA Accessibility Guidelines (ADAAG) states:

New direct connections to commercial, retail, or residential facilities shall, to the maximum extent feasible, have an accessible route complying with 4.3 from the point of connection to boarding platforms and all transportation systems elements used by the public. Any elements provided to facilitate future direct connections shall be on an accessible route connecting boarding platforms and all transportation system elements used by the public.

Assuming that the airport falls within the definition of a "commercial or retail facility" within the scope of ADAAG 10.3.2(5), the issue becomes whether the new connection provides an "accessible route" to the platforms and other station elements. In a letter to my office dated May 6, 1996, (copy enclosed), WMATA's General Counsel confirmed that the route between the North Bridge and the Elevator Mezzanine will provide an accessible path of travel that complies with ADAAG standards with regard to slope and ramp design. We have no evidence that the route does not comply. Any Metrorail patron must travel approximately 400 feet to reach the center of the platform, whether using the North Mezzanine, South Mezzanine, or Elevator Mezzanine; the only difference is that a patron using the Elevator Mezzanine travels at ground level rather than on the elevated platform.

Since your letter, the Metropolitan Washington Airport Authority redesigned the path of travel between the North Pedestrian Bridge and the Elevator Mezzanine to include a pedestrian bridge that minimizes the slope and length of the original design, of which you had complained, and provides a path of travel directly beneath the Metrorail platform. This path provides an increased measure of overhead protection not available to Metrorail patrons using the North Mezzanine. Thus, it appears that the route between the North Pedestrian Bridge and the Elevator Mezzanine will be "accessible" within the meaning of ADAAG and in some respects preferable for Metrorail patrons. Based upon this foregoing we consider this issue to be resolved.

- 2. The absence of an elevator at the North Mezzanine violated Section 10.3.2(5) of the ADA Accessibility Guidelines (ADAAG), which require all new direct connections to commercial, retail, or residential facilities to have an accessible route.**

The issue is whether this accessible route coincides, to the maximum extent feasible, with the route provided for the general public. In this context, use of the term "general public" in the

disabilities; however, each of these populations includes subsets of transit patrons who have differing needs. Most patrons can be expected to use the escalator for the ride to the platform, since it will normally be the more immediately visible choice; however, as you noted in your September 9, 1994, letter to the Department of Justice, "Metro elevators are used 8-9 times more for station access by people with luggage, bags, small children, strollers, and carriages than by persons with disabilities." Elevator usage by such non-disabled members of the "general public" is likely to be even more frequent at the airport than elsewhere on the WMATA system. Since the routes available to the "general public" thus include access via both the escalator and the elevator, the accessible route provided for disabled transit patrons at this station coincides exactly with that provided the general public.

The alterations currently underway at WMATA's Metrorail station serving Washington National Airport do not violate the ADA. Based on this determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on FTA's ADA Assistance Line at 1-888-446-4511, or at her electronic mail address, sandra.mccrea@fta.dot.gov, within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

Enclosure

TUV-20



U.S. Department of Transportation
Federal Transit Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 29 1997

[Redacted]

Re: FTA Complaint No. 97035

Dear [Redacted]

This letter responds to your complaint against the King County Department of Metropolitan Services (METRO) of Seattle, Washington and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be the following:

1. METRO does not accept advance reservations for ADA complementary paratransit service; and
2. METRO's new transfer service lengthens your commute into Seattle, and you have been left waiting in the cold for up to two hours for a transfer bus.

We informed METRO of your allegations and requested information relating to your complaint; reviewed the information presented by METRO and you; and made a determination on each of your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. METRO does not accept advance reservations for ADA complementary paratransit service.

The DOT ADA regulation at Section 37.131(b) requires that ADA complementary paratransit service must be provided for trips requested for next day service up to 14 days in advance. The exact number of days that reservations may be made in advance is decided upon locally with the input of public participation.

Your letter implies that it is inconvenient for you to make reservations in advance and that you would prefer subscription service. According to METRO, your schedule varies and does not fit METRO's criteria for subscription service which is for individuals who travel to and from the same destination and origin at the same time of day at least once a week. METRO does accept advance reservations for paratransit service, and its policy for doing so is not a deficiency under the DOT ADA regulation.

Based on the above, we will take no further action on this allegation.

2. METRO's new transfer service lengthens your commute into Seattle and you have been left waiting in the cold for up to two hours for a transfer bus.

The DOT ADA regulation at Section 37.131(f)(3)(i)(A) prohibits any operational pattern or practice that significantly limits the availability of ADA complementary paratransit service such as, "substantial numbers of trips with excessive trip lengths."

METRO's transfer service in and of itself does not violate the DOT ADA regulation. The regulation requires that ADA paratransit be comparable to the level of service provided to individuals without disabilities who use the fixed route service. However, we agree with you that waiting for two hours for a transfer vehicle is unacceptable. METRO has acknowledged that it experienced "serious delays" during the start up period for its transfer service, but claims that it has since made service improvements. METRO invites you to contact [REDACTED] at [REDACTED] should you continue to experience further service difficulties. For concerns about program policies, you may contact [REDACTED]

3

) Given the improvements that METRO states it has implemented, we hope that your travel difficulties have been resolved. We will leave your complaint file open for 30 days from the date of this letter. Please contact us within that time period if you are still experiencing transfer delays.

If you have any questions regarding this determination, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta.@fta.dot.gov. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Paul Toliver
Director, Department of Transportation

4

Federal Transit Administration
TCR-20:PERALTA:6/24/97:x66745
Copies to: TRO-9, C-50 (Ashby), TCC (Wong),
TCR-1, (Peralta, McCrea), Chron/Subject
0:\PERALTA\ronfred.sam



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 6 1997

[REDACTED]

Re: FTA Complaint No. 96057

Dear [REDACTED]

This letter responds to your complaint regarding the Metropolitan Atlanta Rapid Transit Authority (MARTA), of Atlanta, Georgia, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA the authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA may also refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations regarding MARTA to be as follows:

1. Bus operators will not wait for riders to reach bus stops before leaving their scheduled stops;
2. Some bus operators on the fixed route system, in particular, [REDACTED] and [REDACTED] have made inappropriate remarks to you, and have threatened to physically remove you from the buses;
3. Locks have been removed on restroom stall doors at the Five Points Station;
4. No other MARTA rail stations, other than the Five Points Station, have public restrooms;

5. MARTA police officers have harassed you because you are homeless and live "under poverty conditions;" and
6. MARTA increases fares, while decreasing service;

We informed MARTA of your allegations and requested information relating to your complaint; reviewed the information presented by MARTA and you; and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations.

1. **Bus operators will not wait for riders to reach bus stops before leaving their scheduled stops.**

The DOT ADA regulations do not require fixed route bus operators to wait for riders who want to board buses if they are not present at the bus stops when the buses pull up to the bus stops to disembark and board riders. Because this is not required in the regulations, we will take no action on this complaint allegation.

We did note the following guidance in MARTA's training manual for vehicle operators, "Check your mirrors for people who can't run for the bus." If you are still having difficulty reaching the bus in time, we suggest that you document the date, time, route and bus number and contact MARTA directly with this information.

2. **Some bus operators on the fixed route system, in particular [REDACTED] and [REDACTED] have made inappropriate remarks to you, and have threatened to physically remove you from the buses.**

Section 37.173 of the DOT ADA regulation states that personnel are to "...treat individuals with disabilities who use the service in a respectful and courteous way..." The bus operator misconduct you allege would be a violation of the DOT ADA regulation, if documented. However, because you withheld your consent to the release of your name to MARTA, and have not provided any specific details to any alleged incidents, such as dates, times, locations, bus routes, and witnesses, we cannot adequately investigate this allegation.

MARTA provided evidence that it trains its personnel, including its fixed route bus operators, as required under Section 37.173 of the DOT ADA regulation, "Training Requirements." MARTA also asserts that the two fixed route bus operators that you named, [REDACTED] and [REDACTED] have been trained on sensitivity issues which specifically addresses ADA service.

Although MARTA has provided sufficient evidence that it trains its personnel in accordance with the requirements of the DOT ADA regulation, we acknowledge that training alone does not ensure proper implementation. However, without further information, we will be unable to take any further action regarding this allegation. In the future, if you experience any difficulties of like nature with MARTA personnel, please report it to MARTA as soon as possible with

sufficient documentation to allow it to be adequately investigated.. We will monitor future complaints of similar allegations. We also recommend that you report any incidents directly to MARTA.

3. Locks have been removed on restroom stall doors at the Five Points Station.

The DOT ADA regulations do not require door locks to be installed on restroom stalls at rail stations.

MARTA states that it did not remove the locks from the stall doors, but contends that the locks were missing as a result of vandalism. MARTA confirms that the restroom stall locks at the Five Points Station were repaired in July 1996. Based on these facts, we will take no further action on this allegation.

4. No other stations, other than the Five Points Station, have public restrooms.

The DOT ADA regulations do not require a transit provider to include public restrooms in its rail stations, therefore we will take no further action on this allegation.

5. MARTA Police Officers have harassed you because you are homeless and live "under poverty conditions."

Section 37.173 of the DOT ADA regulation states that personnel are to "...treat individuals with disabilities who use the service in a respectful and courteous way..." If documented, the police misconduct you allege would be a violation of the DOT ADA regulation.

In its response, MARTA stated that its police are trained to relate to the diverse population and the policy for all MARTA personnel, including police, is for all persons to be treated with dignity and respect. In denying your allegation, MARTA states that its police does not single out homeless persons for harassment.

There is an obvious discrepancy between your allegation and MARTA's representation of its police force actions. However, because you withheld your consent to the release of your name to MARTA, and have not provided any specific details to any alleged incidents, such as dates, times, locations, and witnesses, we cannot adequately investigate this allegation.

Without any corroborating evidence to support this allegation, we are unable to make a determination on this allegation.

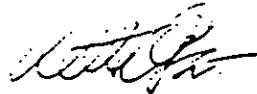
6. MARTA increases fares, while decreasing service.

Section 5324(c) of the Federal Transit Act prohibits us from becoming involved in local decisions regarding transit operations, such as fare increases and fixed route bus service reductions. Therefore, we will be unable to take action on this allegation.

The DOT ADA regulation at Appendix D to 49 CFR Section 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern or practice' kinds of problems, rather than on isolated operational errors." Although these incidents have caused you significant inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. In addition, we have not received similar complaints from other persons with disabilities that would indicate a pattern or practice of discrimination.

Based on the above, we have determined that no further action at this time is warranted on your complaint allegations. If you have any questions regarding this decision, please contact Michael Virts, Equal Opportunity Specialist, of my staff, at our toll free FTA ADA Assistance Line 1-888-446-4511 or at his electronic mail address, michael.virts@fta.dot.gov within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. We regret that we could not be of more assistance to you regarding your concerns.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Richard J. Simonetta
General Manager, MARTA

Federal Transit Administration
TCR-20:MVirts:mv:6/3/97:x62285
cc: TRO-4, TCR-1, TCR-20 Chron/Subj
Wolgast, Virts
O:\Virts: [REDACTED]



U.S. Department
of Transportation

Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 6 1997

[REDACTED]

Re: FTA Complaint No. 97012

Dear [REDACTED]

This letter responds to your complaint regarding the Greater Waterbury Transit District (GWTD) of Waterbury, Connecticut, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be the following:

1. You are unable to request a reservation for demand responsive trips before 10 a.m.; and
2. Your ADA complementary paratransit services have been incorrectly suspended.

We informed GWTD of your allegations and requested information relating to your complaint; reviewed the information presented by GWTD and you; and made a determination on each of your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determinations follow:

- 1. You are unable to request a reservation for ADA complementary paratransit trips before 10 a.m.**

Section 37.131(b) of the DOT ADA regulation requires that:

The entity shall schedule and provide paratransit service to any ADA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day.

The regulation also prohibits "substantial numbers of trip denials." (Section 37.131(f)(3)(i)(B)) GWTD explained that its ADA complementary paratransit service is presently having capacity constraint problems during peak hours of operations between 8:00 a.m. to 10:00 a.m., and 1:00 p.m. to 3:00 p.m. from what GWTD believe is an increased demand for service by the State of Connecticut's Department of Social Services' referral of eligible passengers to GWTD for service. GWTD has assured us that it is taking concentrated efforts to remedy the problem by purchasing new minibuses and instructing its operators to focus its service during the morning and afternoon rush hours.

Because capacity constraints is a deficiency under the DOT ADA regulation, we have advised GWTD of our findings and will work with it to resolve its difficulties. (See enclosure.)

- 2. Your ADA complementary paratransit services have been incorrectly suspended.**

Section 37.5(h) of the DOT ADA regulation states:

It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

According to documentation provided by GWTD, your eligibility to use its service was suspended as a result of a March 17, 1997, incident in which you were found to have engaged in a seriously disruptive and illegal behavior toward another passenger while you were on board a GWTD vehicle. The driver's report stated that you continued to use sexually inappropriate and threatening language despite this passenger's repeated requests that you immediately end your conversation with her. The GWTD Appeals Committee met on April 4, 1997, to discuss your appeal and upheld GWTD's decision to suspend your eligibility indefinitely. You were given conditions under which your eligibility may be re-instated, and you were also informed that you may appeal to the Connecticut Department of Transportation for a final determination on your case.

We find that GWTD has acted in accordance with the DOT ADA regulation regarding this allegation, and will take no further action on your behalf regarding your suspension of service.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: *roger.peralta@fta.dot.gov*. If we do not hear from you within 30 days of the date of this letter, we will consider your complaint to be closed. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

Enclosure

cc: GWTD

Federal Transit Administration
TCR-1:PERALTA 3/11/97:x66745
REVISED 5/2/97
TCR Control 97000037
Copies to: C-50 Ashby, TCC Wong, TRO-3,
TCR-1 Lopez, Peralta, Wolgast, McCrea Chron/Subject
O:PERALTA [REDACTED]



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 6 1997



Re: FTA Complaint No. 97071

Dear

The Federal Transit Administration Office of Civil Rights has received your letter in which you requested our assistance in obtaining public transportation for you under the Americans with Disabilities Act of 1990 (ADA). We are responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement Title II of the ADA, the Department of Transportation (DOT) ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

We understand your concern to be that the Coconino County Community Services Department (Coconino County) will only provide ADA complementary paratransit service to eligible persons with disabilities who live within three-fourths of a mile on either side of the Pine Country Transit fixed bus route. Section 37.13(a) of the DOT ADA regulation, "Service criteria for complementary paratransit," states:

Service Area -- (1) Bus. The entity shall provide complementary paratransit service to origins and destinations within corridors with a width of three-fourths of a mile on each side of each fixed route. The corridor shall include an area with a three-fourths of a mile radius at the ends of each fixed route.

This is a minimum requirement beyond which Coconino County is not required to provide service. To be eligible for complementary paratransit service under the DOT ADA regulations, you do not have to live within the designated three-fourths mile service area. You are eligible if your disability functionally prevents you from riding the fixed route service, and you request a ride from a pickup point and to a destination point anywhere within the service area.

Based on the information provided, we find Coconino County's policy to be consistent with the minimal requirements of the DOT ADA regulations. Therefore, we will take no further action on your complaint.

You may be able to obtain information and assistance from the following agency:

Coconino County Council on Aging
1110 East Route 66, #101
Flagstaff, Arizona 86001

Phone: (602) 779-6635
Contact Person: Mr. Joe Montoya

We hope this information will be of assistance to you. If you have any questions regarding our determination, please contact Ms. Roberta Wolgast, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address, roberta.wolgast@fta.dot.gov within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. We regret that we are unable to help you further.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Coconino County Community Services
(with identity withheld)

Coconino County Council on Aging



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 8 1997

[Redacted]

Re: FTA Complaint Number 96187

Dear [Redacted]

This letter responds to your complaint regarding Ellwood City, Pennsylvania and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complaint's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that the Borough of Ellwood City does not provide accessible transportation to individuals with disabilities. We informed the Borough of Ellwood City of your allegation, requested information relating to your complaint and reviewed the information presented by the Borough of Ellwood City and you; and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

The DOT ADA regulation at 49 CFR 37.121 states:

...each public entity operating a fixed route system shall provide paratransit or other special to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

-2-

In response to your concern, the Borough of Ellwood City advised FTA that it does not provide any form of public transportation to the community. Because it does not provide public transportation, it is not required to provide ADA complementary paratransit service.

Based on the above, we are unable to take any further action on your complaint. We regret that we could not have been of more assistance to you in this matter. Given these circumstances and in consideration of FTA policy, if you do not express dissatisfaction with our determination within 30 days from the date of this letter, we will consider your complaint to be resolved and closed. If you have any questions regarding this decision, please contact Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511 or at her electronic mail address: sandra.mccrea@fta.dot.gov. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Borough of Ellwood City
RGMA, Inc.

-3-

Federal Transit Administration
TCR-1: SMCCREA 07/29/97: x60803
Copies to: TCR-1(ALopez, SMCrea, BSligh), Chron/Subject, RGMA (Fax) Region 3,
Richard Wong (TCC), C-50 Ashby
O:\wolgast [REDACTED]

TCR-1



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 14 1997

[REDACTED]

Re: FTA Complaint Number 96159

Dear [REDACTED]

This letter responds to your complaint regarding the Southeastern Pennsylvania Transportation Authority (SEPTA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that a SEPTA paratransit driver did not give you first aid when you had an epileptic seizure on the van. We informed SEPTA of your allegation, requested information relating to your complaint and reviewed the information presented by SEPTA and yourself, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

The DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

-2-

In response to your concerns, FTA requested that SEPTA verify that it conducts formal ADA training for all paratransit drivers. SEPTA submitted documentation to FTA to verify that it has a training program in place for paratransit drivers and advised that as of September 1996, it hired a training coordinator to standardize paratransit driver training for all of its paratransit carriers. SEPTA requires that all carriers, including Metro Care, submit a monthly print out with the names of drivers who have completed its Passenger Assistance Training (PAT). This training includes the basic first aid procedures for epileptic seizures recommended by the Epileptic Foundation of America. SEPTA states that all drivers must attend this course during the beginning months of their employment. SEPTA verified that when you reported this incident to Metro Care, the driver was retrained, and you received a settlement of fifty dollars worth of free rides.

We believe that SEPTA's requirement for its paratransit drivers to be trained in the first aid treatment for persons who experience an epileptic seizure goes beyond the intent of the DOT ADA regulation. Complementary paratransit service was never intended to be ambulance service. As stated above, the regulation refers to the safe operation of vehicles and equipment and for respectful and courteous treatment of people with disabilities. Based on this determination, we will be unable to take any further action regarding your complaint.

If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. If we do not hear from you within 30 days of the date of this complaint, we will consider your complaint to be closed. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: SEPTA
RGMA, Inc.

TCR-1



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 14 1997

[REDACTED]

Re: FTA Complaint No. 92096

Dear [REDACTED]

This letter responds to your complaint regarding the Missoula Urban Transit District (MUTD) in Missoula, Montana, and potential non-compliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer to the matter to the U.S. Department of Justice for enforcement.

We understand the complaint allegations to be as follows:

1. Although Mountain Line's accessible bus policy was that a wheelchair-user could request an accessible fixed route bus by calling 24 hours in advance, MUTD advised you that an accessible bus could not run on route 9.
2. MUTD dispatchers failed to notify drivers when you requested an accessible bus, therefore resulting in non-accessible buses being dispatched to your route.
3. MUTD's management staff and fixed route drivers often protested about serving wheelchair passengers because of the extra time it takes to board and secure a wheelchair.

4. **MUTD informed you that your paratransit eligibility would be jeopardized if you continued to use the fixed route system with the assistance of another individual.**
5. **MUTD stated that ADA paratransit eligibility determinations would not take place until the end of April 1992.**
6. **MUTD fixed route drivers do not know how to properly secure wheelchairs on buses.**
7. **MUTD does not perform routine maintenance on lifts and securement systems, and fixed route buses are consistently dispatched with inoperative lifts.**
8. **MUTD does not provide ADA training, especially sensitivity training, to its bus operators, customer service operators, and other personnel.**
9. **MUTD does not have a passenger handbook that provides information about its paratransit and fixed route systems or provide the information in accessible formats.**
10. **MUTD drivers do not make stop announcements.**
11. **MUTD rerouted the "Route 1" bus from an area serving a large number of persons with disabilities, to an area without a significant number of individuals with disabilities.**

We informed MUTD of your allegations and requested information relating to your complaint; reviewed the information presented by MUTD and yourself; and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. Below, we have restated your allegations, followed by our determinations. Most of the allegations of this complaint arise from service that was originally provided in 1993. According to conversations with MUTD and you, many of the allegations that you made have since been resolved.

1. **Although Mountain Line's accessible bus policy was that a wheelchair-user could request an accessible fixed route bus by calling 24 hours in advance, MUTD advised you that an accessible bus could not run on route 9.**

According to the DOT ADA regulations at 49 CFR 37.5 which states:

No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

MUTD advised FTA that at the time you filed your complaint, it erroneously did not provide accessible service on Route 9. However, since June 1993, MUTD has provided accessible service on route 9. Based on the foregoing, we consider this issue to be resolved.

- 2. MUTD dispatchers failed to notify drivers when you requested an accessible bus, therefore resulting in non-accessible buses being dispatched to your route.**

MUTD advised FTA that at the time you filed your complaint some of its dispatchers did not always notify drivers when you requested an accessible bus. As of March 1995, MUTD informed FTA that all fixed route service is accessible and riders are no longer required to call ahead for an accessible bus. Based upon the foregoing, we consider this issue to be resolved.

- 3. MUTD's management staff and fixed route drivers often protested about serving wheelchair passengers because of the extra time it takes to board and secure a wheelchair.**

The DOT ADA regulations at 49 CFR 37.5 states:

No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

MUTD advised FTA that at the time you filed your complaint, some of its drivers and a manager believed that because wheelchair users would slow down their schedule, MUTD did not have to adhere to their ADA responsibilities. MUTD informed FTA that it rectify this situation as soon as it was brought to its attention and continues to provide you with accessible service. Based upon the foregoing, we consider this issue to be resolved.

- 4. MUTD informed you that your paratransit eligibility would be jeopardize if you continued to use the fixed route system with the assistance of another individual.**

According to the DOT ADA regulation at 49 CFR 37.123(e)(1) which states:

Any individual with a disability who is unable, as the result of a physical or mental impairment (including vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities.

To be eligible for complementary paratransit service, persons with mental, visual, or physical impairments must not be able to "navigate the system" (i.e. those individuals who cannot board, ride, or disembark from an accessible vehicles without the assistance of another individual). Consequently, if an individual needs an attendant to board, ride, or disembark from accessible fixed route vehicles, the individual should be eligible for paratransit. An individual should not lose their paratransit eligibility if they choose to travel on fixed route with a friend who could help them navigate the system. Eligibility is based solely on ability to board, ride, and disembark independently.

MUTD confirms that it erroneously informed you that using the fixed route with the assistance of another would jeopardize your paratransit eligibility. MUTD has since rescinded this policy and you were issued an apology. Based upon the foregoing, we consider this issue to be resolved.

5. **MUTD stated that ADA paratransit eligibility determinations would not begin to take place until the end of April 1992.**

According to the DOT ADA regulation at 49 CFR 37.125 which states:

Each public entity required to provide complementary paratransit service...shall establish a process for determining ADA paratransit eligibility.

MUTD advised FTA that a previous manager provided you with incorrect information regarding eligibility determinations. MUTD states that it now has an eligibility process in place, and has re-certified your paratransit eligibility. Based upon the foregoing, we consider this issue to be resolved.

6. **MUTD fixed route drivers do not know how to properly secure wheelchairs on buses.**

The DOT ADA regulations at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

MUTD advised FTA that it immediately took action when you identified the driver that you had concerns about his ability to properly secure your wheelchair. MUTD submitted documentation to FTA to verify that it retrained the driver on the proper procedures for wheelchair tie-downs on all its buses (see enclosure). Based upon the foregoing, we consider this issue to be resolved.

7. **MUTD does not perform routine maintenance on lifts and securement systems, and fixed route buses are consistently dispatched with inoperative lifts.**

The DOT ADA regulations at 49 CFR 37.163 (b) and (f) states:

- (b) **The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative. The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service;**
- (f) **In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lifts does not work.**

MUTD advised FTA that its maintenance policy requires that all buses undergo routine maintenance at 3000 and 6000 miles respectively. MUTD stated that the lifts are routinely inspected at these intervals and if there is a lift problem, the repairs are done at this time. MUTD also maintains that part of its pre-trip procedure for each bus includes cycling the vehicle lift to

verify that it is in working order. MUTD informed FTA that if a vehicle lift becomes inoperable while in route, a repair truck is called out and the problem is fixed on the spot. If the lift cannot be repaired at that time, a paratransit bus is dispatched within a half hour to accommodate the disabled passengers on route until an accessible bus can be put into service. MUTD submitted maintenance records to FTA to support its contention that MUTD adheres to this policy (see enclosure).

You have since advised that the number of inoperable lifts on buses has decreased tremendously since the time you filed your complaint. Based upon the foregoing, we consider this issue to be resolved at this time. However, if you find that MUTD's commitment to maintaining an accessible fixed route fleet is inconsistent with these statements, please keep them advised and notify us if they are not responsive.

8. **MUTD does not provide ADA training, especially sensitivity training, to its bus operators, customer service operators, and other personnel.**

The DOT ADA regulations at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

A review of MUTD's training materials and procedures appears that they now have the proper ADA procedures in place (see enclosure). Per your March 21, 1997, telephone conversation with [REDACTED] it is my understanding that you advised her that MUTD's employees have improved considerably in regards to their treatment of persons with disabilities since you filed your complaint. Based upon the foregoing, we consider this issue to be resolved at this time. However, if you find that MUTD's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, please keep us advised and we will consider further action if appropriate.

9. **MUTD does not have a passenger handbook that provides information about its paratransit and fixed route systems or provide the information in accessible formats.**

According to the DOT ADA regulation at 49 CFR 37.167 (f) which states:

The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

In response to your concerns, MUTD provided FTA with a copy of its "Specialized Transportation System Policy" which includes information for providing documentation in accessible format (see enclosure). According to MUTD, the "Specialized Transportation System Policy" is provided to

all persons with disabilities who request an application for transportation services. This brochure now is available on all buses, at ticket outlets and other locations.

MUTD advised that information about all public meetings and all public comments on its transportation plans, are available, upon request, in accessible format. The majority of materials are available in audio tape or on computer disk, but MUTD also has an agreement with Summit Independent Living Center, Inc. to produce documents in Braille. Based upon the foregoing, we consider this issue to be resolved.

10. MUTD drivers do not make stop announcements.

The DOT ADA regulation at 49 CFR 37.167 (b) states:

On fixed route systems, the entity shall announce stops at the following: (1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location; and (2) The entity shall announce any stop on request of an individual with a disability.

Based on the information you provided, MUTD could not identify the specific drivers against whom you made these allegations. FTA requested MUTD verify that it strictly enforces its stop announcement policy. MUTD advised that if an operator is properly identified and the incidents of non-compliance of the stop announcement policy is confirmed, the driver must undergo additional refresher ADA courses depending upon the circumstance. When a driver has been found to commit a violation of a serious nature, or if there is a pattern of violations, MUTD would either; (1) discipline the driver, or (2) terminate the driver. Based upon the foregoing, we consider this issue to be resolved.

11. MUTD re-routed the "Route 1" bus from an area serving a large number of persons with disabilities, to an area without a significant number of individuals with disabilities.

According to the Federal Transit Laws at 49 U.S.C. §5324(c) which states:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and after a grant is made, may not regulate any charge for the system.

This law prohibits DOT from involving itself in operational matters of local jurisdiction such as setting fares or location/elimination of bus routes. Consequently, bus routes and service cut backs are a matter left to local operators. According to MUTD, the route in question served not only persons with disabilities, but persons without disabilities as well. The elimination of this service affected all riders on this bus route, not just persons with disabilities, and therefore it is not discriminatory. Based on the foregoing, we consider this issue to be resolved.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority to be on failures to comply with basic requirements and issues of 'pattern and

-7-

practice.' rather than on isolated operational errors." It appears that initially, MUTD clearly had difficulty implementing the ADA. With your assistance and by bringing these matters to the attention of MUTD's management, most of these issues have been corrected. We urge you to continue your vigilance in making yourself heard by MUTD.

It was never intended that a transit agency be responsible for all of the transportation needs of persons with disabilities. However, it is their responsibility to adhere to those requirements of the DOT ADA regulation. Maintaining the accessibility of this system has to be a joint partnership between the disability community and the transit agency. We understand that many of MUTD's initial practices may have caused you some inconvenience, but we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. It appears that although it took some time, MUTD has taken great steps to adhere to the regulations.

We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff on FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director
Office of Civil Rights

Enclosures (3)

cc: MUTD
RGMA, Inc.

14K-1



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20560

AUG 14 1997

[REDACTED]

Re: FTA Complaint No. 95131

Dear [REDACTED]

This letter responds to your complaint regarding VIA Metropolitan Transit of San Antonio (VIA), in San Antonio, Texas, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. VIA refused to replace your lost or stolen "half fare" identification card at the same time "a female of Hispanic origin was granted a card without being questioned."
2. On several occasions, a number of VIA's bus operators failed to pick up persons in wheelchairs.
3. Numerous VIA bus operators fail to announce major stops.

We informed VIA of your allegations and requested information relating to your complaint; reviewed the information presented by VIA and yourself, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. VIA refused to replace your lost or stolen "half fare" identification card, at the same time "a female of Hispanic origin was granted a card without being questioned."

Section 37.5(a) of the DOT ADA regulations states:

No entity shall discriminate against an individual with a disability in connection with the provisions of transportation service.

VIA advised FTA that you initially received your half-fare card over 20 years ago, under the previous transit authority. It is VIA's policy to require verification of continued eligibility for half-fare cards. Because your card was issued by the previous transit provider, VIA was unable to locate the application pertaining to the issuance of your original half-fare card. Therefore, VIA requested that you submit documentation for evaluation of your continued eligibility. Based on your submitted documentation, VIA determined that you are not eligible for a half-fare card.

Section 5307(d)(1)(D), of the Federal Transit Laws requires transit operators to provide half-fare benefits to elderly and "handicapped" riders during non-peak hours. The term "handicapped," according to Section 5302(a)(5) of Title 49 USC, is defined as:

any individual who by reason of illness, age, congenital malfunction, or other permanent or temporary incapacity or disability, including any person who is wheelchair bound or has semi-ambulatory capabilities, is unable without special facilities or special planning or design to utilize public transportation facilities and services effectively.

The definition of "handicapped" was instituted by Congress and retained despite the subsequent enactment of the Americans with Disabilities Act of 1990 and codification of the Federal Transit Act in 1994. The FTA cannot amend the strict language of the provision without congressional authorization.

The half fare cards are a special benefit that is mandated and approved by Congress. Congress has the authority to provide programs and benefits to individuals with disabilities that are not provided to the general public and transportation for elderly and handicapped passengers is one of those programs. VIA stated that you can re-apply for the half-fare card at any time and it will make a prompt decision based on whatever new or additional information you can provide. We therefore consider this issue to be resolved.

2. On several occasions, a number of VIA's bus operators failed to pick up persons in wheelchairs.

According to the DOT ADA Regulation at 49 CFR 37.5:

No entity shall discriminate against an individual with a disability in connection with the provision of transportation service. ...an entity shall not, on the basis of disability, deny to any individual with a disability the opportunity to use the entity's transportation service for the general public, if the individual is capable of using that service.

Unfortunately, without specific dates, times and locations, we were unable to investigate this allegation. The route referenced in your complaint, Route 92, has 19 buses running from 5:30 a.m. to 11:30 p.m. In accordance with VIA written policies, any incidents of passing up waiting passengers, including person in wheelchairs, are supposed to be immediately reported to a line service dispatcher who will then send an additional vehicle to relieve the particular situation. Bus Operators are instructed during initial and refresher training activities about these responsibilities. At this time, we will be unable to take any further action regarding this allegation; however, if you have any additional information it should first be brought to the attention of VIA so that they will have the opportunity to try to correct any unresolved issues.

3. Numerous VIA bus operators fail to announce major stops.

The DOT ADA Regulation at 49 CFR 37.167(b)(1) states:

On fixed route systems, the entity shall announce stops as follows: (1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location.

Unfortunately, without specific dates, times, locations, and names of bus operators, this allegation could not be substantiated. VIA advised FTA that it does have a policy that requires all bus operators to announce major stops along all routes as required by Section 37.167(b)(1). According to VIA, bus operators who violate this policy are counseled and/or reprimanded. If you have any additional information regarding this allegation, please keep VIA advised so that they will have an opportunity to respond.

The DOT ADA regulations at Appendix D to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although VIA's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

-4-

If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, on FTA's ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: VIA
JDG Associates, Inc.

TCK-1



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 14 1997

[REDACTED]

Re: FTA Complaint Number 96228

Dear [REDACTED]

This letter responds to your complaint regarding the Metropolitan Council Transit Operation (MCTO) in Minneapolis, Minnesota, and potential noncompliance with the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that MCTO's monthly bus fare cards do not have clipped corners to allow blind persons to tell the proper direction to insert the card in the fare box. We informed MCTO of your allegation, requested information relating to your complaint and reviewed the information presented by MCTO and yourself. We made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

The DOT ADA regulation at 49 CFR 37.167(f) states:

The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

-2-

In response to your concerns, in a letter dated January 2, 1997, (see enclosure) MCTO informed FTA that when it instituted a new fare collection technology in July 1996, the 31-day passes and cards were to be produced with a "corner cut" in the upper left as a tactile indicator to visually impaired customers of the proper position for the card to be inserted into the reading machine. However, MCTO advised us that in August 1996, its vendor produced a series of 31-day passes with corners that were not clipped. Many of the cards were distributed before the error was detected. MCTO states that it was able to retrieve and trim corners on many cards, and that it focused especially on the \$21 Limited Mobility Pass used by customers with disabilities. MCTO stated that it rectified this situation with its vendor, and all additional shipments have complied with its corner cut specification.

We understand that during a March 24, 1997, telephone conversation with [REDACTED] of my staff, you informed her that you had received a letter from MCTO on January 24, 1997, addressing your concerns. You also advised [REDACTED] that two of MCTO's managers addressed your Chapter meeting on February 15, 1997, and provided your group the opportunity to have direct input on other pertinent ADA transit issues. During this conversation, you advised [REDACTED] that you are satisfied with MCTO's actions. Based on MCTO's corrective actions and your expressed satisfaction with these actions, we consider this matter to be resolved.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although MCTO's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

Enclosure

cc: MCTO
RGMA, Inc.



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG. 14 1997



Re: FTA Complaint No. 97120

Dear 

This letter responds to your complaint regarding the Northeast Illinois Regional Commuter Railroad Corporation (Metra), in Chicago, Illinois, and potential noncompliance with the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation ACT of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that Metra's decision to terminate the Rail Corridor Accessibility Program (RCAP) in the south sector first, is discriminatory. We informed Metra of your allegation, requested information relating to your complaint and reviewed the information presented by Metra and yourself. We made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

According to the DOT ADA regulation at 49 CFR 37.121, the following transit providers must provide ADA complementary paratransit service:

- (a) Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system... (c) Requirements for complementary paratransit do not apply to commuter bus, commuter rail, or intercity rail systems.

Although the paratransit service in question is intended for persons with disabilities, it is not required by the ADA. The service was initiated voluntarily by Metra and later in accordance with an Illinois Human Rights Commission (the Commission) decision. It was to be offered until Metra's South Sector commuter rail line attained a specified level of accessibility, as determined by the Commission. We understand that Metra has complied with the Commission's requirements in the South Sector, therefore, the paratransit service in that area is being eliminated.

We understand how important the RCAP program is to passengers who use the system, but since this service is not required by the ADA, DOT can only intervene when compliance with a Federal law is at issue. According to the Federal Transit Laws at 49 U.S.C. §5324(c) which states:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and after a grant is made, may not regulate any charge for the system.

DOT is prohibited from becoming involved in operational matters of local jurisdiction such as setting fares, location, elimination, or temporary change of routes. For assistance in determining the transportation needs for persons with disabilities in the south sector, please contact Metra for assistance by calling (312) 322-6777.

Based on the determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Michael Virts, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511 or at his electronic mail address, michael.virts@fta.dot.gov within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. We regret that we are not able to be of more assistance to you on your concern.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 21 1997

[REDACTED]

Re: FTA Complaint No. 96008

Dear [REDACTED]

Thank you for your letter dated July 9, 1997, concerning the complaint you submitted with the Federal Transit Administration (FTA) regarding the City of Davenport, Iowa, and the Bi-State Regional Commission. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your new allegations to be as follows:

1. Numerous curb cuts and sidewalks are constantly blocked by parked vehicles, debris, or other barriers, creating safety hazards;
2. The City of Davenport and MetroLINK are constantly re-routing transit vehicles for special events which creates confusion for transit passengers.
3. The Ground Transportation Terminal in the City of Davenport is not safe because at least one child, who was playing with the automatic door controls, was injured while operating the automatic door.
4. The City of Davenport does not enforce the No-Smoking rule at the Ground Transportation Terminal.

We informed the City of Davenport and MetroLINK of your allegations and requested information relating to your complaint; reviewed the information presented by Davenport and MetroLINK and you; and made a determination based on our analysis of the complied information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. **Numerous curb cuts and sidewalks are constantly blocked by parked vehicles, debris, or other barriers, creating safety hazards;**

According to Title II, Section 35.150 of the ADA, the U.S. Department of Justice (DOJ), not DOT, has jurisdiction over issues involving architectural barriers in public facilities and right-of-ways such as street closures and obstructions. You may wish to pursue your complaint by contacting DOJ whose "ADA Information Line" is 1-800-514-0301.

2. **The City of Davenport and MetroLINK are constantly re-routing transit vehicles for special events which creates confusion for transit passengers.**

According to the Federal Transit Laws at 49 U.S.C. §5324(c) which states:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and after a grant is made, may not regulate any charge for the system.

DOT is prohibited from becoming involved in operational matters of local jurisdiction such as setting fares or location, elimination, or temporary change of bus routes. Temporary bus routes changes are a matter left to local operators. Any temporary change of service affects all riders on MetroLINK, not just persons with disabilities, and therefore not discriminatory under the DOT ADA regulation. Based on the foregoing, we consider this issue to be resolved.

3. **The Ground Transportation Terminal in the City of Davenport is not safe because one child, who was playing with the automatic door control, was injured while operating the automatic door.**

If a power assisted or automatic door is being used in public facilities, specific standards in the manufacturing of the doors, as set forth in the DOT ADA regulations, must be met. According to Appendix A to Part 37, Section 4.13.12 of the DOT ADA regulation:

If an automatic door is used, then it shall comply with *ANSI/BHMA A156.10-1985*. Slowly opening, low powered, automatic doors, shall comply with *ANSI A156.19-1984*. Such door shall not open to back check faster than 3 seconds and shall require no more than 15 lbf (66.6N) to stop door movement. If a power assisted door is used, its door-opening force shall comply with 4.13.11 and its closing shall conform with the requirements in *ANSI A156.19-1984*.

MetroLINK and the City of Davenport confirm that the doors in question were built to ADA specifications. However, it is understood that power assisted or automatic doors may be harmful to unsupervised children even if the doors are built within ADA specifications. Based on the foregoing, we consider this issue to be resolved.

4. The City of Davenport does not enforce the No-Smoking rule at the Ground Transportation Terminal.

The DOT ADA regulation at 49 CFR 37.9 states:

...transportation facility shall be considered to be readily accessible to and usable by individuals with disabilities if it meets the requirements of this part and the standards set forth in appendix A to this part.

Appendix A of Section 37.9 describes accessible features of a transportation facility as ramps, elevators or other circulation devices, fare vending or other ticketing areas, and the location of fare collection areas to minimize the distance in which wheelchair users and other persons who cannot negotiate steps may have to travel, compared to the general public. Smoking or air quality is not included in Part 37 or appendix A.

The DOJ ADA regulation, 28 CFR Part 35, governs matters not covered by, 49 CFR Part 37. Specifically, the DOJ ADA regulation at 28 CFR 35.132 states:

This part does not preclude the prohibition of, or the imposition of restrictions on smoking in transportation covered by this part.

Section 35.132 restates that section 501(b) of the ADA does not prevent the prohibition of, or imposition of restrictions on smoking in transportation facilities covered by title II. The reference to smoking in section 501, however, merely clarifies that the ADA does not require public entities to accommodate smokers by permitting them to smoke in transportation facilities, nor does it require transit properties to enact or enforce anti-smoking requirements.

We recommend that you pursue this matter by contacting the City of Davenport's, Department of Public Health. The Department of Public Health has the enforcement authority over smoking ordinances within the City of Davenport, including all transit stations. You may also wish contact DOJ's "ADA Information Line" at 1-800-514-0301. Based on the foregoing, we consider this issue to be resolved.

) Given these circumstances and in consideration of FTA policy, we will take no further action on your complaint and consider your file to be closed. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on FTA's ADA Information Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. All correspondence and/or communication regarding your complaint should reference the above noted complaint number.

Sincerely,

for 
Arthur Andrew Lopez
Director, Office of Civil Rights

cc: RGMA, Inc.
City of Davenport, Iowa
MetroLINK

TC-1



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 28 1997

[Redacted]

Re: FTA Complaint No. 95146

Dear [Redacted]

This letter responds to your complaint regarding Tri-County Metropolitan Transportation District of Oregon (Tri-Met), in Portland, Oregon, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. On December 23, 1994, the operator of Tri-Met bus number 72 ordered all passengers, except one, to exit her bus and board the next one.
2. The bus operator was extremely rude and discourteous to you as you disembarked the bus;
3. A Tri-Met customer service representative wrote extremely offensive comments about you on two of your customer service complaint forms.

-2-

We informed Tri-Met of your allegations and requested information relating to your complaint; reviewed the information presented by Tri-Met and yourself, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. **On December 23, 1994, the operator of Tri-Met bus number 72 ordered all passengers, except one, to exit her bus and board the next one.**

The DOT ADA regulation at 49 CFR 37.5(a) states:

No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

Tri-Met advised FTA that the operator of the number 72 bus was ordered by a Tri-Met dispatcher to request that all passengers, to leave and board the next bus because she was running considerably behind schedule. Tri-Met stated that it is an mandatory requirement for all operators to notify dispatch if they are running more than five minutes behind schedule so they may receive instruction as to how to get back on schedule. In this case, the driver was ordered to have all passengers exit her bus and catch the next one. Although this policy does present some initial inconvenience to passengers, requests such as this are made to provide better customer service for all passengers by avoiding overcrowding and extreme lateness on the bus route.

Tri-Met advised FTA in its January 18, 1995, apology letter to you, [REDACTED] Station Manager, acknowledged that one passenger did remain on board, while all others exited the bus. He stated that the remaining passenger was only going a short distance further and the operator was aware her destination. Tri-Met stated that although the operator should have been more professional with her explanation as to why passengers had to transfer, technically, she did not violate Tri-Met's policy by allowing that one passenger to stay. Based on the foregoing, we consider this issue to be resolved at this time. However, if you find that Tri-Met's actions are inconsistent with these statements, we encourage that you continue to work with Tri-Met to ensure that incidents such as this do not reoccur.

2. **The bus operator was extremely rude and discourteous to you as you disembarked the bus.**

According to the DOT ADA regulation at 49 CFR 37.173 which states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Tri-Met informed FTA that on January 12, 1995, [REDACTED] met with the operator of the bus to discuss the incident and her conduct. Although the operator stated that once she made the

disembark announcement, no other comments were exchanged, she was counseled about her behavior. The disciplinary meeting was documented by memorandum and placed in the operator's personnel file.

Tri-Met also provided FTA documentation that it does provide extensive training for all bus operators in the areas of ADA passenger assistance and ADA sensitivity issues. Based upon the foregoing we will consider this issue to be resolved at this time. If you find that Tri-Met's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, please keep us advised, and we will consider further action if appropriate.

3. A Tri-Met customer service representative wrote extremely offensive comments about you on two of your customer service complaint forms.

As previously mentioned 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

FTA addressed this issue to Tri-Met, and in response to your concerns, a November 5, 1996, apology letter, was sent to you from [REDACTED] Customer Satisfaction Manager, addressing the written comments on customer service forms CSI#940460029 and CSI#950090025. The comments were removed from your file, and disciplinary action was taken against the customer service representative responsible for the written comments. [REDACTED] met with [REDACTED] the customer service representative responsible for the written comments, informed her of the inappropriateness of her behavior, instituted a verbal warning regarding this behavior, and informed her that her performance is being monitored closely. In addition, on November 5, 1996, [REDACTED] sent you a personal apology letter about her actions. At this time, we consider this issue to be resolved.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although Tri-Met's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

-4-

If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on FTA's ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: *sandra.mccrea@fta.dot.gov*. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,

Gloria D. Dixon

for
Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Gardner Consulting Planners

-5-

Federal Transit Administration

TCR-1: SMCCREA 07/24/97: x60803

Copies to: TCR-1(ALopez, SMcCrea, BSligh, RWolgast), Chron/Subject, GCP (Fax)
Region 10, Richard Wong (TCC)

"O:VMCCREA" [REDACTED] SMcCrea

100-20



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 28 1997

[REDACTED]

Re: FTA Complaint Number 97148

Dear [REDACTED]

This letter responds to your complaint regarding the Northeast Illinois Regional Commuter Railroad Corporation (Metra), in Chicago, Illinois, and potential noncompliance with the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. First, let me say what a pleasure it was to meet you during our meeting on August 12, 1997.

The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation ACT of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be the following:

- 1) Metra's decision to terminate the Rail Corridor Accessibility Program (RCAP) in the south sector first, is discriminatory.
- 2) The paratransit system provided by the Regional Transportation Authority (RTA) is not a viable option to RCAP, because the amount of travel on RTA's paratransit system is excessive.

We informed Metra of your allegation, requested information relating to your complaint and reviewed the information presented by Metra and yourself. We made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations, followed by our determinations, below:

- 1) **Metra's decision to terminate the Rail Corridor Accessibility Program (RCAP) in the south sector first, is discriminatory.**

According to the DOT ADA regulation at 49 CFR 37.121, the following transit providers must provide ADA complementary paratransit service:

- (a) Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system... (c) Requirements for complementary paratransit do not apply to commuter bus, commuter rail, or intercity rail systems.

Although not required, Metra advised FTA that it began the RCAP program in 1987 as a temporary way to serve persons with disabilities until the rail system became accessible. The program was never required by law and now that the south sector has become accessible to persons with disabilities, Metra felt that the continuation of the RCAP program was no longer necessary.

Although we understand how important the RCAP program is to passengers who use the system, since this service is not required by law, DOT is restricted by law from interfering in the day-to-day operation of transit providers, especially those operations that are not required by law. According to the Federal Transit Laws at 49 U.S.C. §5324(c) which states:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and after a grant is made, may not regulate any charge for the system.

DOT is prohibited from becoming involved in operational matters of local jurisdiction such as setting fares, location, elimination, or temporary change of routes. For assistance in determining the transportation needs for persons with disabilities in the south sector, please contact Metra for assistance by calling (312) 322-6777. Based on the foregoing, we consider this issue to be resolved.

- 2) **The paratransit system provided by the Regional Transportation Authority (RTA) is not a viable option to RCAP because the amount travel on RTA's paratransit system is excessive.**

Currently, we are still investigating this allegation of your complaint. You will be informed of the determination on the issues as soon as the investigation is completed.

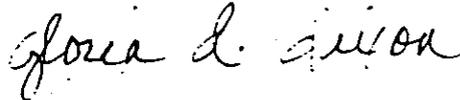
-3-

We regret that we could not assist you in the matter of the RCAP program. However, if you wish to request information regarding any advocacy letters that have been received by FTA about this issue, please submit a Freedom of Information Act Request by writing to:

Mr. Bruce Frame
Director of Public Affairs
Federal Transit Administration
400 7th Street, S.W.
Washington, D.C. 20590

If you have any questions, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on our toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office.

Sincerely,



for Arthur Andrew Lopez
Director, Office of Civil Rights

1CK-1



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 5 1997

[Redacted]

Re: FTA Complaint No. 97112

Dear [Redacted]

This letter responds to your complaint regarding OMNITRANS in San Bernadino, California, and potential noncompliance with the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation ACT of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that as of June 30, 1997, OMNITRANS discontinued the paratransit service "Dial-a-Ride," which provided paratransit service beyond the minimum requirements of the ADA DOT regulation and replaced it with an ADA paratransit service that adheres closer to the minimum requirements of the ADA DOT regulation. We informed OMNITRANS of your allegation, requested information relating to your complaint and reviewed the information presented by OMNITRANS and yourself. We made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

According to the DOT ADA regulation at 49 CFR 37.121, which states:

...each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route systems.

The DOT ADA regulation requires transit providers to maintain a paratransit service that is comparable to the level of service to the fixed route system. This system is not intended to be a comprehensive system that meets all the transportation needs of individual with disabilities, but rather a "safety net" for those persons who are unable to navigate the fixed route system. There are specific requirements that transit operators must apply to their paratransit service. These requirements include: 1) providers must have an eligibility process; 2) providers do not have to deliver passengers door to door service, but rather curb to curb; 3) providers may require advance scheduling; and 4) providers must serve eligible passengers within 3/4 mile of a fixed bus route (but providers do not have to travel beyond that 3/4 mile corridor).

A transit operator may choose to provide transit service that is beyond the requirements of the ADA DOT regulation, but they are not compelled to do so. Essentially, the loss of the Dial-a-Ride that provided service beyond the requirements of the ADA DOT regulation, is not a violation of the ADA.

Although we understands how important the Dial-a-Ride program was to passengers who use the system, FTA is restricted by law from interfering in the day-to-day operation of transit providers, especially those operations that are not required by law. According to the Federal Transit Laws at 49 U.S.C. §5324(c) which states:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and after a grant is made, may not regulate any charge for the system.

In that the allegations you cited were not violations of the ADA regulation, we have determined that with respect to your allegation, OMNITRANS is not in violation of the ADA DOT regulation. Based on the foregoing, we consider this issue to be resolved.

Based on this determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Michael Virts, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511 or at his electronic mail address, michael.virts@fta.dot.gov within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

TCE-1



U.S. Department of Transportation
Federal Transit Administration

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 24 1997

[Redacted]

Re: FTA Complaint No. 97069

Dear [Redacted]

This letter responds to your complaint against the Mass Transit Administration (MTA) of Baltimore, Maryland, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that MTA's ADA complementary paratransit service provider, Yellow Transportation, picked you up late on more than one occasion. We informed MTA of your allegation and requested information relating to your complaint; reviewed the information presented by MTA and you, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation.

The DOT ADA regulation at 49 CFR 37.131(f)(3)(i)(A) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following... Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons... Such patterns or practices include, but are not limited to, the following... Substantial numbers of significantly untimely pickups for initial or return trips.

-2-

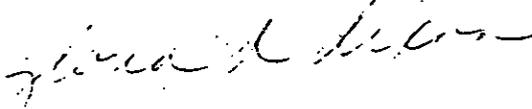
Since the DOT ADA regulation does not define "significantly untimely pickups," transit providers have flexibility to establish what constitutes a timely and untimely pick-up. MTA considers "on time" performance to be 10 to 15 minutes before or after the scheduled pickup time. According to MTA, during the months of March and April 1997, the late pickup rate was about 20 percent, but there were no trip denials during the same period. MTA stated that this increase in untimely service was due to the transition of paratransit carriers from Yellow Transportation, to its new carrier, Metro Access of Maryland (MAM). MTA apologized to you for the poor service you received on April 3, 1997, and it has represented that it has taken steps, such as purchasing new accessible vehicles, additional telecommunication lines, and a new computerized reservation system, to ensure efficient service to its paratransit riders.

Your experience of waiting for an hour and a half for your schedule pick-up on April 3, 1997 was indeed a problem, but it is understood that this can occur. FTA is concerned about incidents of this nature occurring on a regular basis. MTA has assured us that they will try to keep incidents like this from reoccurring. We encourage you to continue to work with MTA and your local government officials to ensure timely paratransit service. Based on the foregoing, we consider this issue to be resolved.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although MTA's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

-3-

Federal Transit Administration

252

TCR-20:PERALTA:8/15/97:x66745

Copies to: TRO-9, C-50 (Ashby), TCC (Wong),

TCR-1 (Peralta, McC...)
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U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 24 1997

[Redacted]

Re: FTA Complaint No. 97076

Dear [Redacted]

This letter responds to your complaint regarding the Washington Metropolitan Area Transit Authority (WMATA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that the WMATA "On Call" system that is intended to guarantee a lift-equipped bus upon request did not work correctly for two requests that you made on April 22, 1997. As a result you were left stranded and had to arrange for alternate transportation.

We informed WMATA of your allegation and requested information relating to your complaint; reviewed the information presented by WMATA and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. Our determination follows.

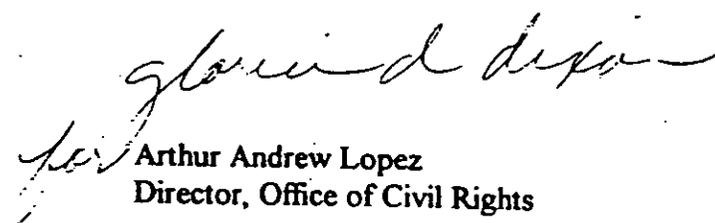
The DOT ADA regulation states at Section 37.5(a) that "No entity shall discriminate against an individual with a disability in connection with the provision of transportation service." Although all WMATA buses are not yet lift-equipped, WMATA attempts to implement this nondiscrimination requirement for persons who need lift-equipped buses through its "On Call" system.

-2-

In response to our inquiry regarding your complaint, WMATA investigated your allegations and found that an employee sent the service request to the wrong division. The employee has been retrained on proper procedures to help prevent this type of mistake from recurring. We have enclosed a copy of WMATA's response for your information. Although this event caused you considerable inconvenience, we do not believe that it constitutes a deficiency under the DOT ADA regulations. The DOT ADA regulations at Appendix D to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors."

Based on the above, we will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter. We recommend that you contact WMATA directly should you again encounter a problem with its "On Call" system. If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: eugene.jenkins@fta.dot.gov. Please include your FTA complaint number in any future correspondence with this office. Thank you for bringing this to our attention.

Sincerely,


per Arthur Andrew Lopez
Director, Office of Civil Rights

Enclosure

cc: Richard A. White
General Manager, WMATA

Charles W. Thomas
Deputy General Manager for Operations

-3-

Federal Transit Administration
TCR-1:EJENKINS:ej:60793: 09/19/97
Copies to: C-50 (Ashby), TCC (Wong) TPM-20 (RLopez)
TCR-1 Lopez, McCrea, Jenkins
OVENKINS: [REDACTED]



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 24 1997

[Redacted]

Re: FTA Complaint No. 97151

Dear [Redacted]

This letter responds to your complaint against Brozes Transportation of Lufkin, Texas. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement Title II of the Americans with Disabilities Act of 1990 (the ADA), the Department of Transportation (DOT) ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that Brozes Transportation paratransit service does not operate after 5:00 p.m. on Fridays, and does not operate at all on weekends. We informed Brozes Transportation of your allegation and requested information relating to your complaint; reviewed the information presented by Brozes Transportation and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation followed by our determination.

The DOT ADA regulation at 49 CFR 37.131(e) states:

The complementary paratransit service shall be available throughout the same hours and days as the entity's fixed route service.

-2-

) During your August 26, 1997, telephone conversations with Michael Virts, Equal Opportunity Specialist, of this office, and Brozes Transportation, you acknowledged that the fixed route bus service provided by Brozes Transportation also does not operate after 5:00 p.m. on Fridays or on weekends. Since the DOT ADA regulation does not require the public entity to provide complementary paratransit service beyond the hours and days of service of the fixed route system, Brozes Transportation decision to provide paratransit service during the same hours as the fixed route system is not a violation of the DOT ADA regulation. Based on the foregoing, we consider this issue to be resolved.

We regret that we could not assist you in this matter. Based on the determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Mr. Virts at our toll free FTA ADA Assistance Line, 1-888-446-4511 or at his electronic mail address, michael.virts@fta.dot.gov within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office.

Sincerely,



for Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Brozes Transportation

-3-

Federal Transit Administration
TCR-IHU:MVirts:mv:8/26/97:x62285
cc: TRO-6, TCR-1, TCR-IHU Chron/Subj
McCrea, Wolgast, Virts
O:\Virts:Hargis.Sam



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 26 1997

[REDACTED]

Re: FTA Complaint No. 97065

Dear [REDACTED]

This letter responds to your complaint regarding the Whatcom Transportation Authority (WTA) in Bellingham, Washington, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violation of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. The bus stop signage is not in accordance with the ADA Accessible Guidelines (ADAAG) requirements in that it is approximately 30 inches in length and 15 inches in width. The pictograms and symbols such as the International Symbol of Access (ISA) is approximately 1 3/4 inches x 1 5/8 inches in size, and the bicycle symbol is approximately 1 1/4 inches x 2 1/8 inches in size. Approximately 3/4 inch letter is used to identify the telephone number. The lettering for "Bus Stop" is approximately 1 3/4 inches and "WTA" is approximately 2 inches in height.
2. The "New Bus Route Identification Signage" does not contain identification lettering on the signs.

-2-

3. Old bus stop identification signs, that do not contain any symbols or pictograms are still in use in the same areas where new signage has been installed.
4. The size of the pictograms and symbols are too small for easy reading.
5. The new signage is mounted on iron rods which vary in height from 10' 6" to 11' 6" above the ground.
6. WTA's policy to use the ISA to denote that a bus stop is safe or unsafe for the wheelchair lift deployment is confusing.
7. The WTA Transit Guide Booklet is not always available to visitors

We informed WTA of your allegation and received information relating to your complaint; reviewed the information presented by WTA and you; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations. Below, we have restated your allegations, followed by our determinations.

1. **The bus stop signage is not in accordance with the ADA Accessible Guidelines (ADAAG) requirements in that it is approximately 30 inches in length and 15 inches in width. The pictograms and symbols such as the International Symbol of Access (ISA) is approximately 1 3/4 inches x 1 5/8 inches in size, and the bicycle symbol is approximately 1 1/4 inches x 2 1/8 inches in size. Approximately 3/4 inch letter is used to identify the telephone number. The lettering for "Bus Stop" is approximately 1 3/4 inches and "WTA" is approximately 2 inches in height.**

The ADAAG at 10.2.2(2) states, "When new bus route identification signs are installed or old signs are replaced, they shall comply with the requirements of 10.2.1(3)." The ADAAG at 10.2.1(3), in turn, states, "Where provided, all new bus route identification signs shall comply with 4.30.5 [Finish and Contrast]. In addition, to the maximum extent practicable, all new bus route identification signs shall comply with 4.30.2 [Character Proportion] and 4.30.3 [Character Height]. Signs that are sized to the maximum dimensions permitted under legitimate local, state or federal regulations shall be considered in compliance with 4.30.2 and 4.30.3 for purposes of this section."

The ADAAG at 4.30.3 recommends a character height of 3 inches for signs mounted more than 80 inches overhead, and ADAAG at 10.2.1(3) requires compliance with this provision "to the maximum extent practicable." Because WTA planned to include route numbers on the signs that complied with the 3 inch guideline, and because of the limited amount of space on the sign, the WTA lettering had to be reduced to its current size. WTA indicated that in the future, sign orders will only include the bus stop lettering and pictogram, the tow away zone lettering and pictogram, and the symbol of no-access if the lift cannot be deployed at a bus stop. All lettering and pictograms will be at least 3 inches in height.

Although we understand your concern that the ISA and other symbols are not at least 3 inches in height, the ADAAG only *recommends* and does not *require* symbols to be at least 3 inches in height. Therefore, we find that WTA signs are not in violation of the DOT ADA regulation.

2. **The "New Bus Route Identification Signage" does not contain identification lettering on the signs.**

While route identification information on a bus stop sign would be useful to individuals using the system, route information is not required by the ADAAG. The ADAAG states that if the information is provided, however, it must comply with the requirements of ADAAG 4.30.2 [Character Proportion], 4.30.3 [Character Height], and 4.30.5 [Finish and Contrast]. Based on the information you have provided and the information provided by WTA, we do not find that under these facts, the absence of route information on the bus stop signs constitutes a violation of the ADA.

3. **Old bus stop identification signs, that do not contain any symbols or pictograms are still in use in the same areas where new signage has been installed.**

The ADAAG at 10.2.2(2) applies only to the installation of new bus route identification signs and the replacement of existing signs. The ADAAG does not mandate the installation, replacement, or retrofitting of existing signs. Since the ADA does not have a timetable for removal of signs, we cannot address this issue. WTA has assured us that they are replacing the older existing blue signs with the new signs by March 31, 1998. Based on the foregoing, we consider this issue to be resolved.

4. **The size of the pictograms and symbols are too small for easy reading.**

Although the ADAAG at 4.30.4 specifies that pictograms must be a minimum of 6 inches (152 mm) in height, pictograms meeting these specifications are required only in fixed facilities and stations (ADAAG 10.3). The pictogram requirement does not apply to bus stops (ADAAG 10.2).

According to WTA, the accessibility symbol is 1 5/8 inches high. In the Transportation Research Board's report titled "Guidelines for Transit Facility Signing and Graphics," characters of that height can be viewed by an individual with normal sight from a distance of 85 inches, and an individual with impaired sight can view the character from a distance of 40 inches. Based on this information, we do not find WTA in violation of the DOT ADA regulation. Therefore, we consider this issue to be resolved.

5. **The new signage is mounted on iron rods which vary in height from 10' 6" to 11' 6" above the ground.**

The ADAAG at 4.4.2 requires a minimum overhead clearance of 80 inches along an accessible path of travel. The Manual on Uniform Traffic Control Devices regulations provided by the City of Bellingham Public Works Department requires 84 inches of overhead clearance. Because of these requirements, and because of soil conditions beneath the signs, the signs are mounted at various

heights. Since local transit providers must comply with local laws and regulations when mounting these bus stop signs, and the ADAAG does not specify a maximum height for bus stop signs or route information, we do not find WTA in violation of the DOT ADA regulation. Therefore, we consider this issue to be resolved.

6. WTA's policy to use the ISA to denote that a bus stop is safe or unsafe for the wheelchair lift deployment is confusing.

Currently, the ADAAG does not prohibit the ISA from being used as a designation for accessible or inaccessible bus stops. The ISA is used by transit properties to identify numerous accessibility features including – priority seats aboard transit vehicles, accessible rail car entrances, accessible parking spaces, accessible building entrances, accessible restrooms, assistive door opening devices, accessible transit vehicles, transit routes served by accessible vehicles, and a variety of other accessible features.

According to WTA, stops that are accessible to persons with disabilities are marked with the ISA and currently, there are not any stops that are inaccessible. At the current time, no persons with disabilities are being denied boarding or disembarking privileges as a result of WTA's implementation of this policy. FTA will withhold judgment on whether WTA's policy may result in a practice that could be defective under the ADA.

The DOT ADA regulation allows transit providers to deny the use of a lift at locations that it cannot be safely deployed. According to the DOT ADA regulation at 49 CFR 37.167(g) which states:

The transit operator shall not refuse to permit a passenger who uses a lift to disembark from a vehicle at any designated stop, unless the lift cannot be deployed, the lift will be damaged if it is deployed, or temporary conditions at the stop, not under the control of the operator, preclude the safe use of the stop by all passengers.

FTA believes that all stops should be accessible for everyone. Those where accessibility maybe at issue, should be moved or improved as required. Since the ADAAG does not prohibit the symbol's use as a designation for accessible or inaccessible bus stops and the DOT ADA regulation allows transit providers to deny the use of a lift at locations that it cannot be safely deployed, we cannot find that WTA's use of the ISA is a violation of the DOT ADA regulation. Based on the foregoing, we consider this issue to be resolved.

7. **The WTA Transit Guide Booklet is not always available to visitors.**

The DOT ADA regulation at 49 CFR 37.167(f) states:

The transit operator shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

While 37.167(f) requires transit operators to provide information materials concerning transportation services in accessible formats, neither the ADA nor the DOT ADA regulation mandates a distribution method to provide this information to visitors to the system. Visitors can obtain WTA's Transit Guide, route maps, and scheduling information from WTA's offices during regular business hours, and WTA provides assistance through a live operator between the hours of 5:30 am - 10:30 pm weekdays, Saturdays from 8:00 am until 10:30 pm, and on Sundays from 9:00 am until 7:30 pm. WTA information is also available to visitors through approximately 100 other locations, such as public libraries, transit centers, visitor and convention bureaus, banks, grocery stores, credit unions, educational institutions, and via the Internet. Based on the foregoing, we consider this issue to be resolved.

The DOT ADA regulations at Appendix D to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although WTA's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Cylinda Queen, Equal Opportunity Specialist, on FTA's ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: cylinda.queen@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Nuria Fernandez, Deputy Administrator, FTA
Richard Walsh, Interim General Manager
Rick Gordon, ADA Coordinator



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 4 1997

[REDACTED]

Re: FTA Complaint No. 97008

Dear [REDACTED]

This letter is in response to your complaint regarding Easy Lift Transportation, Inc., (ELT) the complementary paratransit service provider for the Santa Barbara Metropolitan Transit District (MTD), Santa Barbara, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA the authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA may also refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. ELT refuses to honor your request for subscription service.
2. ELT consistently denies trip requests, is either late or early for scheduled pickups, and has missed a substantial number of scheduled pickups.
3. ELT staff are extremely rude and discourteous to passengers.
4. ELT does not permit you to make reservations up to 14 days in advance.

5. **ELT's reservation agents have offered you pickup times up to two hours from your desired times.**

We informed MTD of your allegations and received a response to your complaint. We made the following determination based on our review of both your allegations and MTD's response in relation to the DOT ADA regulations.

1. **ELT refuses to honor your request for subscription service.**

The DOT ADA regulation at 49 CFR 37.133 states:

(a) This part does not prohibit the use of subscription service by public entities as part of a complementary paratransit system, subject to the limitations in this section. (b) Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is non-subscription capacity. (c) Notwithstanding any other provision of this part, the entity may establish waiting lists or other capacity constraints and trip purpose restrictions or priorities for participation in the subscription service only.

The DOT ADA regulation neither prohibits nor requires the use of subscription service by public entities as part of a complementary paratransit system. Since the DOT ADA regulation does not require subscription service, ELT's decision to not provide subscription service as part of its complementary paratransit system does not constitute a violation of the regulation. We therefore consider this issue to be resolved.

2. **ELT consistently denies trip requests, is either late or early for scheduled pickups, and has missed a substantial number of scheduled pickups.**

Section 37.131(f)(3)(i) of the DOT ADA regulation states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:... Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.... Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of significantly untimely pickups for initial or return trips; (B) Substantial numbers of trip denials or missed trips.

To violate this provision, according to Appendix D to Section 37.131(f)(3)(i), there must be both a substantial number of late or early arrivals, and the arrivals in question must be significant in length. For example, a DOT Inspector General's report on one city's paratransit system disclosed that around 30% of trips were between one and five hours late. Such a situation would trigger this provision. On the other hand, only a few instances of trips one to five hours late, or many instance of trips, a few minutes late, would not trigger this provision. According to ELT, during the months

of March and April 1997, the record indicated that out of 43 trips that you were provided during these months, only five were recorded as being untimely, and by no more than hour before or after the scheduled pick-up time.

To violate the trip denial provision of 37.131(f)(3)(i), according to Appendix D, if, for example, on a regular basis the reservation phone lines open at 5:00 am and callers after 7:00 am are all told they cannot travel, or the phone lines shut down after 7:00 am and a recorded message says to call back the next day, or the phone lines are always so busy, that no one can get through, this provision would be triggered. According to ELT's records, four trips out of 392 requests were denied to you in 1996. Also, records of service provided by ELT over a two month period from January 31, 1997 to April 9, 1997, showed three trip denials out of 72 request, during this time period.

With the information you provided, we were unable to substantiate any other dates or times of untimely pickups or trip denials. At this time, with the information we currently have, we do not find that such a small number of untimely pick ups or trip denials constitutes a violation of the DOT ADA regulation in regards to this provision. We encourage you to continue to work with MTD, ELT and your local government officials to ensure timely paratransit service. Based on the foregoing, we consider this issue to be resolved.

3. ELT staff are extremely rude and discourteous to passengers.

The DOT ADA regulation at 49 CFR 37.173, states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Unfortunately, without the names of specific ELT dispatchers or paratransit operators, we were unable to substantiate this allegation. However, FTA requested that ELT verify that it conducts training on ADA sensitivity for its paratransit drivers and dispatchers. ELT advised FTA that it has a training program in place for all paratransit drivers and dispatchers, showing that it has trained its personnel in sensitivity and the ADA, as appropriate to their duties, in accordance with Section 37.173 of the DOT ADA regulation. ELT has been informed that its commitment to ensure that drivers and dispatchers treat passengers with disabilities with courtesy and respect is to be commended, but this does not relieve its responsibility to ensure that all employees, including the director, comply with this and all requirements of the ADA. Based upon the foregoing we will consider this issue to be resolved at this time. If you find that ELT's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, we encourage you to continue to work with MTD, ELT and your local government officials to ensure that ELT complies with this provision of the DOT ADA regulation.

4. ELT does not permit you to make reservations up to 14 days in advance of desired trips.

According to Section 37.131(b)(4) of the DOT ADA regulation, which states:

The entity *may* permit advance reservations up to 14 days in advance of an ADA paratransit eligible individual's desired trips...

The DOT ADA regulation neither prohibits nor requires the use of a 14 day advance reservation system as part of a complementary paratransit system. Since the DOT ADA regulation does not require the 14 day advance reservation, nothing in the facts presented shows that ELT is in violation of the DOT ADA regulation with regards to its reservation system. We therefore consider this issue to be resolved.

5. ELT's reservation agents have offered you pickup times up to two hours from your desired times.

Section 37.131(b)(2) of the DOT ADA regulation states:

The entity may negotiate pickup times with the individual, but the entity shall not require an ADA paratransit eligible individual to schedule a trip to begin more than one hour before or after the individual's desired departure time.

Although an entity may negotiate with an ADA paratransit eligible individual to adjust pickup and return trip times to make scheduling more efficient, the entity cannot insist on scheduling a trip more than one hour earlier or later than the individual desires to travel. Any greater deviation from the desired trip would exceed the bounds of comparability.

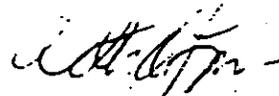
Unfortunately, with the information you provided, we were unable to substantiate any dates or trips in which ELT scheduled trips for you more than an hour before or after your requested times. According to ELT, during the months of March and April 1997, the record indicated that most of the time for paratransit trips you were scheduled for pick-up or drop-off at the times you requested and you were not scheduled more than 15 minutes earlier or later than your requested times. At this time, with the information we presently have, we do not find that the ELT scheduling policy constitute a violation of the DOT ADA regulation in regards to this provision. We encourage you to continue to work with MTD, ELT, and your local government officials to ensure passengers receive their paratransit service at their requested times. Based on the foregoing, we consider this issue resolved.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although ELT's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

-5-

If you have any questions regarding this decision, please contact Michael Virts, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: michael.virts@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc:


ADA Compliance Officer, Santa Barbara MTD

Congressman Walter H. Capps
22nd District Office
Santa Barbara, California

Federal Transit Administration
TCR-IHU:MVirts:mv:8/6/97:x62285
cc: TRO-9, TCR-1, TCR-IHU Chron/Subj
Wolgast, McCrea, Virts
O:\Virts:JHowell2.Sam



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 15 1997

[REDACTED]

Re: FTA Complaint No. 97178

Dear [REDACTED]

This letter responds to your complaint against the Peninsula Joint Powers Board, San Carlos, California. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement Title II of the Americans with Disabilities Act of 1990 (the ADA), the Department of Transportation (DOT) ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that the Caltrain rail station designs undertaken by the Peninsula Joint Powers Board do not provide an accessible path of travel to station platforms for persons with disabilities. We reviewed the information you presented and made a determination based on our analysis of the information in relation to the DOT ADA regulation.

The DOT ADA regulation at 49 CFR Appendix A to Part 37, 4.3.2 (1) states:

At least one accessible route within the boundary of the site shall be provided from public transportation stops, accessible parking, and accessible passenger loading zones, and public streets and sidewalks to the accessible building entrance they serve. The accessible route shall, to the maximum extent feasible, coincide with the route for the general public.

-2-

The architectural site plan of the Mountain View Transit Center you provided indicates there exists one path of travel for rail patrons arriving at the site by bus, one path of travel for patrons arriving by motor vehicle from the parking lot, and a single path of travel to access the rail platforms. The path of travel for persons with disabilities is identical to the route for the general public. The DOT ADA regulation does not address the issue of platform locations, i.e., wayside platforms and island platforms, since both platform orientations can be designed to meet ADA accessibility standards. Since the DOT ADA regulation does not address the issue of platform locations and the site plan indicates that the route of travel for persons with disabilities is identical to the route for the general public in accordance with Section 4.3.2 (1) of Appendix A to Part 37 of the regulation, we are unable to find that the Peninsula Joint Powers Board design of the Caltrain rail stations is a violation of the DOT ADA regulation. Based on the foregoing, we consider this issue resolved.

We regret that we could not assist you in this matter. Based on the determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Mr. Michael Virts, Equal Opportunity Specialist, of my staff, at our toll free FTA ADA Assistance Line, 1-888-446-4511 or at his electronic mail address, michael.virts@fta.dot.gov within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concern to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Peninsula Joint Powers Board



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 27 1997

[REDACTED]

Re: FTA Complaint No. 97091

Dear [REDACTED]

This letter responds to your complaint regarding the Long Island Rail Road in Jamaica, New York (LIRR), and the Metropolitan Transportation Authority (MTA) in New York, New York, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that by closing its Center Moriches rail station, the LIRR and MTA would be in violation of the ADA. According to the DOT ADA regulations at 49 CFR 37.51(b) which states:

Each commuter authority shall determine which stations on its system are key stations. The commuter authority shall identify key stations using the planning and public participation process set forth in paragraph (d) of this section, and take into consideration the following criteria: (1) Station where passenger boarding exceed average station passenger boarding on the rail system by at least fifteen percent, unless such a station is close to another accessible station; (2) Transfer station on a rail line or between rail lines; (3) Major interchange points with other transportation modes, including stations connecting with major parking facilities, bus terminals, intercity or commuter rail stations, passenger vessel

-2-

terminals, or airports; (4) End station, unless an end station is closed to another accessible station; and (5) Station serving major activity centers, such as employment or government centers, institutions of higher education, hospitals or other major health care facilities, or other facilities that are major trip generators for individuals with disabilities.

When the LIRR and MTA, through the public participation process, selected which stations were to be considered as "key stations," the Center Moriches Station was not selected as an ADA key station. If this station had been selected as a key station, its abrupt closing could have been considered a possible violation of the ADA. Since it was not selected as a key station, its closing falls under the local jurisdiction of the transit provider and is not subject to the rules of the DOT ADA regulation.

Although we are sensitive to and concerned about the needs of transit customers, FTA is prohibited by the Federal Transit Laws, as codified under 49 U.S.C., Section 5324(c) "Prohibitions Against Regulating Operations and Charges," from becoming involved in local decisions regarding transit operations. According to 49 U.S.C. § 5324(c) which states:

This law prohibits DOT from involving itself in operational matters of local jurisdiction such as setting fares or location, elimination, or temporary change of bus routes.

Consequently, the elimination of Moriches station is a matter left to the LIRR and MTA. We recommend that you continue to express your concerns to LIRR and MTA as well other local elected officials regarding your concerns.

We regret that we could not assist you in this matter. If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: eugene.jenkins@fta.dot.gov within 30 days of the date of this letter. Please include your FTA complaint number in any future correspondence with this office. Thank you for bringing this to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Virgil E. Conway
Jackie L. Gross



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 27 1997

[REDACTED]

Re: FTA Complaint No. 97137

Dear [REDACTED]

This letter responds to your complaint against the King County Department of Metropolitan Services (METRO) of Seattle, Washington, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your concern to be that METRO's rerouting of Ridgecrest bus route #377 would be a violation of the ADA. Although we are sensitive to and concerned about the needs of the transit customers, FTA is prohibited by the Federal Transit Laws, as codified under 49 U.S.C., Section 5324(c) "Prohibitions Against Regulating Operations and Charges," from becoming involved in local decisions regarding transit operations. According to 49 U.S.C., Section 5324(c), which states:

The DOT is prohibited from involving itself in operational matters of local jurisdiction such as setting fares or location, elimination, or temporary change of bus routes.

Consequently, the rerouting of bus route #377 is a matter left to local operators. We recommend that you continue to express your concerns to METRO as well as other local elected officials regarding this issue.

-2-

We regret that we could not assist you further in this matter. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, roger.peralta@fta.dot.gov, within thirty days from the date of this letter. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

74



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 10 1997

[REDACTED]

Re: FTA Complaint Number 93583

Dear [REDACTED]

This letter responds to your complaint regarding the Riverside Transit Agency (RTA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. The lifts on RTA's new buses are constantly breaking down or jamming.
2. A Dial-A-Ride driver complained about your Service Animal.
3. RTA's bus drivers are constantly rude and hostile, and on one occasion, your foot was injured when a RTA driver dropped you off a lift.

We informed RTA of your allegations, requested information relating to your complaint and reviewed the information presented by RTA and yourself, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determination, below:

1. The lifts on RTA's new buses are constantly breaking down or jamming.

The DOT ADA regulations at 49 CFR 37.161 states:

(a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing. (b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature. (c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

At the time you file your complaint, RTA acknowledged that it did have a problem with maintaining the lifts on their buses. It seems that in 1992, RTA purchased 15 new Transportation Manufacturing Corporation (TMC) lift equipped buses. Unfortunately, these new buses had lift equipment defects and to complicate matters, TMC went out of business. To address this problem, RTA entered into a contract with Complete Coach Works of Riverside, California, a national bus rebuilder, to remove the defective factory installed wheelchair lifts from the TMC buses and replace them with wheelchair lifts manufactured by Lift-U Corporation. RTA has assured FTA that all defective lifts are scheduled to be replaced in by the end of 1997.

According to RTA, until all defective lifts are replaced and just in case the new lifts fail while in service, RTA personnel must adhere to the following procedures: (1) After the lift fails, RTA immediately dispatches a replacement bus to that location; (2) All passengers are then transferred to the replacement bus and normal service resumes; (3) If a supervisor arrives at the site before the replacement bus, he/she will offer a quicker means of transportation to any passengers with disabilities using his/her specially designed low-floor ADA accessible van; (4) The defective bus is then returned to the maintenance shop and not allowed to be placed back into service until all necessary repairs to the wheelchair lift are made.

Although we understand your concern about lifts constantly breaking down, since RTA is replacing the defective lifts and has procedures for lift failures while a bus is in service, we do not find that RTA is in violation of this provision of the DOT ADA regulation. We encourage you to continue to work with RTA and your local government officials to ensure that RTA's bus lifts are well maintained. Based on the foregoing, we consider this issue to be resolved.

2. A Dial-A-Ride driver complained about your Service Animal.

According to our information this incident did not occur on RTA's ADA complementary paratransit service, but rather on a private paratransit service carrier. If you wish to pursue this issue further, you may contact the U.S. Department of Health and Human Services, Office of Civil Rights at (909) 383-5545 or write to:

U.S. Department of Health and Human Services
Office of Civil Rights
699 Arrowhead
San Bernadino, California 92401

3. RTA's bus drivers are rude and hostile, and on one occasion, you injured your foot when you were dropped you off the lift.

The DOT ADA regulations at 49 CFR 37.173 Training Requirements states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful courteous way, and with appropriate attention to the difference among individuals with disabilities.

Without the names of specific RTA operators, we were unable to substantiate your allegation of rude and hostile bus operators. RTA did acknowledged that regrettably, you were injured by a wheelchair lift and to solve this concern, they reached a settlement with you for \$7,000. Nevertheless, the settlement agreement does not ensure that ADA training is being properly implemented. We have requested that RTA verify that it conducts ADA training for its paratransit and fixed route personnel.

RTA advised that it provides training and retraining to all operators on every aspect of ADA compliance. This training includes an in-depth analysis in ADA sensitivity and wheelchair lift and securement usage (see enclosure). RTA has been informed that its commitment to ensuring that all operators treat passengers with disabilities with courtesy and respect is to be commended, but this does not relieve its responsibility to ensure that all employees comply with this and all requirements of the ADA. Based upon the foregoing we will consider this issue to be resolved at this time. If you find that RTA's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, we encourage you to continue to work with RTA and your local government officials to ensure that RTA complies with this provision of the DOT ADA regulation.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and pattern and practice' kinds of problems, rather than on isolated operations errors." Although RTA's incidents caused you significant inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no

-4-

further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff on FTA ADA Assistance Line at 1-888-446-4511 or at her electronic mail address: *sandra.mccrea@fta.dot.gov*. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

Enclosure

cc: RGMA, Inc.



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 10 1997

[REDACTED]

Re: FTA Complaint No. 97179

Dear [REDACTED]

This letter responds to your complaint regarding the Tri-County Metropolitan District of Oregon (Tri-Met) in Portland, Oregon, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Tri-Met discriminated against you by demanding that you relinquish your seat in the area designated for the disabled so that the driver may accommodate a persons using a wheelchair.
2. Tri-Met's policy of allowing persons in wheelchairs to board empty buses prior to other passengers is discriminatory.

We informed Tri-Met of your allegations, requested information relating to your complaint and reviewed the information presented by Tri-Met and yourself; and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determination, below:

1. **Tri-Met discriminated against you by demanding that you relinquish your seat in the area designated for the disabled so that the driver may accommodate a persons using a wheelchair.**

The DOT ADA regulation at 49 CFR 37.167 (j)(1) and (3) states:

When an individual with a disability enters a vehicle, and because of a disability, the individual needs to sit in a seat or occupy a wheelchair securement location, the entity shall ask the following persons to move in order to allow the individual with a disability to occupy the seat or securement location; (i) Individuals, except other individuals with a disability or elderly person, sitting in a location designated as priority seating for elderly and handicapped persons (or other seats as necessary); (ii) Individuals sitting in a fold-down or other movable seat in a wheelchair securement location... (3) The entity is not required to enforce the request that other passengers move from priority seating areas or wheelchair securement locations.

Tri-Met's policy states that people without disabilities, sitting in a regular priority, will be asked, but not forced, to transfer to another seat if a persons with a disability or an elderly person boards the bus. A person without a disability, *or a person with a disability, who does not require the use of a wheelchair*, will be asked, but not forced, to transfer from a wheelchair securement location seat, when a passenger in a wheelchair wishes to board a bus. Since you do not require the use of a wheelchair, the DOT ADA regulations permits Tri-Met to ask, but not force, you to transfer to another seat to accommodate a passenger in a wheelchair. We find that Tri-Met's policy does not violate this provision of the DOT ADA regulation. Therefore, we consider this issue to be resolved.

2. **Tri-Met's policy of allowing persons in wheelchairs to board empty buses prior to other passengers is discriminatory.**

Although the DOT ADA regulation does not address the manner in which passengers are to board a bus, Tri-Met's policy for passenger boardings is reasonable. This is particularly appropriate in consideration of lift deployments and the practicalities of assisting disabled passengers in boarding the bus. We consider this issue to be resolved.

Based on this determination, we will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter. If you have any questions regarding this decision, please contact Eugene Jenkins on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: eugene.jenkins@fta.dot.gov.

If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. We regret that we could not assist you in this matter.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

TL



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 10 1997

[REDACTED]

Re: FTA Complaint No. 97076

Dear [REDACTED]

This letter responds to your complaint regarding Access Services, Incorporated (ASI) and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be the following:

1. ASI subjected you to an unnecessary recertification process;
2. ASI unfairly changed your unconditional paratransit eligibility status to conditional eligibility.

We informed ASI of your allegations, requested information relating to your complaint and reviewed the information presented by ASI and yourself; and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determination, below:

1. ASI subjected you to an unnecessary recertification process.

The DOT ADA regulation at 49 CFR 37.125(f) states:

The entity may require recertification of the eligibility of ADA paratransit eligible individuals at reasonable intervals.

The DOT ADA regulations allows an entity to recertify eligibility at reasonable intervals to make sure that changed circumstances have not invalidated or changed the individual's eligibility. Often, there are persons who were, at one time, eligible for paratransit service. Since circumstances have changed, (such as fixed route buses have become accessible or the person's ability to travel on fixed route has improved), these passengers no longer need paratransit service to the degree they once did.

Recertification is the way to ensure that a paratransit system does not become overly burden with passengers who can truly use the fixed route system. This excess number of passengers often leads to an unfair denial of service to those passengers who cannot navigate the fixed route system, under any circumstances. Consequently, ASI's recertification process is not a violation of the DOT ADA regulation. Therefore, we consider this issue to be resolved.

2. ASI unfairly changed your unconditional paratransit eligibility status to conditional eligibility.

The DOT ADA regulation at 49 CFR 37.123(b) states:

If an individual meets the eligibility criteria of this section with respect to some trips but not others, the individual shall be ADA paratransit eligible only for those trips for which he or she meets the criteria.

In accordance with the DOT ADA regulations, a person may be paratransit eligible for some trips but not others. If a person is able to access the fixed route system under some circumstances, but not others, the individual would be eligible for paratransit service only at those instances they are unable to use the fixed route system. For example, someone whose impairment-related condition is a severe sensitivity to temperature below 20 degrees is not prevented from using fixed route transit when the temperature is 75 degrees.

Eligibility is not judged solely by a person's disability, but rather a person's disability combined with their functional ability to use the fixed route system. To be a basis for eligibility, the condition must prevent the individual from traveling to a boarding location or from a disembarking location. The word "prevent" is very important. For anyone going to a bus stop and waiting for a bus is more difficult and less comfortable than waiting for a vehicle at one's home. This is likely to be all the more true for a person with a disability. But for many persons with disabilities, in many circumstances, getting to the bus stop is possible.

In the Department's view, a case of "prevented travel" can be made only where traveling is literally impossible (e.g., someone cannot find the bus stop, someone cannot push a wheel chair through a foot of snow or up a steep hill, etc.), but also where the difficulties are so substantial that a reasonable person with the impairment-related condition in question would be deterred from making the trip. We find that ASI did not violate the DOT ADA regulations with regard to changing the status of your paratransit eligibility from unconditional to conditional. Therefore, we consider this issue to be resolved.

Based on this determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, eugene.jenkins@fta.dot.gov, within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. We regret that we could not assist you in this matter.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 21 1997

[REDACTED]

Re: FTA Complaint No. 97198

Dear [REDACTED]

This letter responds to your complaint filed on behalf of your husband, [REDACTED] against Access Services, Incorporated (ASI) of Los Angeles, California, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be as follows:

1. ASI paratransit drivers picked up your husband late on September 9 and 11, 1997;
2. ASI does not prioritize trips based on trip purpose;
3. ASI drivers refuse to transport people on short trips.

We informed ASI of your allegation and requested information relating to your complaint, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. We have restated your allegations, followed by our determinations, below:

1. **ASI paratransit drivers picked up your husband late on September 9, and 11, 1997.**

The DOT ADA regulation at 49 CFR 37.131(f)(3)(i)(a) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following... Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons... Such patterns or practices include, but are not limited to, the following... Substantial numbers of significantly untimely pickups for initial or return trips.

To violate this provision, according to Appendix D to Section 37.131(f)(3)(i), there must be both a substantial number of late or early arrivals, and the arrivals in question must be significant in length. Only a few instances of trips one to five hours late, or many instances of trips, a few minutes late, is not desirable, but would not trigger this provision.

Your husband's experience of waiting for more than an hour on his scheduled pick-ups was indeed a problem, but it is understood that this can occur. At this time, with the information we currently have, we do not find that such a small number of untimely pick ups or trip denials constitutes a violation of the DOT ADA regulation in regards to this provision. We encourage you to continue to work with ASI and your local government officials to ensure timely paratransit service. Based on the foregoing, we consider this issue to be resolved.

2. **ASI does not prioritize trips based on trip purpose.**

The DOT ADA regulation at 49 CFR 131(d) states:

The entity shall not impose restrictions or priorities based on trip purpose.

The DOT ADA regulation prohibits transit providers from prioritizing complementary paratransit trips based on trip purpose. We therefore consider this issue to be resolved.

3. **ASI drivers refuse to transport people on short trips.**

Although you state that ASI drivers refuse to transport people on short trips, without further information, such as the name of the driver, the bus number and route, and date and time of occurrence, we are unable to substantiate this allegation. Should you encounter any drivers who refuse to provide transportation in the future, we recommend that you report it immediately and directly to ASI. Based on the foregoing, we consider this issue to be resolved.

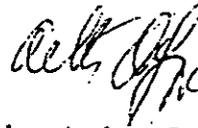
The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although ASI's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on

-3-

your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, of my staff, on FTA's ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: 



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 26 1997

[REDACTED]

Re: FTA Complaint No. 95143

Dear [REDACTED]

This letter responds to your complaint regarding the San Mateo County Transit District (SamTrans), in San Carlos, California, and its commuter rail system, CalTrains, concerning potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. On July 24, 1994, while boarding a CalTrain rail car with your son, and were told that you might have to disembark because there was no storage available for your son's wheelchair.
2. A personal care attendant, traveling on CalTrain, should receive fare adjustments as required by law.
3. CalTrain personnel are rude and insensitive to persons with disabilities.

We informed San Mateo County Transit District of your allegations and requested information relating to your complaint; reviewed the information presented by San Mateo County Transit District and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. **On July 24, 1994, while boarding a CalTrain rail car with your son, and were told that you might have to disembark because there was no storage available for your son's wheelchair.**

The DOT ADA regulation at 49 CFR 37.93(b) states:

Each person providing intercity rail service and each commuter rail authority shall ensure that, as soon as practicable, but in no event later than *July 26, 1995*, that each train has one car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

At the time you filed your complaint, the DOT ADA regulation did not require CalTrain to have one car that was accessible to and usable by persons with disabilities. In 1994, CalTrain's policy to accommodate passengers in wheelchairs included requiring passengers to be accompanied by an personal care attendant, and the wheelchair must be collapsible. According to Bill Welch, Manager Accessible Transit Services, all cars now meet the one car per train rule with regard to accessibility, as well as the 1994 policy requiring personal care attendants to accompany passengers in wheelchairs has been eliminated.

Although we understand your concern about CalTrain's previous inability to transport your son, we believe they have resolved this problem, and are in compliance with the one car per train requirement of the DOT ADA regulation. Based upon the foregoing, we will consider this issue to be resolved and will take no further action.

2. **A personal care attendant, traveling on CalTrain, should receive fare adjustments as required by law.**

The DOT ADA regulation at 49 CFR 37.131(c)(3) states:

A personal care attendant shall not be charged for *complementary paratransit service*.

The DOT ADA regulations does not allow transit providers to charge a fare for personal care attendants who travel with an ADA eligible passenger on the complementary paratransit system. However, this requirement is only for complementary paratransit service and is not applicable to commuter rail service. If a transit provider decides to offer reduction in fares on the commuter rail system, this is a strictly a local decision and is not subject to the requirements of the DOT ADA regulations. Based on the foregoing, we consider this issue to be resolved.

3. CalTrain personnel are rude and insensitive to persons with disabilities.

The DOT ADA regulation at 49 CFR 37.173 states:

Each person or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Without the names of specific CalTrain personnel, we were unable to substantiate your allegation of rude and insensitive CalTrain conductors. Nevertheless, we requested that CalTrain verify that it conducts ADA training for its employees.

CalTrain advised that it provides training and retraining to all operators on every aspect of ADA compliance. This training includes an in-depth analysis in ADA sensitivity and conductors are trained to assist customers with disabilities while traveling on a CalTrain commuter train. If a specific and verifiable complaint is made against an employee, that employee is counseled and may be assigned a refresher training course.

CalTrain has been informed that its commitment to ensuring that all operators treat passengers with disabilities with courtesy and respect is to be commended, but they must ensure that all employees comply with this and all requirements of the ADA. Based upon the foregoing, we will consider this issue to be resolved at this time. If you find that CalTrain's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, we encourage you to continue to work with CalTrain, SamTrans, and your local government officials to ensure that they comply with this provision of the DOT ADA regulation. Based on the foregoing, we consider this issue to be resolved.

In addition, the DOT ADA regulations state that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although CalTrain's actions caused you and your son significant inconvenience, we do not believe at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact, Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff at on our toll free FTA's ADA Assistance line at 1-888-445-4511, or at her electronic mail address. sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Gardner Consulting Planners

Federal Transit Administration

TCR-1: SMCCREA 11/20/97: x60803

Copies to: TCR-1(ALopez, SMcCrea, BSligh), Chron/Subject, GCP (Fax), Region 9

Richard Wong (TCC)

O:IMCCREA [REDACTED] SMcCrea



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20597

NOV 29 1997



Re: FTA Complaint Number 96054

Dear 

This letter responds to your complaint regarding the Transit Authority of River City (TARC) in Louisville, Kentucky, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. In October 1995, you and other TARC Paratransit riders experienced severe capacity constraints.
2. TARC does not schedule trips 14 days in advance.
3. TARC's reservation personnel asked paratransit customers to state the purpose of their trips and prioritized trips.
4. TARC vehicle operators do not properly secure passengers in wheelchairs, are unable to operate wheelchair lifts, and do not properly assist individuals with disabilities.

We informed TARC of your allegations, requested information relating to your complaint and reviewed the information presented by TARC and yourself. We made a determination in relation to the DOT ADA regulations based on your analysis of the compiled information. Below, we have restated your allegations followed by our determinations.

1. **In October 1995, you and other TARC Paratransit riders experienced severe capacity constraints.**

The DOT ADA regulations at 49 CFR 37.131(f) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: (1) Restrictions on the number of trips an individual will be provided; (2) Waiting lists for access to the service; or (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (I) Such patterns or practices include, but are not limited to, the following: (a) Substantial numbers of significantly untimely pickups for initial or return trips; (b) Substantial numbers of trip denials or missed trips; (c) Substantial numbers of trips with excessive trip lengths.

At the time you filed your complaint, TARC acknowledged that it did have a problem with capacity constraints. It seems that October 1995, was the first month of service with its service provider, Atlantic Paratransit, Inc. To further complicate the matter, TARC stated that the demand for ADA paratransit service was greater than anticipated. This increased demand for service, combined with a new service provider, a new reservations and scheduling system, and an incomplete fleet, created service delivery problems during the month of October 1995.

TARC recognizes that the quality and on-time performance of paratransit service provided to customers in October 1995, was not satisfactory, and acknowledged this in a letter dated November 27, 1995, to all TARC 3 customers. In the letter, TARC acknowledged the concerns from customers and employers whose work schedules were disrupted by unreliable service by sending a letter to each employer of TARC 3 customers, asking for their patience during this readjustment period.

Although we understand your concern about the period of capacity constraints in October 1995, since TARC has addressed these problems promptly, and paratransit service has returned to normal at this time, we will take no action. Based upon the foregoing, we will consider this issue to be resolved.

2. **TARC does not schedule trips 14 days in advance.**

The DOT ADA regulations at 49 CFR 37.131(b)(4) states:

The entity *may* permit advance reservations to be made up to 14 days in advance of an ADA paratransit eligible individual's desired trips.

TARC accepts ADA paratransit trip requests up to 14 days in advance. Trips are scheduled on space available basis, and personnel are available to receive trip reservations and cancellations between 8:00 a.m. and 4:30 p.m., seven days a week, including holidays. Customers calling outside those hours are able to leave cancellations via TARC's voice mail system. We do not find that TARC's reservation policy is in violation of this provision of the DOT ADA regulation. Therefore, we consider this issue to be resolved.

3. **TARC's reservation personnel asked paratransit customers to state the purpose of their trips and prioritized trips.**

The DOT ADA regulation at 49 CFR 37.131 states:

The entity shall not impose restrictions or priorities based on trip purpose.

TARC acknowledged that the time you filed your complaint, TARC 3 reservation personnel did indeed ask passengers the purpose of their trips for statistical reporting purposes, only. Although the information was requested, TARC maintains that it never used trip purpose to prioritize service requests, and that the policy of statistical reporting of trip purpose was eliminated in October 1995.

You are correct that trip prioritization is prohibited by the DOT ADA regulation. However, nothing in the regulation prohibits a provider from gathering this statistical information. This of course is now irrelevant since TARC has since discontinued the policy. Based on the foregoing we consider this issue to be resolved.

4. **TARC vehicle operators do not properly secure passengers in wheelchairs, are unable to operate wheelchair lifts, and do not properly assist individuals with disabilities.**

The DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Without the names of specific TARC operators, we were unable to substantiate your allegation of untrained vehicle operators. Nevertheless, we requested that TARC verify that it conducts ADA training for its paratransit operators.

TARC advised that it provides training and retraining to all operators on every aspect of ADA compliance. This training includes an in-depth analysis in ADA sensitivity and wheelchair lift and securement usage (see enclosure). TARC has been informed that its commitment to ensuring that all operators treat passengers with disabilities with courtesy and respect is to be commended, but they must ensure that all employees comply with this and all requirements of the ADA. Based upon the foregoing, we will consider this issue to be resolved at this time. If you find that TARC

commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, we encourage you to continue to work with TARC and your local government officials to ensure that they comply with this provision of the DOT ADA regulation.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the Department's enforcement priority is on failures to comply with basic requirements and pattern and practice kinds of problems, rather than on isolated operational errors." Although TARC's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions, you may contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff at (202) 366-2285 or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

Enclosure

cc: RGMA, Inc.

Federal Transit Administration
TCR-1: SMCCREA 11/19/97: x60803
Copies to: TCR-1(ALopez, SMcCrea, BSligh), Chron/Subject, RGMA (Fax) Region 4
Richard Wong (TCC)
O:IMCCREA ([REDACTED] SAM) SMcCrea

TICK-1
Chox



U.S. Department
of Transportation
**Federal Transit
Administration**

REGULATIONS

400 SALEM ST. S.W.
WASHINGTON, D.C. 20590

DEC 5 1997

[REDACTED]

Re: FTA Complaint Number 97002

Dear [REDACTED]

This letter responds to your complaint regarding the City of Glendale, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that the City of Glendale's ADA complementary paratransit, Dial-A-Ride (DAR), will no longer escort you into your home or business when providing door-to-door service. We informed the City of Glendale of your allegation and received its response relating to your complaint; reviewed the information presented by the City of Glendale and yourself, and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulation.

The DOT ADA regulation at 49 CFR 37.129 (a) states:

...complementary paratransit service for ADA paratransit eligible persons shall be origin-to-destination service.

The basic policy for complementary paratransit service is to provide demand responsive, origin-destination service. However, the local planning process decides whether, or in what circumstances, this service is to be provided as "door-to-door" or "curb-to-curb." The City of Glendale advised that its DAR service changed from "door-to-door" to "curb-to-curb" service on November 1, 1994, but that it provides "door-to-door" service upon request. The City of Glendale does not permit paratransit operators to open, close or enter into private homes or buildings when providing "door-to-door" service.

We understand that for many persons with disabilities, individualized "door-to-door" service is important. However, "door-to-door" service goes beyond the minimum requirement of the DOT ADA regulations. The City of Glendale, therefore, is not in violation with this provision of the DOT ADA regulation. Therefore, we consider this issue to be resolved.

We regret that we could not assist you in this matter and will take no further action regarding your complaint. In any future communication with this office, please include the FTA complaint number on your correspondence. If you have any questions, please contact Cylinda Queen, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line at 1-888-446-4511 or at her electronic mail address: cylinda.queen@fta.dot.gov. When communicating with this office, please identify the FTA complaint number on your correspondence. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Mr. Mark Maloney, Transportation and Parking Services Supervisor
Mr. Gary Hewitt, Administrative Associate
Ms. Lisa Miller, Customer Service Representative

Federal Transit Administration

TCR Control No. 97000003

TCR:CQUEEN:cq:7/2/97:60796 FTA Complaint #97002

cc: TRO-9, TCC (Wong), TCR, TCR Chron/Subject, McCrea/Wolgast/Queen

[O:\Queen: [REDACTED]



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 5 1997

[REDACTED]

Re: FTA Complaint No. 97198

Dear [REDACTED]

This letter responds to your complaint of discrimination against Access Services Incorporated (ASI) of Los Angeles, California, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. ASI paratransit driver picked up your husband and yourself late on your return trip on February 14, 1997; and
3. ASI drivers are rude and disrespectful.

We informed ASI of your allegations and requested information relating to your complaint, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. We have restated your allegations, followed by our determinations, below:

1. ASI Transit paratransit driver picked up your husband and yourself late on February 14, 1997.

The DOT ADA regulation at 49 CFR 37.131(f)(3)(i)(a) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following... Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons... Such patterns or practices include, but are not limited to, the following... Substantial numbers of significantly untimely pickups for initial or return trips.

To violate this provision, according to Appendix D to Section 37.131(f)(3)(i), there must be both a substantial number of late or early arrivals, and the arrivals in question must be significant in length. Only a few instances of trips one to five hours late, or many instances of trips, a few minutes late, is not desirable, but would not trigger this provision.

ASI investigated the incident and concluded that the lateness of the trip provided in the late Friday evening on February 14, 1997, was unacceptable and ASI apologized for the inconvenience you both experienced. ASI stated, that drivers checked out early because it was a Valentines Day evening and an off duty driver had to be notified at home to come and provide the service. To assure driver coverage into the late evening hours, ASI's Board of Directors recently approved new after hours emergency response procedure. This means that if the service cannot be provided within 45 minutes, an after hour supervisor will coordinate the pick-up of the stranded passenger or if the accessible vehicle is not available, the supervisor will send a cab to wait for the rider until an accessible vehicle is dispatched.

Both you and your husband's experience of waiting for more than two hours on your scheduled pick-up was indeed a problem, but it is understood that this can occur. At this time, with the information we currently have, we do not find that such a small number of untimely pick ups or trip denials constitute a violation of the DOT ADA regulation in regards to this provision. We encourage you to continue to work with ASI and your local government officials to ensure timely paratransit service. Based on the foregoing, we consider this issue to be resolved.

2. ASI drivers are rude and disrespectful.

The DOT ADA regulations at 49 CFR 37.173 Training Requirements states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful courteous way, and with appropriate attention to the difference among individuals with disabilities.

ASI is aware of this requirement and provided documentation that its vehicle operators and dispatchers are trained. ASI advised that it provides training and retraining to all operators and

dispatchers on every aspect of ADA compliance. This training includes 40 hours of instruction in areas such as: ADA laws and regulations, ADA sensitivity training, defensive driving, and behind the wheel driver training.

Although you state that some drivers are rude and disrespectful, without further information, such as the name of the driver, the bus number and route, and date and time of occurrence, we are unable to substantiate this allegation. If you find that ASI's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, we encourage you to continue to work with ASI and your local government officials to ensure that ASI complies with this provision of the DOT ADA regulation. Based on the foregoing, we consider this issue to be resolved.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although ASI's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, of my staff, on FTA's ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Richard DeRock, ASI
Andre Boursec, Region 9

Federal Transit Administration
TCR-20:PERALTA:11/24/97:x66745
Copies to: TRO-9, C-50 (Ashby), TCC (Wong),
TCR-1, (Peralta, McCrea), Chron/Subject
0:PERALTA [REDACTED]

TCC-1



U.S. Department of Transportation
Federal Transit Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 8 1997

[Redacted]

Re: FTA Complaint No. 95199

Dear [Redacted]

This letter responds to your complaint regarding the Santa Clara Valley Transportation District and OUTREACH, its paratransit service provider, both in San Jose, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. On August 28, 1995, because of a medical emergency, you requested that an OUTREACH driver deviate from your scheduled drop off, and take you to a different Kaiser Facility, but your request was refused; and
2. The OUTREACH driver then reported you as a no-show regarding the return trip.

We informed Santa Clara Valley Transportation Authority of your allegations and requested information relating to your complaint; reviewed the information presented by Santa Clara Valley Transportation Authority and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. **On August 28, 1995, because of a medical emergency, you requested that an OUTREACH driver deviate from your scheduled drop off, and take you to a different Kaiser Facility, but your request was refused.**

The DOT ADA regulation at 49 CFR 37.129 states:

Except as provided in this section, complementary paratransit service for ADA paratransit eligible persons shall be origin-to-destination service.

Since the DOT ADA regulation does not require transit providers to comply with last minute, special requests from passengers, we do not find that OUTREACH violated this provision of the DOT ADA regulation. However, in response to your concerns, we contacted Mr. Marty DeNero, Program Manager for Accessible Services who interviewed OUTREACH's Paratransit Manager regarding this incident.

According to their records the driver contacted dispatch for instruction and was instructed to take you home as originally scheduled or return to the point of origin, which was another Kaiser facility. The provider records indicate that the driver returned to the Kaiser facility and dropped you off at the original pick-up location. The dispatch records indicate that you were dropped off on the sidewalk immediately in front of the medical facility. Later that same day, you were again picked-up from the Kaiser facility and transported home.

Per your request, the following is the emergency policy for OUTREACH:

1. Ask if they would like to go home or to doctor, center or elsewhere;
2. Advise dispatch where you will be taking client;
3. In van needs to be cleaned, request dispatch if you can return to base after last client has been dropped off;
4. Wear rubber gloves if there is any chance you might come in contact with any body fluids;
5. Put sawdust or bleach solution over affected area or equipment;
6. Drop off other clients and apologize for delay; and
7. Complete an incident report at the end of shift or when you return to base to clean van.

We believe that OUTREACH accommodated your immediate needs by taking you to the closest medical facility. Since OUTREACH was not in violation of the DOT ADA regulation, we consider this issue to be resolved.

2. **The OUTREACH driver then reported you as a no-show regarding the return trip.**

Since the DOT ADA regulation does not specifically state under what circumstances no-show policies are to be administered, we are unable to determine if any violations of the DOT ADA regulation occurred. We were advised that it is OUTREACH's policy to use the term no-show when service is not performed as originally scheduled, for route service tracking purposes. This

does not always indicate that the client did not show up for his/her ride. It is our understanding that [REDACTED], Paratransit Operations Manager, sent your mother an apology letter dated September 15, 1995, regarding any inconvenience this incident may have caused. The apology letter was sent to your mother because she sent the original complaint letter.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although OUTFREACH's actions caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact, Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Gardner Consulting Planners

TCL-1
400 Seventh St., S.W.
Washington, D.C. 20590



U.S. Department
of Transportation
Federal Transit
Administration

DEC 11 1997

[REDACTED]

Re: FTA Complaint No. 97170

Dear [REDACTED]

This letter responds to your complaint against the Regional Transit System (RTS) in Gainesville, Florida, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that as of December 31, 1997, RTS will unfairly discontinued its "Mini-Bus" service for the disabled, and replace it with another form of paratransit service. We informed RTS of your allegation, requested information relating to your complaint and reviewed the information presented by RTS and yourself. We made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

According to the DOT ADA regulation at 49 CFR 37.121, which states:

...each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route systems.

-2-

The DOT ADA regulation requires transit providers to maintain a paratransit service that is comparable to the level of service to the fixed route system. This system is not intended to be a comprehensive system that meets all the transportation needs of individual with disabilities, but rather a "safety net" for those persons who are unable to navigate the fixed route system. There are specific requirements that transit operators must apply to their paratransit service. These requirements include: 1) providers must have an eligibility process; 2) providers do not have to deliver passengers door to door service, but rather curb to curb; 3) providers may require advance scheduling; and 4) providers must serve eligible passengers within 3/4 mile of a fixed bus route (but providers do not have to travel beyond that 3/4 mile corridor.)

A transit operator may choose to provide transit service that is beyond the requirements of the DOT ADA regulation, but they are not obliged to do so. Essentially, the loss of the mini bus service that is beyond the requirements of the ADA, is not a violation of the DOT ADA regulation since the new paratransit provider apparently will be meeting the requirements of the ADA.

Although we understand how important the mini-bus service was to passengers who use the system, since many aspects of this service was not required by law, DOT is restricted by law from interfering in the day-to-day operation of transit providers, especially those operations that are not required by law. According to the Federal Transit Laws at 49 U.S.C., Section 5324(c) which state:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and after a grant is made, may not regulate any charge for the system.

In that the allegations you cited were not violations of the ADA regulation, we have determined that RTS is not in violation of the ADA regulation. Based on the foregoing, we consider this issue to be resolved.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

Handwritten initials



U.S. Department
of Transportation
Federal Transit
Administration

400 Severith St., S.W.
Washington, D.C. 20590

DEC 15 1997

[Redacted]

Re: FTA Complaint No. 97128

Dear [Redacted]

This letter responds to your complaint of discrimination against the Toledo Area Regional Transit Administration (TARTA), in Toledo, Ohio, and its paratransit provider, DAVE Transportation, (DAVE) and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be that a [Redacted] paratransit driver was rude, disrespectful and humiliated you when you boarded the bus on June 5, 1997. We informed TARTA and [Redacted] of your allegations and requested information relating to your complaint, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation.

The DOT ADA regulations at 49 CFR 37.173 training requirements state:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful courteous way, and with appropriate attention to the difference among individuals with disabilities.

-2-

TARTA and DAVE investigated the June 5, 1997, incident and concluded that the responsible bus operator did not follow [REDACTED] policy and procedure when confronted with an unsafe situation. In this incident, the driver did not speak to you appropriately and she failed to call the dispatcher for further instruction; and for her actions she was suspended and was required to attend an empathy training and communications skills course. In addition, [REDACTED] TARTA's General Manager advised [REDACTED] that it should not schedule the operator in question for any and all of your trip requests.

We regret that such an incident had occurred, but it appears that TARTA and [REDACTED] have addressed your concerns regarding this issue. We conclude that TARTA and [REDACTED] are in compliance with this provision of the DOT ADA regulation. Based on the foregoing, we consider this issue to be resolved.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although [REDACTED] actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, of my staff, on FTA's ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,


Arthur Andrew Lopez
Director, Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 15 1997

[Redacted]

Re: FTA Complaint No. 97265

Dear [Redacted]

This letter responds to your complaint regarding the Duluth Transit Authority (DTA), in Duluth, Minnesota, and potential noncompliance with the Federal Transit Laws as Codified at 49 U.S.C. §5301 et seq. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the civil rights provisions of the Federal Transit Laws. In the FTA complaint investigation process, we analyze the complainant's allegations for possible deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the Federal Transit Laws.

The Federal Transit Laws do not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor do the Federal Transit Laws allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the Federal Transit Laws by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that the DTA does not universally enforce its rule regarding the prohibition of eating and drinking on its fixed route buses. The Federal Transit Laws do not address the issue of consumption of food and beverages on transit vehicles. Any rules and regulations regarding the consumption of food and beverages on public transit are local requirements and are not regulated by the FTA.

The FTA is restricted by law from interfering in the day-to-day operation of transit providers, especially those operations that are not required by the Federal Transit Laws. According to the Federal Transit Laws at 49 U.S.C., §5324 (c) which state:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and after a grant is made, may not regulate any charge for the system.

-2-

Because the allegation you cited was not a violation of the Federal Transit Laws, we consider this issue to be resolved. We regret that we could not assist you in this matter. If you have any questions, please contact Michael Virts, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511 or at his electronic mail address, michael.virts@fta.dot.gov within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Dennis Jensen
General Manager, DTA

14



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 15 1997

[Redacted]

Re: FTA Complaint Number 92230

Dear [Redacted]

This letter responds to your complaint regarding the Southeastern Pennsylvania Transportation Authority (SEPTA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. SEPTA's paratransit drivers were rude and insensitive to you; and
2. You were denied paratransit service because the driver would not allow you to board the vehicle on your stretcher.

We informed SEPTA of your allegations, requested information relating to your complaint and reviewed the information presented by SEPTA and yourself; and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determination, below:

1. SEPTA's paratransit drivers were rude and insensitive to you.

The DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

SEPTA has informed FTA that at the time you filed your complaint, it had contracts with eight paratransit carriers with approximately 400 drivers. Because you did not give specific information regarding this incident, such as the identity of the paratransit carrier or the name of the driver, we were unable to substantiate your allegation.

We did request that SEPTA verify that it has an ADA training program for its paratransit drivers. SEPTA's training program includes a course that deals with the issue of driver sensitivity toward persons with disabilities, scooter and wheelchair securement procedures, wheelchair lift operation/requirements and lift deployment. The training also includes a "Defensive Driving" course which teaches drivers how to avoid collisions, develop safer driver habits and focus on safe driving procedures.

Because we were unable to substantiate your allegation, and SEPTA has an ADA training program, we find that SEPTA is not in violation with this provision of the DOT ADA regulation. If you find that SEPTA's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, we encourage you to continue to work with them and your local government officials to ensure that SEPTA complies with this provision of the DOT ADA regulation. Based on the foregoing, we consider this issue to be resolved.

2. You were denied paratransit service because the driver would not allow you to board the vehicle on your stretcher.

Section 37.165 of the DOT's ADA regulation requires transit operators to carry any individual with a disability, specifically, those who use a "common wheelchair" as a personal mobility device.

The DOT ADA regulation at 49 CFR 37.3 defines a "common wheelchair" as:

A mobility aid belonging to any class of three or four-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered. A "common wheelchair" is such a device which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied.

Since the DOT ADA regulation does not specifically address the issue of boarding or transporting stretchers on paratransit vehicles, we are unable to find that SEPTA is in violation with the DOT ADA regulation. Although we understand your concern about receiving paratransit service, please understand that complementary paratransit was never intended to serve as a form of ambulance service. The DOT ADA regulation does not require a provider of complimentary paratransit to transport people on stretchers on its transit vehicles. We suggest that you seek another mode of transportation (such as a non-emergency medical ambulance) capable of accommodating your special needs. Based upon the foregoing, we will consider this issue to be resolved.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and pattern and practice' kinds of problems, rather than on isolated operational errors." Although SEPTA's actions caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please feel free to contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: RGMA, Inc.

TCL



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

REC 18 1997

[REDACTED]

Re: FTA Complaint No. 97250

Dear [REDACTED]

This letter responds to your complaint against Lee County Transit (Lee Transit), Fort Myers, Florida, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that your daughter was denied the paratransit service because she lives beyond the 3/4 mile radius of an existing bus route. We informed Lee County of your allegation and requested information relating to your complaint; reviewed the information presented by Lee County and yourself, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation.

The DOT ADA regulation at 49 CFR 37.131(a)(1) states:

The entity shall provide complementary paratransit service to origins and destinations within corridors with a width of three-fourth of a mile on each side of each fixed route. The corridor shall include an area with a three-fourths of a mile radius at the ends of each fixed route.

Complementary paratransit service must be provided in any origin or destination point within a corridor fitting this description. However, if an individual lives outside the corridor and can find a way of getting to a pickup point within the service area, the passenger must receive paratransit service while traveling within the service area.

The DOT ADA regulation requires transit providers to maintain a paratransit service that is *comparable* to the level of service to the fixed route system. This system is not intended to be a comprehensive system that meets all the transportation needs of individual with disabilities, but rather a "safety net" for those persons who are unable to navigate the fixed route system. There are specific requirements that transit operators must apply to their paratransit service. These requirements include: 1) providers must have an eligibility process; 2) providers do not have to deliver passengers door-to-door service, but rather curb-to-curb; 3) providers may require advance scheduling; and 4) providers must serve eligible passengers within 3/4 mile of a fixed bus route (but providers do not have to travel beyond that 3/4 mile corridor.)

We understand that Lee County informed you on October 21, 1996, that your daughter is eligible for paratransit service, and has since used the service until you moved out of the service area to your present address at [REDACTED] which is two miles from the nearest bus route. The ADA requires that paratransit trips must start and end within the three fourth of a mile from a service area of the fixed route service. A transit operator may choose to provide transit service that is beyond the requirements of the DOT ADA regulation, but they are not compelled to do so.

Although we understand how important the existing service was to your daughter, FTA is restricted by law from interfering in the day-to-day operation of transit providers, especially those operations that are not required by law. According to the Federal Transit Laws at 49 U.S.C., Section 5324(c) which state:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and after a grant is made, may not regulate any charge for the system.

Because the allegation you cited was not a violation of the ADA regulation, we have determined that Lee County is not in violation of the DOT ADA regulation. However, we recommend that you continue to express your concerns to Lee Transit as well as other local elected officials regarding this issue. Based on the foregoing, we will take no further action regarding this complaint and will consider this issue to be resolved.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 24 1997

[REDACTED]

Re: FTA Complaint No. 97126

Dear [REDACTED]

This letter responds to the complaint you filed with the Federal Transit Administration (FTA) regarding the New York City Transit Authority (NYCTA) in New York, New York. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that NYCTA unfairly denied your application for a "Reduced-Fare MetroCard" for persons with disabilities because your disability, alcoholism, does not qualify for the fare card. In accord with Title 49 USC Section 5307(d)(1)(D), formerly Section 5(m) of the Federal Transit Act ("the Act"), transit operators are required to provide half-fare benefits to elderly and "handicapped" riders during non-peak hours. The term "handicapped," according to Section 5302(a)(5) of Title 49 USC, is defined as "any individual who by reason of illness, age, congenital malfunction, or other permanent or temporary incapacity or disability, including any person who is wheelchair bound or has semi-ambulatory capabilities, is unable without special facilities or special planning or design to utilize public transportation facilities and services effectively."

The definition of "handicapped" was instituted by Congress and retained despite the subsequent enactment of the Americans with Disabilities Act of 1990 and codification of the Federal Transit Act in 1994. The FTA cannot amend the strict language of the provision without Congressional authorization. The half fare card is a *special benefit* that is mandated and approved by Congress. Congress has the authority to provide programs and benefits to individuals with disabilities that are

-2-

not provided to the general public and transportation for elderly and handicapped passengers is one of those programs.

According to NYCTA, individuals who are entitled to benefits are those who cannot travel on the transit system without assistance. The reduced-fare benefit is available to persons who have a medicare card and to disabled persons who are blind, hearing impaired, unable to move about without the aid of a cane, walker, wheelchair stroller or crutches or who lack both hands. Unless your disability requires that you use special facilities, special planning or design to utilize public transportation facilities and services effectively, you do not qualify for a reduced fare card. Based on the foregoing, we consider this issue to be resolved and will take no further action on your complaint.

If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: eugene.jenkins@fta.dot.gov. Please include your FTA complaint number in any future correspondence with this office. Thank you for bringing this to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 24 1997

[REDACTED]

Re: FTA Complaint Number 96065

Dear [REDACTED]

This letter responds to your complaint regarding Dallas Area Rapid Transit (DART) in Dallas, Texas, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the mass transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Two DART paratransit drivers were rude and insensitive to you when they insisted you transfer from your wheelchair to a regular vehicle seat;
2. DART charged you as a "no show" when its drivers failed to pick you up; and
3. DART refused to change your pick-up and drop-off location from Medical City between Maternity and Barnett Towers to 3600 Gaston.

We informed DART of your allegations and requested information relating to your complaint; reviewed the information presented by DART and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determinations follow:

1. **Two DART paratransit drivers were rude and insensitive to you when they insisted you transfer from your wheelchair to a regular vehicle seat.**

The DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Furthermore, the DOT ADA regulation at 49 CFR 37.165(e) states:

The entity may recommend to a user of a wheelchair that the individual transfer to a vehicle seat. The entity may not require the individual to transfer.

DART has acknowledged that the two drivers in question were indeed rude, insensitive, and in violation of DART's ADA policies, when you were forced to move from your wheelchair to a regular vehicle seat. DART stated that each driver received counseling about their behavior and retraining on DART's ADA policies and procedures. DART has assured FTA that any incidents of rudeness or insensitivity brought to its attention will be investigated and the results will be conveyed to you either verbally, by telephone or in writing depending on the nature of your complaint. It is our understanding you agreed that drivers no longer ask you to transfer from your wheelchair and that you have received written acknowledgments and apologies from Mr. Doug Douglas, Vice President, Paratransit Services, stating that you should bring any additional incidents directly to his attention.

Due to the fact that DART has applied corrective action in response to your concerns, we consider this issue to be resolved at this time. If you find that DART's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, we encourage you to continue to work with DART and your local government officials to ensure that DART complies with this provision of the DOT ADA regulation.

2. **DART charged you as a "no show" when its drivers failed to pick you up.**

With the information provided, we were unable to substantiate this allegation. Since the DOT ADA regulation does not specifically state under what circumstances no-show policies are to be administered, we are unable to determine if any violations DOT ADA regulation occurred. DART informed FTA that no action against you was taken, including assessing any fines, with respect to you being charged as a "no-show" on July 8 and 28, 1995, and January 1, 1996. DART states that it did not pursue enforcement of its "no-show" policy until April 1996, but you have confirmed that you did not have to pay any fines or penalties when DART's records charged you as a "no-show". Based on DART's actions and our discussion with you regarding the matter, we consider this issue to be resolved.

3. DART refused to change your pick-up and drop-off location from Medical City between Maternity and Barnett Towers to 3600 Gaston.

The DOT ADA regulation at 49 CFR 37.129 states:

Except as provided in this section, complementary paratransit service for ADA paratransit eligible persons shall be origin-to-destination service.

The basic policy for complementary paratransit service is to provide demand responsive, origin-destination service. The local planning process decides whether, or in what circumstances, this service is to be provided as "door-to-door" or "curb-to-curb." DART advised that its "curb-to-curb" service is based on the closest location that is the safest for the passenger and driver. DART stated that it did not grant your request to change your pick-up point to 3600 Gaston because that location is a heavily traveled four lane street and could be extremely hazardous to both you and the paratransit driver. Since the DOT ADA regulation does not specifically state under what conditions "door-to-door" or "curb-to-curb" policies are to be administered, we do not find that DART's policy is in violation of the DOT ADA regulation. Based on the foregoing, we consider this issue to be resolved.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and pattern and practice" kinds of problems, rather than on isolated operational errors." Although DART's actions caused you significant inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: RGMA, Inc.



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DE 2A-1997



Re: FTA Complaint No. 97195

Dear

This letter responds to your complaint against Access Services, Incorporated (ASI) of Los Angeles, California, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that ASI paratransit drivers picked you up late on more than one occasion. We informed ASI of your allegation and requested information relating to your complaint, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation.

The DOT ADA regulation at 49 CFR 37.131(f)(3)(i)(A) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following... Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons... Such patterns or practices include, but are not limited to, the following... Substantial numbers of significantly untimely pickups for initial or return trips.

-2-

Since the DOT ADA regulation does not define "significantly untimely pickups," transit providers have flexibility to establish what constitutes a timely and untimely pick-up. ASI considers "on time" performance to be 15 to 20 minutes before or after the scheduled pickup time. Based on your ride history, majority of your trips arrived within 20 minutes before or after your scheduled pickup time.

However, because of your reliance to ASI service on a daily basis and the fact that on occasion, you still received poor service, ASI met with you at your residence on September 10, 1997, and offered solutions to ensure timely pick up at your scheduled time. ASI's proposed solutions to your problems include, weekly monitoring of your trips; you are allowed to call one time for your pick up and return trip; you will be placed on a regular schedule for all your reoccurring trips; and as you requested, beginning on October 6, 1997, your trips will be routed to San Gabriel Transit to provide you flexibility with your reoccurring trips.

Your experience of waiting for more than an hour on numerous occasions for your schedule pick-up was indeed a problem, but it is understood that this can occur. FTA is concerned about incidents of this nature occurring on a regular basis. ASI has assured us that they will try to keep incidents like this from reoccurring. We encourage you to continue to work with ASI and your local government officials to ensure timely paratransit service. Based on the foregoing, we consider this issue to be resolved.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although ASI's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: [REDACTED]
Andre Boursee, Region IX



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 24 1997

[REDACTED]

Re: FTA Complaint Number 94172

Dear [REDACTED]

This letter is concerning the complaint you filed with the Federal Transit Administration (FTA) regarding the Spokane Transit Authority (STA), Spokane, Washington. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of 1973. In the FTA complaint investigative process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceeding may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

We understand your allegations to be as follows

- 1) Although the public buses operated by STA are accessible, the routes to the buses are not accessible.
- 2) STA's paratransit service has been 65 minutes late for pickup and the service has been reduced.

We informed STA of your allegations and requested information relating to your complaint, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. We have restated your allegations, followed by our determinations, below:

-2-

- 1) **Although the public buses operated by STA are accessible, the routes to the buses are not accessible.**

Title II of the ADA, requires public entities, such as state and local governments, to be responsible for implementing access to streets, sidewalks, and other public rights of way. The Department of Justice's (DOJ) ADA regulation, at 28 CFR 35.150 requires public entities to operate each service, program or activity so that it is readily accessible to and usable by individuals with disabilities which may involve altering existing facilities or constructing new ones including the installation of curb cuts. Local jurisdictions, such as the City of Spokane or Spokane County, not the STA, are responsible for installing curb cuts and other accessibility features along the streets and sidewalks in the area of Spokane, Washington.

If you wish to pursue your complaint, we recommend that you contact the City of Spokane or Spokane County regarding these issues. For the City of Spokane, please contact Ms. Gita Hatcher at (509) 625-6233. For Spokane County, please contact Mr. Clyde Cox, Spokane County Engineering Department, Safety Loss Division, at (509) 456-3617. Based on the foregoing, we consider this issue to be resolved.

- 2) **STA's paratransit service has been 65 minutes late for pickup and the service has been reduced.**

It is our understanding that your concerns regarding service reductions and late pickups have been resolved to your satisfaction. Therefore, we consider this issue resolved.

Given these circumstances and in consideration of FTA policy, we will take no further action on your complaint and consider your file closed. If you have any questions regarding this decision, you may contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on FTA's ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Thank you for bringing this matter to my attention. If I can offer you further service, do not hesitate to contact me.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: RGMA, Inc.

1-2 CC



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 24 1997

[REDACTED]

Re: FTA Complaint Number 97041

Dear [REDACTED]

This letter responds to your complaint regarding Dallas Area Rapid Transit (DART) in Dallas, Texas, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA may also refer the matter to the US Department of Justice for enforcement.

We understand your allegation to be that the driver of Terminal Taxi No. 217 and DART HandiRides operator, [REDACTED] were rude and insensitive. We informed DART of your allegations and requested information relating to your complaint; reviewed the information presented by DART and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations.

The DOT ADA regulations at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

-2-

DART advised FTA that it was unable to verify the incident regarding the operator of Terminal Taxi No. 271 since taxi contractors are no longer providing paratransit services to DART. DART was also unable to substantiate the incident with [REDACTED] because of a conflicting report from the driver. Because we were unable to substantiate these allegations, we requested that DART verify that it provides ADA training for its employees.

DART provided FTA with documentation verifying that it provides in-depth ADA training for its operators and provided documentation regarding [REDACTED] successful completion of this training (see enclosure). DART stated that it provides training and retraining to all operators on every aspect of ADA compliance. This training includes an in-depth analysis in ADA sensitivity and operators are trained to assist customers with disabilities while traveling on a DART paratransit vehicle. If a specific and verifiable complaint is made against an employee, that employee is counseled, may be assigned a refresher training course, and will be disciplined.

Based on the facts presented, we consider this issue to be resolved at this time. If you find that DART's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, we encourage you to continue to work with DART and your local government officials to ensure that DART complies with this provision of the DOT ADA regulation.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and pattern and practice" kinds of problems, rather than on isolated operational errors." Although DART's actions caused you significant inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

Enclosure

cc: RGMA, Inc.



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 31 1997



Re: FTA Complaint No. 97284

Dear 

This letter responds to your complaint regarding the Northeast Illinois Regional Commuter Railroad Corporation (Metra), in Chicago, Illinois, and potential noncompliance with the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation ACT of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that Metra's decision to terminate the Rail Corridor Accessibility Program (RCAP) in the south sector first, is discriminatory. We informed Metra of your allegation, requested information relating to your complaint and reviewed the information presented by Metra and yourself. We made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

According to the DOT ADA regulation at 49 CFR 37.121, the following transit providers must provide ADA complementary paratransit service:

- (a) Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without

-2-

disabilities who use the fixed route system...(c) Requirements for complementary paratransit do not apply to commuter bus, commuter rail, or intercity rail systems.

Although the paratransit service in question is intended for persons with disabilities, it is not required by the ADA. The service was initiated voluntarily by Metra and later in accordance with an Illinois Human Rights Commission (the Commission) decision. It was to be offered until Metra's South Sector commuter rail line attained a specified level of accessibility, as determined by the Commission. We understand that Metra has complied with the Commission's requirements in the South Sector, therefore, the paratransit service in that area is being eliminated.

We understand how important the RCAP program is to passengers who use the system, but since this service is not required by the ADA, DOT can only intervene when compliance with a Federal law is at issue. According to the Federal Transit Laws at 49 U.S.C. §5324(c) which states:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and after a grant is made, may not regulate any charge for the system.

DOT is prohibited from becoming involved in operational matters of local jurisdiction such as setting fares, location, elimination, or temporary change of routes. For assistance in determining the transportation needs for persons with disabilities in the south sector, please contact Metra for assistance by calling (312) 322-6777.

Based on the determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511 or at his electronic mail address, eugene.jenkins@fta.dot.gov within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. We regret that we are unable to provide you further assistance with your concern.

Sincerely,



for Arthur Andrew Lopez
Director, Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 2 1998

[REDACTED]

Re: FTA Complaint No. 97093

Dear [REDACTED]

This letter responds to your complaint against Access Transportation Systems, Inc. (ACCESS), a paratransit provider for the Port Authority of Allegheny County (PAT) of Pittsburgh, Pennsylvania, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. ACCESS incorrectly granted you conditional ADA eligibility; and
2. ACCESS required you to pay four times the rate of fixed route service when you use paratransit service.

We informed ACCESS of your allegations and requested information relating to your complaint; reviewed the information presented by ACCESS and you; and made a determination on each of your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. ACCESS incorrectly granted you conditional ADA eligibility.

The DOT ADA regulation at 49 CFR 37.123(b) states:

If an individual meets the eligibility criteria of this section with respect to some trips but not others, the individual shall be ADA paratransit eligible only for those trips for which he or she meets the criteria.

In accordance with the DOT ADA regulations, a person may be eligible for some paratransit trips but not others. If a person is able to access the fixed route system under some circumstances, but not others, the individual would be eligible for paratransit service only at those instances they are unable to use the fixed route system. For example, someone whose impairment-related condition is a severe sensitivity to temperature below 20 degrees is not prevented from using fixed route transit when the temperature is 75 degrees.

Eligibility is not judged solely by a person's disability, but rather a person's disability combined with their functional ability to use the fixed route system. To be a basis for eligibility, the condition must prevent the individual from traveling to a boarding location or from a disembarking location. The word "prevent" is very important. For anyone going to a bus stop and waiting for a bus is more difficult and less comfortable than waiting for a vehicle at one's home. This is likely to be all the more true for a person with a disability. But for many persons with disabilities, in many circumstances, getting to the bus stop is possible.

In the Department's view, a case of "prevented travel" can be made only where traveling is literally impossible (e.g., someone cannot find the bus stop, someone cannot push a wheelchair through a foot of snow or up a steep hill, etc.), but also where the difficulties are so substantial that a reasonable person with the impairment-related condition in question would be deterred from making the trip.

Because you indicated in your application that you can use fixed route service independently under some conditions, combined with your in-person functional assessment conducted by ACCESS on December 16, 1996, and a follow-up telephone interview, you agreed with the determination that you will be granted conditional paratransit eligibility. ACCESS also informed you of your right to appeal your eligibility, however, the documentation in your file indicates that you did not appeal the decision. From the information provided, it appears that ACCESS is cooperating with you in meeting your transportation needs, therefore, we consider this issue to be resolved.

2. ACCESS required you to pay four times the rate of fixed route service when you use paratransit service.

The DOT ADA regulation at Section 37.131(c) states:

...fare for a trip charged to an ADA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual

-3-

paying full fare for a trip of similar length, at similar time of day, on the entity's fixed route system.

ACCESS' Convenience Fares policy was developed through the public participation process, as an option for passengers, like yourself, who were granted conditional eligibility to use the paratransit service for convenience on the days they were not eligible to use it. The fare for these trips, (because the trips are not required by the DOT ADA regulation), is twice the paratransit fare.

Because you indicated that the convenience fare was too costly, ACCESS offered you training to use the fixed route system and while you were in training ACCESS did not charge you the convenience fare until you have completed the training. We understand that you are now using the paratransit service free, as a feeder to PAT's fixed route system which you are charged half-fare. We find that ACCESS is not in violation with this provision of the DOT ADA regulation. Therefore, we consider this issue to be resolved.

Based on this determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, roger.peralta@fta.dot.gov, within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. We regret that we could not assist you in this matter.

Sincerely,



for Arthur Andrew Lopez
Director, Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

Peralta
400 Seventh St., S.W.
Washington, D.C. 20590

JAN 12 1998

[REDACTED]

Re: FTA Complaint No. 97272

Dear [REDACTED]

This letter responds to your complaint regarding Midway Municipal Airport (MMA), Chicago, Illinois, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that you are required to pay for parking at MMA, even though you park your car in a space designated for persons with disabilities. The ADA Accessibility Guidelines for Building and Facilities (ADAAG) at section 4.6.4 state:

Accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility...Such signs shall be located so they cannot be obscured by a vehicle parked in the space.

Nothing in the DOT ADA regulation requires that parking spaces designated for persons with disabilities, in a pay parking lot, must be free of charge. If a parking lot does charge a nominal fee for access, all persons who utilize that parking lot, including persons who park in designated disability spaces, must pay the fee.

-2-

We regret that we could not assist you in this matter. We will take no further action regarding this complaint and consider this issue to be resolved. If you have any questions, please contact Mr. Roger Peralta, Equal Opportunity Specialist, of my staff, at our toll free FTA ADA Assistance Line 1-888-446-4511. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

Federal Transit Administration
TCR-1:RPeralta:rp:66745:12/12/97
Copies to: TRO-9; TCC (Wong)
TCR-1:Chron/Subject/McCrea/Peralta
O:Peralta\ [REDACTED].sam



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 13 1998

[REDACTED]

Re: FTA Complaint Number 97023

Dear [REDACTED]

This letter responds to your complaint regarding the Madison Metro Transit System (MMTS) in Madison, Wisconsin, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that since you live near a non-accessible bus route, MMTS provides you with paratransit service. You believe it is unfair for MMTS to require you to complete an application for paratransit service, since you never requested the service.

We informed MMTS of your allegation and requested information relating to your complaint; reviewed the information presented by MMTS and you; and made a determination on each of your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations.

-2-

The DOT ADA regulation at 49 CFR 37.5 states:

No entity shall discriminate against the individual with a disability in connection with the provision of transportation service.

MMTS realized that until its fixed route fleet is 100 percent accessible, some passengers with disabilities are still unable to use its fixed route service. In order to not violate the non-discrimination provision of the DOT ADA regulation, MMTS provides these passengers with temporary paratransit eligibility as required by Section 37.123 (e)(2) of the DOT ADA regulation.

According to the DOT ADA regulation at 49 CFR 37.123 (e)(2) which states:

Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time, or within a reasonable period of time, when such a vehicle is not being used to provide designated public transportation on the route.

Although you did not request the service, the DOT ADA regulation allows an entity to recertify eligibility at reasonable intervals to make sure that changed circumstances have not invalidated or changed the individual's eligibility. According to the DOT ADA regulation at 49 CFR 37.125(f) which states:

The entity may require recertification of the eligibility of ADA paratransit eligible individuals at reasonable intervals.

Often, there are persons who were, at one time, eligible for paratransit service. Since circumstances have changed, (such as fixed route buses have become accessible or the person's ability to travel on fixed route has improved), these passengers no longer need paratransit service to the degree they once did.

Recertification is the way to ensure that a paratransit system does not become overly burden with passengers who can truly use the fixed route system. This excess number of passengers often leads to an unfair denial of service to those passengers who cannot navigate the fixed route system, under any circumstances.

MMTS advised that you were certified for paratransit service prior to 1996, and were informed that service would be discontinued beginning in 1996, if an application for recertification was not submitted. Because MMTS only keeps current applications on file and your recertification application was not received, your file was purged.

-3-

Since recertification is allowed by the DOT ADA regulation, and all passengers who use MMTS' paratransit system must be recertified, it is not discriminatory for MMTS to require you to complete a recertification application. We encourage you to complete the recertification application in order for you to continue to receive complementary paratransit service. Based on the foregoing, we consider this issue to be resolved.

We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter. If you have any questions regarding this decision, please contact Cylinda Queen, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: cylinda.queen@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Mr. Paul J. Larrousse, Transit General Manager



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 13 1998

[REDACTED]

Re: FTA Complaint No. 97052

Dear [REDACTED]

This letter responds to your complaint against the Northwestern Indiana Commuter Transit District (NICTD) of East Chicago, Indiana, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be the following:

1. NICTD conductor/engineer was very rude and disrespectful;
2. NICTD conductor/engineer did not offer assistance after you boarded the train and you completed the entire trip without safety restraints of any kind; and
3. NICTD's wheelchair lifts are inadequate and manually operated.
4. NICTD's boarding area at the Hammond Station is made of gravel causing, your wheelchair to roll erratically.

We informed NICTD of your allegations and requested information relating to your complaint; reviewed the information presented by NICTD and you; and made a determination on each of your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. **NICTD train conductor/engineer was very rude, disrespectful, and did not offer you any assistance.**

The DOT ADA regulation requires that transit providers educate its personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Without the names of specific NICTD personnel, we were unable to substantiate your allegation of rude and insensitive conductors. Nevertheless, we requested that NICTD verify that it conducts ADA training for its employees.

NICTD advised that it provides training and retraining to all operators on every aspect of ADA compliance. This training includes an in-depth analysis in ADA sensitivity and conductors are trained to assist customers with disabilities while traveling on a NICTD commuter train. If a specific and verifiable complaint is made against an employee, that employee is counseled and may be assigned a refresher training course.

NICTD has been informed that its commitment to ensuring that all operators treat passengers with disabilities with courtesy and respect is to be commended, but they must ensure that all employees comply with this and all requirements of the ADA. Based upon the foregoing we will consider this issue to be resolved at this time. If you have any more problems, we encourage you to bring the matter to NICTD's attention.

2. **You completed the entire trip without any type of safety restraints or securement devices.**

Presently, securement devices on commuter rail cars are not required under the DOT ADA regulation. NICTD stated that it does offer the use of restraining devices on its rail cars, but they require passengers to ride facing rearward. Since there is no requirement for these devices, we are unable to provide further assistance regarding this issue. Therefore, we consider this issue to be resolved.

3. NICTD's wheelchair lifts are inadequate and manually operated.

The DOT ADA regulation at 49 CFR 38.95(a)(2) states:

If the portable or platform lift, ramps or bridge plates meeting the applicable requirement of this section are provided on station platforms or other stops required to be accessible, or mini-high platforms complying with §38.93 (d) are provided, the car is not required to be equipped with a carbone device.

Since the lift requirements of the DOT ADA regulation on commuter rail cars does not specify if lifts are to be operated manually or mechanically, NICTD's use of manually operated lifts do not constitute a violation of the DOT ADA regulation. Therefore, we consider this issue to be resolved.

4. NICTD's boarding area at the Hammond Station is made of gravel causing, your wheelchair to roll erratically.

The DOT ADA regulation at 49 CFR 37.43(d) states:

A path of travel includes a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered, and exited, and which connects the altered area with an exterior approach (including sidewalks, parking areas, and streets), an entrance to the facility, and other parts of the facility... An accessible path of travel may include walks and sidewalks, curb ramps and other interior or exterior pedestrian ramps, clear floor paths through corridors, waiting areas, concourses, and other improved areas, parking access aisles, elevators and lifts, bridges, tunnels, or other passageways between platforms, or a combination of these and other elements.

Currently, NICTD is constructing accessible high level boarding platforms at the Hammond Station in order to eliminate the use of portable lifts. NICTD did acknowledged that the path of travel that all other rail passengers must travel to the boarding area is paved with gravel, but the accessible path of travel from the station and parking lot to the portable lift and center door has been paved. Although we understand that the path of travel you must travel is a bit longer, as long as it is accessible, it does not violates the ADA. Based on the foregoing, we consider this issue to be resolved.

The DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although NICTD's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

-4-

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, of my staff, on FTA's ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 15 1998

[REDACTED]

Re: FTA Complaint No. 96175

Dear [REDACTED]

This letter responds to your complaint regarding the Southeastern Pennsylvania Transportation Authority (SEPTA) in Philadelphia, Pennsylvania, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that SEPTA unfairly denied you unconditional ADA paratransit eligibility. We informed SEPTA of your allegation and requested information relating to your complaint; reviewed the information presented by SEPTA and yourself, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation.

The ADA is intended as a civil rights statute, not a transportation or social service statute, to provide persons with disabilities, nondiscriminatory access to fixed route bus service. ADA complementary paratransit service is intended to be a "safety net" for those who cannot use the fixed route service, and the DOT ADA regulation intends for this to be strictly interpreted.

Under the DOT ADA regulation at Section 37.125, SEPTA is required to establish a process for determining ADA paratransit eligibility. The process is used to determine whether the individual has the ability to use fixed route transportation. This is primarily a transportation, not a medical decision. Section 37.125(g) requires SEPTA to establish an administrative appeals process through which individuals who are denied eligibility can appeal the decision. The administrative appeals process is intended to provide applicants who have been denied eligibility the opportunity to have their cases heard by other officials who are independent of the one who originally denied eligibility.

The documentation in your file indicates that your application for paratransit eligibility was denied by SEPTA on January 30, 1996. After appealing this decision, on March 12, 1996, the Independent Appeals Board determined you to be conditionally eligible for paratransit service because you acknowledged that on some days you are able to use a kneeling bus, but under some circumstances, you are unable to use the fixed route system because of your disability, "chronic paranoid schizophrenia." The members of the Independent Appeals Board are not SEPTA employees but are representatives from the disability advocacy groups, i.e., United Cerebral Palsy Association and Liberty Resources, Inc. This decision was again reaffirmed by the Appeals Board on March 10, 1997.

Please be advised that although at times, traveling to and from a fixed route bus stop is difficult, it does not mean that you are automatically eligible for ADA complementary paratransit. It is the ability to ride the fixed route that determines eligibility.

We have determined that SEPTA is operating under an eligibility and appeals process that appears to be in accordance with the DOT ADA regulation, and SEPTA has acted in accordance with its approved process in regards to your paratransit eligibility. Our policy when reviewing complaints concerning eligibility determinations is to verify that the transit provider is properly following an FTA-approved process. There is nothing in your complaint file to indicate that SEPTA is not acting in accordance with its stated process. Based on the foregoing, we consider this issue to be resolved.

We regret that we could not assist you in this matter. Based on our determination, we consider your complaint to be closed. If you have any questions regarding our actions on your complaint, please contact Roger Peralta, Equal Opportunity Specialist, on FTA's toll free ADA assistance line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. If we do not hear from you within 30 days, we will consider your complaint file to be closed. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 15 1998

[REDACTED]

Re: FTA Complaint No. 97273

Dear [REDACTED]

This letter responds to your complaint regarding the Southeastern Pennsylvania Transit Authority (SEPTA), Philadelphia, Pennsylvania, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that SEPTA subjected you and other persons with disabilities in Philadelphia, to an unnecessary ADA recertification process. We reviewed and analyzed the information you presented and made the following determination in relation to the DOT ADA regulations.

The DOT ADA regulation at 49 CFR 37.125(f) states:

The entity may require recertification of the eligibility of ADA paratransit eligible individuals at reasonable intervals.

The DOT ADA regulations allows an entity to recertify eligibility at reasonable intervals to make sure that changed circumstances have not invalidated or changed the individual's eligibility. Often, there are persons who were, at one time, eligible for paratransit service. Since circumstances have changed, (such as fixed route buses have become accessible or the person's ability to travel on fixed

-2-

route has improved), these passengers no longer need paratransit service to the degree they once did.

Recertification is the way to ensure that a paratransit system does not become overly burdened with passengers who can truly use the fixed route system. This excess number of passengers often leads to an unfair denial of service to those passengers who cannot navigate the fixed route system, under any circumstances. Consequently, SEPTA's recertification process is not a violation of the DOT ADA regulation. Therefore, we consider this issue to be resolved.

Based on this determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov, within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. We regret that we could not assist you in this matter.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

Vnts



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 20 1998

[REDACTED]

Re: FTA Complaint No. 96155

Dear [REDACTED]

This letter responds to your complaint against VIA Metropolitan Transit (VIA) in San Antonio, Texas, alleging that VIA is in violation of Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If deficiencies are identified they are presented to the transit provider and assistance is offered to correct the inadequacies within a predetermined timeframe.

The ADA does not provide FTA the authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may result in the termination of Federal funds. FTA may also refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. VIA denied your request to travel with a personal care attendant while riding paratransit;
2. You are required to wear a seatbelt on paratransit vehicles despite a documented medical condition which prohibits you from wearing a seatbelt; and
3. VIA's denial of your request to travel with a personal care attendant and denial of your request not to wear a seatbelt on paratransit is harassment in retaliation for remarks you made about the transit provider.

We informed VIA of your allegations and requested information relating to your complaint; reviewed the information presented by VIA and yourself; and made a determination based on our

analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. **VIA denied your request to travel with a personal care attendant while riding paratransit.**

According to VIA's response to this allegation, under appeal it reversed its earlier decision to deny your request to travel with a personal care attendant on its paratransit system and now permits you to travel with an attendant. In view of your request being granted by VIA, we consider this issue resolved.

2. **You are required to wear a seatbelt on paratransit vehicles despite a documented medical condition which prohibits you from wearing a seatbelt.**

Section 38.23(d)(7) of the DOT ADA regulation states:

For each wheelchair or mobility aid securement device provided, a passenger seatbelt and shoulder harness, complying with all applicable provisions of part 571 of this title, shall also be provided for use by wheelchair or mobility aid users. Such seatbelts and shoulder harnesses shall not be used in lieu of a device which secures the wheelchair or mobility aid itself.

The only requirements of the DOT ADA regulation in regards to the issue of seatbelts is that they be available for use for every mobility aid user. In that the DOT ADA regulation goes no further on this issue of seatbelts, we have determined that your state's seatbelt law governs this issue in your case. Therefore, we will take no further action on this issue.

3. **VIA's denial of your request to travel with a personal care attendant and denial of your request not to wear a seatbelt on paratransit is harassment in retaliation for remarks you made about the transit provider.**

Retaliation is strictly forbidden by the ADA. Section 503 of the ADA statute at 42 USC 12203 states:

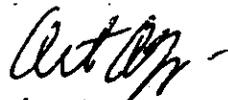
No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

In your telephone conversations you have made it clear that you believe retaliation is the reason for these issues with VIA. We have been unable to find evidence of retaliation in our investigation. VIA has reversed its decision regarding your personal attendant, and the seatbelt requirement is applied equally to all VIA paratransit riders. Consequently, we will take no further action on this allegation.

-3-

We regret that our determination has taken so long. As we discussed, seatbelts and the law are a difficult area for which VIA and others have tried in good faith to handle to the best of their ability. If you have any questions regarding this determination, please contact Michael Virts, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511 or at his electronic mail address: michael.virts@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing your concerns to our attention.

Sincerely,


Arthur Andrew Lopez
Director, Office of Civil Rights

Enclosure

cc: John Milam
General Manager, VIA

1. CA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 23 1998

[REDACTED]

Re: FTA Complaint No. 95040

Dear [REDACTED]

This letter responds to your complaint regarding the Los Angeles County Metropolitan Transportation Authority (LACMTA), and the City of Los Angeles, Department of Transportation (LADOT) Community DASH Service (DASH), both in Los Angeles, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. LACMTA drivers continuously do not call out stops, even upon request;
2. LACMTA drivers are rude and insensitive to persons with disabilities.
3. The temperature on LACMTA buses are often very cold which irritates certain conditions;
4. LACMTA does not fine drivers who violate the ADA as required by the DOT ADA regulations;
5. DASH drivers are unprofessional and do not call out stops.

We informed LACMTA and DASH of your allegations and requested information relating to complaint; reviewed the information presented by LACMTA, DASH and yourself, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. LACMTA drivers continuously do not call out stops, even upon request.

The DOT ADA regulation at 49 CFR 37.167(b) states:

The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location. The entity shall announce any stop on request of an individual with a disability.

Without the names of specific LACMTA operators, bus number or date and time of incident, we were unable to substantiate your allegation of drivers not announcing bus stops. Nevertheless, we obtained the following information from LACMTA relating to calling out stops.

LACMTA provides mandatory ADA training for all current and newly hired drivers. In addition, weekly refresher courses on ADA issues are available to operators. This training includes instruction in areas such as: ADA laws and regulations, ADA sensitivity training, defensive driving, stop announcements, and behind the wheel driver training.

Since we were unable to substantiate specific allegations of drivers not complying with LACMTA's stop announcement policy, we do not find LACMTA in violation with this provision of the DOT ADA regulation. If you find that LACMTA's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, we encourage you to continue to work with LACMTA and your local government officials to ensure that LACMTA complies with this provision of the DOT ADA regulation. Based on the foregoing, we consider this issue to be resolved.

2. LACMTA drivers are rude and insensitive to the disabled community.

The DOT ADA regulation at 49 CFR 37.173 states:

Each operator of a public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

LACMTA advised that they are aware of this requirement and provided documentation that its vehicle operators must receive ADA sensitivity training. Also, as previously mentioned, LACMTA advised that it provides training and retraining to all operators on every aspect of ADA compliance. This training includes instruction in areas such as: ADA laws and regulations, ADA sensitivity training, stop announcement, defensive driving, and behind the wheel driver training.

Although you state that some drivers are rude and disrespectful, without further information, such as the name of the driver, the bus number and route, and date and time of occurrence, we are unable to substantiate this allegation. If you find that LACMTA's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, again, we encourage you to continue to work with LACMTA and your local government officials to ensure that LACMTA complies with this provision of the DOT ADA regulation. Based on the foregoing, we consider this issue to be resolved.

3. The temperature on LACMTA buses are often very cold which irritates certain conditions.

The DOT ADA regulation does not address the issue of adjusting the temperatures on buses to accommodate persons with disabilities. Without this guidance, we have no authority to address this allegation of your complaint. Therefore, we consider this issue to be resolved.

4. LACMTA does not fine drivers who violate the ADA as required by the DOT ADA regulations.

The DOT ADA regulation does not require transit properties to levy fines against operators who have been found to be in violation of the DOT ADA regulation. Therefore, we consider this issue to be resolved.

5. DASH drivers are unprofessional and do not call out stops.

As previously mentioned, the DOT ADA regulation at 49 CFR 37.173 states:

Each operator of a public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Also, the DOT ADA regulation at 49 CFR 37.167(b) states:

The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location. The entity shall announce any stop on request of an individual with a disability.

Without the names of specific DASH operators, bus number or date and time of incident, we are unable to substantiate your allegations of rude drivers and drivers not announcing bus stops. Nevertheless, we obtained the following information from DASH relating to driver training and stop announcements.

DASH provides mandatory ADA training for all current and newly hired drivers. This training includes instruction in areas such as: ADA laws and regulations, ADA sensitivity training, defensive driving, and stop announcements. Thomas Chang, Supervisory Transportation Planner, stated that although they could not verify specific allegations against drivers, DASH has assured FTA that they will continue to strictly implement their ADA training program and their Transportation Safety Institute's Passenger Relations program which provides information and guidelines for more effective and sensitive methods for dealing with the disabled community. Further, Mr. Chang stated that DASH will correct any violation relating to driver conduct and stop announcements that is substantiated, with disciplinary action.

Since we were unable to substantiate specific allegations of drivers not complying with DASH ADA policies, we do not find DASH in violation with these provisions of the DOT ADA regulation. If you find that DASH's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, we encourage you to continue to work with DASH and your local government officials to ensure that DASH complies with this provision of the DOT ADA regulation. Based on the foregoing, we consider this issue to be resolved.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although these incidents caused you significant inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take further action on your complaint and will consider your file closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact, Ms. Sandra Jackson McCreary, Equal Opportunity Specialist, of my staff on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccreary@fta.dot.gov. Please include your FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 2 1998

[REDACTED]

Re: FTA Complaint No. 97129

Dear [REDACTED]

This letter responds to your complaint against OMNITRANS in San Bernardino, California, and Access Services Inc. (ASI) in Los Angeles, California, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be that:

- (1) On June 30, 1997, OMNITRANS unfairly discontinued its "Dial-A-Ride" service for the disabled, and replaced it with another form of paratransit service; and
- (2) An ASI paratransit driver picked you up late on October 6, 1997.

We informed OMNITRANS and ASI of your allegations and requested information relating to your complaint, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. We have restated your allegations, followed by our determinations, below:

1. **On June 30, 1997, OMNITRANS unfairly discontinued its "Dial-A-Ride" service for the disabled, and replaced it with another form of paratransit service.**

According to the DOT ADA regulation at 49 CFR 37.121, which states:

...each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route systems.

The DOT ADA regulation requires transit providers to maintain a paratransit service that is comparable to the level of service to the fixed route system. OMNITRANS has decided to discontinue its "Dial-A-Ride" service and replaced it with ASI, a complementary paratransit service that strictly complies with the requirements of the ADA. Complementary paratransit service is not intended to be a comprehensive system that meets all the transportation needs of individuals with disabilities, but rather a "safety net" for those persons who are unable to navigate the fixed route system. There are specific requirements that transit operators must apply to their paratransit service. These requirements include: (1) providers must have an eligibility process; (2) providers do not have to deliver passengers door to door, but rather curb to curb; (3) providers may require advance scheduling; and (4) providers must serve eligible passengers within 3/4 mile of a fixed bus route (but they do not have to travel beyond that 3/4 mile corridor).

A transit operator may choose to provide transit service that is beyond the requirements of the ADA regulation, but they are not obliged to do so. Essentially, the loss of the Dial-A-Ride service that is beyond the requirements of the ADA, is not a violation of the DOT ADA regulation law since the new paratransit provider apparently will be meeting the requirements of the ADA.

Although we understand how important the Dial-A-Ride program is to passengers who use the system, since many aspects of this service was not required by law, DOT is restricted by law from interfering in the day-to-day operation of transit providers, especially those operations that are not required by law. According to the Federal Transit Laws at 49 U.S.C. §5324(c) which state:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and after a grant is made, may not regulate any charge for the system.

In that the allegations you cited were not violations of the ADA regulation, we have determined that OMNITRANS is not in violation of the ADA regulation. Based on the foregoing, we consider this issue to be resolved.

2. An ASI paratransit driver picked you up late on October 6, 1997.

The DOT ADA regulation at 49 CFR 37.131(f)(3)(i)(a) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following...Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible person...Such patterns or practices include, but are not limited to, the following...Substantial numbers of significantly untimely pickups for initial or return trips.

To violate this provision, according to Appendix D to Section 37.131(f)(3)(i), there must be both a substantial number of late or early arrivals, and the arrivals in question must be significant in length. Only a few instances of trips one to five hours late, or many instances of trips, a few minutes late, is not desirable, but would not trigger this provision.

Your experience of waiting for more than an hour on your scheduled pick up was indeed a problem, but it is understood that this can occur. ASI investigated the October 6, 1997, incident and advised FTA that the service was delayed because the paratransit vehicle or van broke down and they were short of drivers. ASI apologized for the inconvenience this incident caused you and as of October 13, 1997, ASI hired four new paratransit drivers. Although ASI action may have caused you some inconvenience, we do not have evidence at this time that it constitute a pattern or practice of noncompliance with the DOT ADA regulations. Based on the foregoing, we consider this issue to be resolved.

We will take no further action on your complaint and will consider your file to be closed unless we hear from you within 30 days from the date of this letter. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 2 1998

[REDACTED]

Re: FTA Complaint No. 96121

Dear [REDACTED]

This letter responds to your complaint regarding Access Services, Incorporated (ASI) and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that ASI unfairly denied you ADA complementary paratransit eligibility. We informed ASI of your allegations and requested information relating to your complaint; reviewed the information presented by ASI and you; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations.

Under the DOT ADA regulation at Section 37.125, ASI is required to establish a process for determining ADA paratransit eligibility. The process is used to determine whether the individual has the ability to use fixed route transportation. This is primarily a transportation, not a medical decision. Section 37.125(g) requires ASI to establish an administrative appeals process through which individuals who are denied eligibility can appeal the decision. The administrative appeals

-2-

process is intended to provide applicants who have been denied eligibility the opportunity to have their cases heard by other officials who are independent of the one who originally denied eligibility. We have enclosed a copy of the DOT ADA regulations and paratransit amendments for your reference.

The documentation in your file indicates that your evaluation in February 1997, resulted in a determination by ASI that you were not ADA paratransit eligible. You appealed this decision, and on April 14, 1997, you were re-evaluated by an independent licensed physical therapist who conducted specific functional tests. Based on this re-evaluation, ASI again concluded that you were ineligible for its ADA paratransit service because you are able to board, ride and disembark from fixed route vehicles.

FTA's policy when reviewing complaints concerning eligibility determinations is to verify that the transit provider is properly following an eligibility and appeals process that is in compliance with the DOT ADA regulations. Although we acknowledge that having an acceptable process in place does not guarantee that it will be implemented as written, we have reviewed all of the documentation in your complaint file and have determined that ASI acted in accordance with the DOT ADA regulations.

Based on our determination, we consider your complaint to be closed. If you have any questions regarding our actions on your complaint, please contact Roger Peralta, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. I regret that we could not assist you further.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Mr. Richard DeRock

TCL-1



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 6 1998

[REDACTED]

Re: FTA Complaint Number 97060

Dear [REDACTED]

This letter responds to your complaint regarding the Pinellas Suncoast Transit Authority (PSTA) and the County Metropolitan Planning Organization (CMPO), both in Clearwater, Florida, and their potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigative process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that PSTA and CMPO do not provide fixed route service to the specially designed housing areas for individuals with disabilities, nor will PSTA and CMPO provide a fixed route bus stop at the Abilities of Florida campus on Whitney Road. We made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

According to the Federal Transit Laws at 49 U.S.C. 5324(c) which state:

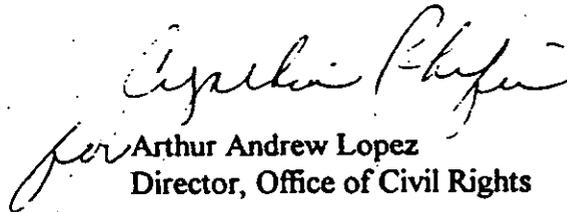
The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and after a grant is made, may not regulate any charge for the system.

-2-

This law prohibits DOT from involving itself in operational matters of local jurisdiction such as setting fares or the location, elimination, or temporary change of bus routes. Consequently, the location of bus stops is a matter left to the PSTA and the CMPO. Therefore, we consider this issue to be resolved.

We regret that we could not have been of more assistance to you in this matter. Based on this determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address, sandra.mccrea@fta.dot.gov, within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,


for Arthur Andrew Lopez
Director, Office of Civil Rights

cc: RGMA, Inc.

7CC-7



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20599

FEB 6 1998

[REDACTED]

Re: FTA Complaint No. 95047

Dear [REDACTED]

This letter responds to your complaint regarding the Tri-County Metropolitan Transportation District of Oregon (Tri-Met), Portland, Oregon and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. On July 4, 1994, you were attacked by a Tri-Met bus operator, causing you to fall of the bus and injure your face;
2. Tri-Met continues to refuse your claim for damages; and
3. Tri-Met bus operators are continuously rude to you.

We informed Tri-Met of your allegations and requested information relating to your complaint; reviewed the information presented by Tri-Met and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

- 1. On July 4, 1994, you were attacked by a Tri-Met bus operator, causing you to fall off the bus and injure your face.**

The DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Also, the DOT ADA regulation at 49 CFR 37.5 states:

It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct.

Based on the review of witness accounts, and based on your attorney's private investigator's findings, we were unable to substantiate your allegation that the Tri-Met bus operator intentionally attacked you during the July 4, 1994, incident. Tri-Met acknowledged that this incident was indeed very disturbing and the bus operator involved in this incident was reprimanded for the way he handled the situation. In addition, the operator was also given a refresher course on the customer service policy, with special attention to assisting passengers with disabilities.

Based on the facts presented, we do not find that Tri-Met violated the DOT ADA regulation when the driver tried to remove you from the bus for what he believed was disruptive and illegal behavior. We advise you to continue to work with Tri-Met and your local government officials to resolve any other concerns you might have about this incident. Based on the foregoing, we consider this issue to be resolved.

- 2. Tri-Met continues to refuse your claim for damages.**

As previously stated, the ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant.

- 3. Tri-Met bus operators are continuously rude to you.**

The DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

-3-

Tri-Met stated that for each operator that could be identified, each were individually counseled how to best provide customer service. They were reminded that special assistance is often required from disabled passengers and that they must accommodate them to the best of their abilities within the parameters of the law. They were also instructed that they must respect all customers, regardless of how rude a passenger behaves.

Tri-Met advised that it provides training and retraining to all operators on every aspect of ADA compliance. This training includes instruction in areas such as: ADA laws and regulations, ADA sensitivity training, stop announcement, defensive driving, and behind the wheel driver training.

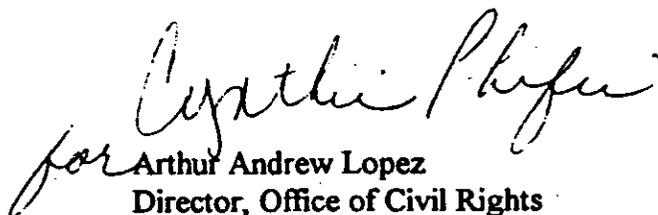
Since Tri-Met does reprimand and counsel employees found to be in violation of their ADA sensitivity policies, and provides in-depth ADA training, we do not find Tri-Met in violation with this provision of the DOT ADA regulation. However, after an incident of this nature, it is not unlikely that some drivers might have preconceptions regarding interacting with you. We have informed Tri-met, that under no circumstances will any form of retaliation be condoned or permitted by any of their drivers. The DOT ADA regulation at 49 CFR 27.123 (e) states:

No employee or contractor of a recipient shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 504 of the Act or this part or because the individual has made a complaint, testified, assisted, or participated in any manner in an investigation, hearing, or proceeding, under this part.

If you find that Tri-Met's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, we encourage you to continue to work with Tri-Met and your local government officials to ensure that Tri-Met complies with these provisions of the DOT ADA regulations. Based on the foregoing, we consider this issue to be resolved.

Based on our determination, we consider your complaint to be closed. If you have any questions regarding our actions on your complaint, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,


for Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Gardner Consulting Planners



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 6 1998

[REDACTED]

Re: FTA Complaint No. 97184

Dear [REDACTED]

This letter responds to your complaint regarding the Tri-County Metropolitan District of Oregon (Tri-Met) in Portland, Oregon, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that Tri-Met discriminated against you by demanding that you relinquish your seat in the area designated for the disabled and elderly, so that the driver may accommodate a person using a wheelchair. We informed Tri-Met of your allegations, requested information relating to your complaint and reviewed the information presented by Tri-Met and yourself, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

The DOT ADA regulation at 49 CFR 37.167 (j)(1) and (3) states:

When an individual with a disability enters a vehicle, and because of a disability, the individual needs to sit in a seat or occupy a wheelchair securement location, the entity shall ask the following persons to move in order to allow the individual with a disability to

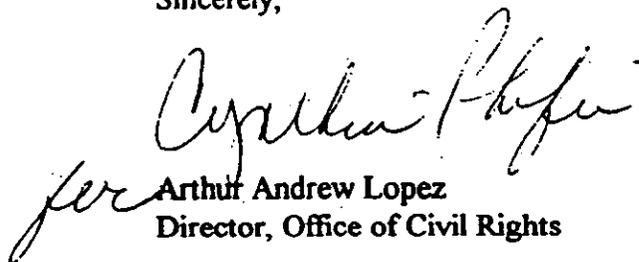
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occupy the seat or securement location; (i) Individuals, except other individuals with a disability or elderly person, sitting in a location designated as priority seating for elderly and handicapped persons (or other seats as necessary); (ii) Individuals sitting in a fold-down or other movable seat in a wheelchair securement location... (3) The entity is not required to enforce the request that other passengers move from priority seating areas or wheelchair securement locations.

Tri-Met's policy states that people without disabilities, sitting in a regular priority, will be asked, but not forced, to transfer to another seat if a person with a disability or an elderly person boards the bus. Furthermore, a person without a disability *or a person with a disability, who does not require the use of a wheelchair*, will be asked, but not forced, to transfer from a wheelchair securement location seat, when a passenger in a wheelchair boards the bus. Since you do not require the use of a wheelchair, the DOT ADA regulations permits Tri-Met to ask, but not force, you to transfer to another seat to accommodate a passenger in a wheelchair. We find that Tri-Met's policy does not violate this provision of the DOT ADA regulation. Therefore, we consider this issue to be resolved.

Based on this determination, we will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter. If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: eugene.jenkins@fta.dot.gov. If we do not hear from you within that time period, we consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. We regret that we could not assist you in this matter.

Sincerely,


for Arthur Andrew Lopez
Director, Office of Civil Rights

TCK



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 6 1998

[REDACTED]

Re: FTA Complaint Number 95006

Dear [REDACTED]

This letter responds to your complaint regarding the Metropolitan Transit Authority (MTA) in Nashville, Tennessee, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of the complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA may also refer the matter to the US Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Bus drivers do not make stop announcements at the Petway Transit Center making it difficult for you to know which bus to enter.
2. Wheelchairs users get priority for round trips on the paratransit system.

We informed MTA of your allegations and requested information relating to your complaint; reviewed the information presented by MTA and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. Below we have restated your allegations, followed by our determination.

- 1. Bus drivers do not make stop announcements at the Petway Transit Center making it difficult for you to know which bus to enter.**

The DOT ADA regulation at 49 CFR 37.167(c) states:

Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

MTA did acknowledge that it did have an imperfect system for making stop announcements at the Petway Transit Center, especially during peak hours, when several routes, thousands of riders, and noise levels, impacts on stop announcements being heard and flip cards being seen. To address this problem, MTA advised that it is in the process of acquiring eight braille/push button information posts that will announce the routes and the braille information will also describe the routes. MTA states that four of these posts will be installed at Petway, two at Landport Arena, and two at Landport-CXS, which is a new transit center to be opened in February 1998. MTA assured FTA that this new technology would be installed within 60 days of the opening of Landport-CXS, but until that time, MTA will continue enforcing its current policy that operators make stop announcements when they arrive at the Petway Transit Center.

Although we understand your concern about stop announcements and flash cards not having the effect intended, since MTA is replacing this system with new technology, and is constantly monitoring and enforcing its current stop announcement policy, we do not find that MTA is in violation of this provision of the DOT ADA regulations. We encourage you to continue to work with MTA and your local government officials to ensure that MTA's braille/push button information posts are installed, maintained and utilized as intended. Based on the foregoing, we consider this issue to be resolved.

- 2. Wheelchairs users get priority for round trips on the paratransit system.**

The DOT ADA regulation at 49 CFR 37.5(a) states:

No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

Without specific instances when priority was given to individuals in wheelchairs, we were unable to substantiate your allegation. Nevertheless, we requested that MTA explain its policy regarding scheduling round trips on its paratransit system. MTA informed FTA that on occasions, some customers are unable to request round trips when all available vehicles are booked. However, if space is only available for one direction of the trip, then that trip is offered. MTA advised that priority is not given to customers in wheelchairs or any other group of disabled riders.

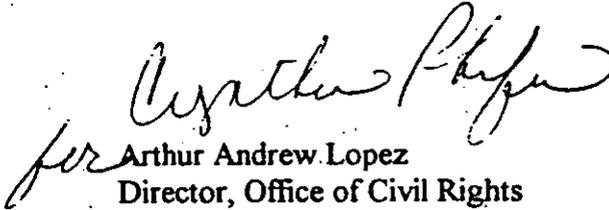
-3-

Because we were unable to substantiate this allegation, we do not find MTA in violation with this provision of the DOT ADA regulation. Therefore, we consider this issue to be resolved at this time.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although MTA's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511 or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,


for Arthur Andrew Lopez
Director, Office of Civil Rights

cc: RGMA, Inc



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 10 1998



Re: FTA Complaint Number 97027

Dear 

This letter responds to your complaint regarding New Jersey Transit (NJT) of Newark, New Jersey, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that NJT unfairly denied your son, David Tag, unconditional paratransit eligibility. We informed NJT of your allegation and requested information relating to your complaint; reviewed the information presented by NJT and you; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations.

The DOT ADA regulation at 49 CFR 37.123(b) states:

If an individual meets the eligibility criteria of this section with respect to some trips but not others, the individual shall be ADA paratransit eligible only for those trips for which he or she meets the criteria.

The ADA is a civil rights statute, not a transportation or social service statute. This means that individuals with disabilities are to be offered nondiscriminatory access to fixed route service. Complementary paratransit service is intended to be a "safety net" for those who cannot use the fixed route service. The ADA intends for this to be strictly interpreted.

In accordance with the DOT ADA regulation, a person may be paratransit eligible for some trips but not others. If a person is able to access the fixed route system under some circumstances, but not others, the individual would be eligible for paratransit service only at those instances they are unable to use the fixed route system. For example, someone whose impairment-related condition is a severe sensitivity to temperature below 20 degrees is not prevented from using fixed route transit when the temperature is 75 degrees.

Eligibility is not judged solely by a person's disability, but rather a person's disability combined with their functional ability to use the fixed route system. To be a basis for eligibility, the condition must prevent the individual from traveling to a boarding location or from a disembarking location. The word "prevent" is very important. For anyone going to a bus stop and waiting for a bus is more difficult and less comfortable than waiting for a vehicle at one's home. This is likely to be all the more true for a person with a disability. But for many persons with disabilities, in many circumstances, getting to the bus stop is possible.

In the Department's view, a case of "prevented travel" can be made only where traveling is literally impossible (e.g., someone cannot find the bus stop, someone cannot push a wheelchair through a foot of snow or up a steep hill, etc.), but also where the difficulties are so substantial that a reasonable person with the impairment-related condition in question would be deterred from making the trip.

Because you indicated in your application that you can use fixed route service independently under some conditions, combined with your in-person functional assessment conducted by NJT on October 30, 1996, confirms that your disabilities do not prevent you from using the fixed route service. We find that NJT did not violate the DOT ADA regulation with regards to this provision of the DOT ADA regulation. Therefore, we consider this issue to be resolved.

Based on this determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Cylinda Queen, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address, cylinda.queen@fta.dot.gov, within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please include the FTA complaint number on any correspondence with this office. We regret that we could not assist you in this matter.

Sincerely,

Arthur Andrew Lopez
Director, Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

TE 67
400 Seventh St., S.W.
Washington, D.C. 20

FEB 12 1998

[REDACTED]

Re: FTA Complaint No. 95165

Dear [REDACTED]

This letter responds to your complaint regarding the New Jersey Transit Corporation (NJ Transit) in Newark, New Jersey, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. On December 17, 1994, you were passed by a NJ Transit bus driver even though you had signaled for him to stop;
2. After confronting this particular bus driver at a nearby traffic light, you were informed that you could not board the bus because you had not given one-day notice that you had special transportation needs.
3. The NJ Transit bus driver did not know how to operate his vehicle's wheelchair lift and this deficiency is commonplace among NJ Transit's bus drivers.

We informed NJ Transit of your allegations and requested information relating to your complaint; reviewed the information presented by NJ Transit and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. **On December 17, 1994, you were passed by a NJ Transit bus driver even though you had signaled for him to stop.**

The DOT ADA regulation at 49 CFR 37.5 (b) states:

Notwithstanding the provision of any special transportation service to individuals with disabilities, an entity shall not, on the basis of disability, deny to any individual with a disability the opportunity to use the entity's transportation service for the general public, if the individual is capable of using that service.

NJ Transit advised that it was unable to verify this allegation because the bus driver involved in this incident has passed away. However, NJ Transit assured FTA that incidents like this, are not tolerated, and if substantiated, the driver would have received disciplinary action. NJ Transit also stated that all drivers must stop for disabled passengers and are informed of this policy in NJ Transit's mandatory ADA training. Since we were unable to substantiate this allegation, we do not find NJ Transit in violation with this provision of the DOT ADA regulation. Based on the foregoing, we consider this issue to be resolved. However, if this happens again please contact NJ Transit immediately so that they can act in accordance with their representations.

2. **After confronting this particular bus driver at a nearby traffic light, you were informed that you could not board the bus because you had not given one-day notice that you had special transportation needs.**

The DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

According to NJ Transit, from the information you provided, the driver in question would have been in violation of their fixed route ADA policy when you were told that you could not board the bus because you had not given one-day notice. However, as previously mentioned, NJ Transit could not verify that such a violation occurred because the driver passed away. It is NJ Transit policy that when requesting paratransit service one day notice must be given, but this is not the policy for its fixed route service.

Because we were unable to substantiate this allegation, we will consider this issue to be resolved at this time. However, if you encounter any additional problems on NJ Transit fixed route system, we encourage you to continue to work with NJ Transit and your local government officials regarding this issue.

- 3. The NJ Transit bus driver did not know how to operate his vehicle's wheelchair lift and this deficiency is commonplace among NJ Transit bus drivers.**

As previously mentioned, the DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Without specific names of drivers, incident dates, bus routes, or bus number (except for the driver who has passed away), we were unable to substantiate this allegation. We requested NJ Transit to verify that it provides ADA training for its fixed route operators. NJ Transit provides mandatory ADA/sensitivity training for all of its bus operators and also provides an additional operator's refresher training program that includes a review of the ADA, customer sensitivity/needs, accessible equipment training, and lift and securement use. NJ Transit stated that all drivers must cycle their lifts before leaving the bus yard for each shift.

Because we were unable to substantiate this allegation, and NJ Transit does provide mandatory ADA training for its drivers and requires lifts to be cycled, we do not find NJ Transit in violation with this provision of the DOT ADA regulation. Therefore, we consider this issue to be resolved at this time.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although NJ Transit's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: CompuCon, Inc

TCL-20



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 12 1998

[Redacted]

Re: FTA Complaint No. 98019

Dear [Redacted]

This letter responds to your complaint against the Transit Authority of Northern Kentucky (TANK), Fort Wright, Kentucky, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your concern to be that TANK intends to contract out its existing ADA complementary paratransit service and to raise its fares. We understand that on January 14, 1998, the TANK Board of Directors voted against the proposal. However, for your future information, the DOT ADA regulation states at Section 37.23(a):

When a public entity enters into a contractual or other arrangement of relationship with a private entity to operate fixed route or demand responsive service, the public entity shall ensure that the private entity meets the requirements of this part that would apply to the public entity is the public entity itself provided the service.

The subcontractor must "stand in the shoes" of the public entity. This ensures that the public entity such as TANK cannot avoid its ADA responsibilities by entering into a contract.

-2-

Although we are sensitive to and concerned about the needs of the transit customers, FTA is prohibited by the Federal Transit Laws, as codified under 49 U.S.C., Section 5324(c) "Prohibitions Against Regulating Operations and Charges," from becoming involved in local decisions regarding transit operations. According to 49 U.S.C., Section 5324(c):

The DOT is prohibited from involving itself in operational matters of local jurisdiction such as setting fares, relocation, elimination, or temporary change of bus routes.

We recommend that you continue to express your concerns to TANK as well as other local elected officials regarding this issue.

We regret that we could not assist you further in this matter. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, roger.peralta@fta.dot.gov, within thirty days from the date of this letter. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 12 1998

[REDACTED]

Re: FTA Complaint Number 97049

Dear [REDACTED]

This letter responds to your complaint regarding Niagara Frontier Transportation Authority (NFTA) of Buffalo, New York, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that NFTA unfairly denied you unconditional paratransit eligibility. We informed NFTA of your allegation and requested information relating to your complaint; reviewed the information presented by NFTA and you; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations.

The ADA is a civil rights statute, not a transportation or social service statute. This means that individuals with disabilities are to be offered nondiscriminatory access to fixed route service. Complementary paratransit service is intended to be a "safety net" for those who cannot use the fixed route service. The ADA intends for this to be strictly interpreted.

-2-

The DOT ADA regulation at 49 CFR 37.123(b) states:

If an individual meets the eligibility criteria of this section with respect to some trips but not others, the individual shall be ADA paratransit eligible only for those trips for which he or she meets the criteria.

Section 37.123(e)(3)(ii) states:

Architectural barriers not under the control of the public entity providing fixed route service and environmental barriers (e.g., distance, terrain, weather) do not, standing alone, form a basis for eligibility under this paragraph. The interaction of such barriers with an individual's specific impairment-related condition may form a basis for eligibility under this paragraph, if the effect is to prevent the individual from traveling to a boarding location or from a disembarking location.

In the Department's view, a case of "prevented travel" can be made only where traveling is literally impossible (e.g., someone cannot find the bus stop, someone cannot push a wheelchair through a foot of snow or up a steep hill, etc.), but also where the difficulties are so substantial that a reasonable person with the impairment-related condition in question would be deterred from making the trip.

We understand that you were re-certified by NFTA for conditional eligibility on July 3, 1997. NFTA acknowledged that the deteriorated condition of sidewalks along your path of travel and the lack of an accessible route to the Number 4 Broadway bus prevents you from using fixed route transportation when traveling from your residence. It appears that NFTA's determination is in accordance with the DOT ADA regulation as cited above. Therefore, we will consider this issue to be resolved.

Based on this determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Cylinda Queen, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: cylinda.queen@fta.dot.gov, within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please include the FTA complaint number on any correspondence with this office. We regret that we could not assist you in this matter.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Mr. Richard T. Swist, Executive Director, NFTA
Ms. Karen J. Rae, Deputy Manager of Metro

111



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20591

FEB 12 1998

Mr. Michael H. Abell
Advocacy Specialist
Arizona Bridge to Independent Living
1229 E. Washington
Phoenix, Arizona 85034

Re: FTA Complaint Number 97057

Dear Mr. Abell:

This letter responds to your complaint regarding the Phoenix Transit System (PTS) in Phoenix, Arizona, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify a possible violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

We understand your allegations to be that PTS bus driver number 61, required you to show an identification card for your service animal, and the same driver retaliated against you for filing a previous complaint against him. We informed PTS of your allegations and requested information relating to your complaint; reviewed the information presented by PTS and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations.

The DOT ADA regulations at 49 CFR 37.167(d) state,

The entity shall permit service animals to accompany individuals with disabilities in vehicles and facilities.

Also, the DOT ADA regulation at 49 CFR Part 27.123(e), states:

No employee or contractor of a recipient shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 504 of the Act or this part or because the individual has made a complaint, testified, assisted, or participated in any manner in an investigation, hearing, or proceeding, under this part.

In response to your concerns, PTS acknowledged that the operator in question made an error when he asked you for an identification card on November 14, 1995. PTS stated that it counseled and advised the driver that persons with disabilities may not be asked for identification cards or any type of certification for their service animals. PTS verified that it informed you of its actions and apologized to you in a letter dated November 27, 1995, from Mr. Phillip Hanley, Assistant General Manager, Operations.

PTS also advised that under no circumstances will any form of retaliation be permitted. When it was confirmed the same operator again asked you on February 29, 1996, to produce identification and certification for your service animal, the operator received a five-day suspension. Moreover, PTS stated that this driver is no longer employed by PTS.

Based upon the corrective and disciplinary actions they have taken, we do not find PTS to be in violation with these provisions of the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter. If you have any questions regarding this decision, please contact Sandra Jackson-McCrea, Equal Opportunity Specialist, of my staff, on FTA's ADA Assistance Line at 1-888-446-4511 or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: RGMA, Inc.

100



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 205

FEB 12 1998

[REDACTED]

Re: FTA Complaint No. 97131

Dear [REDACTED]

This letter responds to your complaint regarding Cobb Community Transit (CCT) in Marietta, Georgia, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be that CCT's ADA complementary paratransit system does not provide you with paratransit service from your residence in Cobb County to your place of employment in DeKalb County.

The DOT ADA regulation at Section 37.131(a)(3), "Jurisdictional Boundaries" states:

Notwithstanding any other provision of this paragraph, an entity is not required to provide paratransit service in an area outside the boundaries of the jurisdiction(s) in which it operates, if the entity does not have legal authority to operate in that area. The entity shall take all practicable steps to provide paratransit service to any part of its service area.

Also applicable is Section 37.121(c) of the DOT ADA regulation which states that "Requirements for complementary paratransit do not apply to commuter bus, commuter rail, or intercity rail systems."

According to CCT, the bus service that you ride between Johnson Ferry Baptist Church and the Dunwoody train station is a commuter bus line. As stated above, commuter bus routes are not required by the DOT ADA regulation to be serviced by ADA complementary paratransit. It appears that CCT meets the service criterion for "service area" under the DOT ADA regulation.

We have received a letter dated October 20, 1997, from Mary Shavaliar, CCT Division Manager, which states that CCT has worked with you to improve your commute. I sincerely hope that you are spending less time each day traveling to work.

Based on the above, we will take no further action on your complaint and will consider it closed unless we hear from you within 30 days of the date of this letter. If you have any questions regarding this determination, please contact Eugene Jenkins, Equal Opportunity Specialist, of my staff, at our toll free ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: eugene.jenkins@fta.dot.gov. I regret that we could not be of further assistance.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Cobb Community Transit

TCL



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 17 1998

[REDACTED]

Re: FTA Complaint Number 94194

Dear [REDACTED]

This letter responds to your complaint regarding the Dallas Area Rapid Transit (DART) in Dallas, Texas, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. DART drivers are rude and insensitive.
2. DART drivers mistreated your service animal.
3. DART divulged confidential information about you to other agencies without your permission.
4. DART's does not have an effective procedure for requesting information in an accessible format.

We informed DART of your allegations and requested information relating to your complaint; reviewed the information presented by DART and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. DART drivers are rude and insensitive.

The DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Without the names of specific DART operators, bus number or date and time of incident, we were unable to substantiate your allegation of drivers not announcing bus stops. Nevertheless, we obtained the following information from DART relating to driver training.

DART provides mandatory ADA training for all current and newly hired drivers. In addition, weekly refresher courses on ADA issues are available to operators. This training includes instruction in areas such as: ADA laws and regulations, ADA sensitivity training, defensive driving, stop announcements, and behind the wheel driver training. DART further advised that you should bring any incidents of rudeness or insensitivity to its attention by calling its Paratransit Services Control Center. DART contends that all complaints will be investigated and if infractions are substantiated, drivers will be disciplined.

Since we were unable to substantiate specific allegations of drivers not complying with DART's ADA sensitivity policy, we do not find DART in violation with this provision of the DOT ADA regulation. If you find that DART's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, we encourage you to continue to work with DART and your local government officials to ensure that DART complies with this provision of the DOT ADA regulation. Based on the foregoing, we consider this issue to be resolved.

2. DART drivers mistreated your service animal.

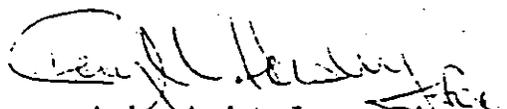
It is my understanding that this allegation has been resolved to your satisfaction. Therefore, we consider this issue to be resolved.

-4-

reason why DART cannot mail information in accessible formats to individuals who have previously indicated a need for such materials.

We will continue to work with DART to resolve this issue and will advise you of the final outcome as soon as an agreement has been reached. Thank you for bringing all of your concerns to our attention. If we can be of further assistance or if you have any questions regarding this matter, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Arthur Andrew Lopez, Director
Office of Civil Rights

cc: Roger Snoble, DART
RGMA, Inc.

106



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 17 1998

[REDACTED]

Re: FTA Complaint Number 97088

Dear [REDACTED]

This letter responds to your complaint regarding the San Francisco Bay Area Transit District, (BART), in Oakland, California, and potential noncompliance with the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that BART ticket agents, supervisory and other staff at the Main Berkley BART Station on Shattuck Avenue are rude and insensitive to individuals who use walkers or other mobility aids. We informed BART of your allegations, requested information relating to your complaint, and reviewed the information presented by BART and yourself. We made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations.

The DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

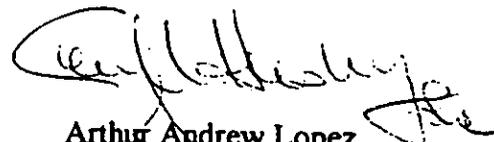
-2-

In response to your concerns, BART advised that it did investigate two complaints from you at a station agent on March 2, 1996, and a third incident you reported to customer services on May 29, 1996. BART states that it was unable to substantiate any infractions because its attempts to get your version of the events were unsuccessful. The station agent received counseling on her behavior and was advised to avoid any further confrontation with patrons in the future. FTA has made it clear to our grantees, such as BART, that retaliatory conduct will not be tolerated. We understand that you were reluctant to speak with officials from BART or our investigators. This made it difficult to substantiate your allegations. Nonetheless, we have notified BART that if this matter has occurred that they must make it a priority to ensure it never happens again.

Since we were unable to substantiate your specific allegation, we do not find BART in violation with this provision of the DOT ADA regulation. If you find that BART's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, we encourage you to continue to work with BART and your local government officials to ensure that BART complies with this provision of the DOT ADA regulation. Based on the foregoing, we consider this issue to be resolved.

We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff on FTA's ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,


Arthur Andrew Lopez
Director, Office of Civil Rights

cc: RGMA, Inc.



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 19 1998

[REDACTED]

Re: FTA Complaint No. 97024

Dear [REDACTED]

This letter responds to your complaint regarding the Capital Metropolitan Transit Authority (Capital Metro) in Austin, Texas, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. On several occasions Capital Metro bus operators required you to move from your seat in the area designated for elderly and disabled persons so that another person with a disability could sit there;
2. On one occasion, a bus operator did not make stop announcements; and
3. On one occasion, a bus operator refused to assist you to "let down" the folding seats in the wheelchair securement area so that you could sit.

We informed Capital Metro of your allegations, requested information relating to your complaint and reviewed the information presented by Capital Metro and yourself, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determination, below:

1. On several occasions, Capital Metro bus operators required you to move from your seat in the area designated for elderly and disabled persons so that another person with a disability could sit there.

The DOT ADA regulation at 49 CFR 37.167 (j)(1) and (3) states:

(1) When an individual with a disability enters a vehicle, and because of a disability, the individual needs to sit in a seat or occupy a wheelchair securement location, the entity shall ask the following persons to move in order to allow the individual with a disability to occupy the seat or securement location: (i) Individuals, except other individuals with a disability or elderly person, sitting in a location designated as priority seating for elderly and handicapped persons (or other seats as necessary); (ii) Individuals sitting in a fold-down or other movable seat in a wheelchair securement location;

(3) The entity is not required to enforce the request that other passengers move from priority seating areas or wheelchair securement locations.

According to the DOT ADA regulation, the transit provider must ask, but not require, persons without apparent disabilities who are seated in a priority seating area to transfer to accommodate a person with a disability. Capital Metro bus operators were acting in accordance with the DOT ADA regulation by asking you to move. However, we have cautioned Capital Metro to ensure that its bus operators do not demand that passengers relinquish their seats.

On July 1, 1997, Capital Metro issued an "Operator Alert" to its employees to clarify its policy regarding this requirement. It states

All operators are requested to adhere to ADA regulations regarding reserved seating for passengers with disabilities and senior citizens. In the event that seating is needed by an elderly or a person with a disability, please use your best judgment when attempting to accommodate these passengers. Some disabilities are not outwardly apparent. If there is any question to whether the person in the reserve seat is qualified, the operator should request the passenger to show their Mobility Impaired I.D. card or Senior I D card.

Nowhere in the DOT ADA regulation is an operator authorized to demand a certificate or proof of disability before allowing the use of an accessibility feature such as priority seating or the wheelchair lift. We believe that Capital Metro's policy to require a person with a disability to show an identification card as proof of disability is a deficiency under the DOT ADA regulations and have informed Capital Metro of this determination.

2. On one occasion a driver did not make stop announcements.

The DOT ADA regulation at 49 CFR 37.167 (b)(1) and (2) states:

(1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location.

(2) The entity shall announce any stop upon request of an individual with a disability.

The facts of this incident are contradictory. You state that the bus operator did not announce stops, and Capital Metro claims that two witnesses to the incident affirm that the bus operator did announce stops. We remind Capital Metro by copy of this letter that its bus operators are required to announce stops as stated above. However, because your allegation is unsubstantiated, we will take no further action on this issue.

3. On one occasion, a bus operator refused to "let down" the folding seats in the wheelchair securement area so that you could sit.

The DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand response system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

All bus operators at Capital Metro are required to undergo disability sensitivity training. In addition, they are issued an Operator's Rule Book that contains information about serving persons with disabilities.

Capital Metro investigated this allegation and states that a passenger using a wheelchair had exited the bus shortly before you asked the operator for assistance with the fold-down seat. The bus was loaded to standing room only, and the driver was unable to safely assist with the fold-down seat until the next stop. A transit official to whom you complained reminded the operator of the importance of assisting passengers, particular those passengers with disabilities, and apologized for the oversight. It appears that this incident was appropriately handled at the time it occurred; therefore, we will take no further action on this allegation.

In conclusion, the DOT ADA regulations at Appendix D to 49 CFR 37.11 require that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." With the exception of

requiring identification cards, we do not find Capital Metro to be deficient under the DOT ADA regulations. We have addressed this issue separately with Capital Metro.

We will consider your complaint file to be closed unless we hear from you within thirty days from the date of this letter. If you have any questions regarding your complaint, please contact Eugene Jenkins, Equal Opportunity Specialist, of my staff, at our toll free ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: eugene.jenkins@fta.dot.gov. Thank you for bringing this matter to our attention.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Nancy Crowther
Community Relations
Capital Metropolitan Transportation Authority

100



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 19 1998

[REDACTED]

Re: FTA Complaint Number 97032

Dear [REDACTED]

This letter responds to your complaint regarding Pierce Transit of Tacoma, Washington, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that Pierce Transit has incorrectly denied you ADA complementary paratransit eligibility. We informed Pierce Transit of your allegation and requested information relating to your complaint, reviewed the information presented by Pierce Transit and you, and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations.

The ADA is a civil rights statute, not a transportation or social service statute. This means that individuals with disabilities are to be offered nondiscriminatory access to fixed route service. Complementary paratransit service is intended to be a "safety net" for those who cannot use the fixed route service. The ADA intends for this to be strictly interpreted.

Under the DOT ADA regulation at Section 37.125, Pierce Transit is required to establish a process for determining ADA paratransit eligibility. The process is used to determine whether the individual has the ability to use fixed route transportation. This is a transportation decision primarily, not a medical decision. In addition, Section 37.125(g) requires transit providers to establish an administrative appeals process through which individuals who are denied eligibility can appeal the decision. The administrative appeals process is intended to provide applicants who have been denied eligibility the opportunity to have their cases heard by other officials who are independent of the one who originally denied eligibility.

The documentation in your file indicates that your evaluation in December 1995, resulted in a determination by Pierce Transit that you were not ADA paratransit eligible. You appealed this decision, and on January 18, 1996, Pierce Transit concluded that you were ineligible for its ADA complementary paratransit service because you are able to board, ride and disembark from fixed route vehicles. You were again denied eligibility in October 1996, because your medical condition and functional abilities remained unchanged.

FTA's policy when reviewing complaints concerning eligibility determinations is to verify that the transit provider is properly following an eligibility and appeals process that is in compliance with the DOT ADA regulations. Although we acknowledge that having an acceptable process in place does not guarantee that it will be implemented as written, we have reviewed all of the documentation in your complaint file and have determined that Pierce Transit acted in accordance with the DOT ADA regulations.

Based on our determination, we consider your complaint to be closed. If you have any questions regarding our actions on your complaint, please contact Cylinda Queen, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: cylinda.queen@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. I regret that we could not assist you further.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

cc: Pierce Transit

TCL



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 19 1998

[REDACTED]

Re: FTA Complaint No. 96001

Dear [REDACTED]

This letter responds to your complaint regarding Access Services, Inc. (ASI) of Los Angeles, California, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that ASI unfairly denied you unconditional paratransit eligibility. We informed ASI of your allegation and requested information relating to your complaint; reviewed the information presented by ASI and you; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations.

The DOT ADA regulation at 49 CFR 37.123(b) states:

If an individual meets the eligibility criteria of this section with respect to some trips but not others, the individual shall be ADA paratransit eligible only for those trips for which he or she meets the criteria.

The ADA is a civil rights statute, not a transportation or social service statute. This means that individuals with disabilities are to be offered nondiscriminatory access to fixed route service. Complementary paratransit service is intended to be a "safety net" for those who cannot use the fixed route service. The ADA intends for this to be strictly interpreted.

In accordance with the DOT ADA regulation, a person may be paratransit eligible for some trips but not others. If a person is able to access the fixed route system under some circumstances, but not others, the individual would be eligible for paratransit service only at those instances they are unable to use the fixed route system. For example, someone whose impairment-related condition is a severe sensitivity to temperature below 20 degrees is not prevented from using fixed route transit when the temperature is 75 degrees.

Eligibility is not judged solely by a person's disability, but rather a person's disability combined with their functional ability to use the fixed route system. To be a basis for eligibility, the condition must prevent the individual from traveling to a boarding location or from a disembarking location. The word "prevent" is very important. For anyone going to a bus stop and waiting for a bus is more difficult and less comfortable than waiting for a vehicle at one's home. This is likely to be all the more true for a person with a disability. But for many persons with disabilities, in many circumstances, getting to the bus stop is possible.

In the Department's view, a case of "prevented travel" can be made only where traveling is literally impossible (e.g., someone cannot find the bus stop, someone cannot push a wheelchair through a foot of snow or up a steep hill, etc.), but also where the difficulties are so substantial that a reasonable person with the impairment-related condition in question would be deterred from making the trip.

Because you use fixed route bus service regularly and proficiently, combined with your physical evaluation that determined you are prevented from using fixed route service only at times when temperatures are above 90 degrees or below 30 degrees, we do not find that ASI violated this provision of the DOT ADA regulation when you were denied unconditional eligibility. Therefore, we consider this issue to be resolved.

Based on this determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov, within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please include the FTA complaint number on any correspondence with this office. We regret that we could not assist you in this matter.

Sincerely,


Arthur Andrew Lopez
Director, Office of Civil Rights

Clifton



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 25 1998

[REDACTED]

Re: FTA Complaint Number 97042

Dear [REDACTED]

This letter responds to your complaint regarding the Glendale Beeline Transit (Beeline) in Glendale, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of the complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA may also refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. On numerous occasions, you waited up to an hour for a fixed route Beeline bus with an operative lift.
2. Some Beeline drivers are not properly trained on how to deploy lifts.

We informed Beeline of your allegations and requested information relating to your complaint; reviewed the information presented by Beeline and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determination, below:

1. **On numerous occasions, you waited up to an hour for a fixed route Beeline bus with an operative lift.**

The DOT ADA regulation at 49 CFR 37.163 (b) through (f) states:

(b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative. (c) The entity shall ensure that vehicles operators report to the entity, by the most immediate means available, any failure of a lift to operate in service. (d) Except as provided in paragraph (e) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service. (e) If there is no spare vehicle available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than five days (if the entity serves an area of 50,000 or less population) or three days (if the entity serves an area of over 50,000 population) from the day on which the lift is discovered to be inoperative. (f) In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

Without the specific dates, times, bus routes or driver information, we were unable to substantiate this allegation. Nevertheless, we requested that Beeline verify that it has a system in place for maintaining its lifts in operative condition.

Beeline stated that it has a mandatory requirement that each operator must cycle the lift on their bus prior to leaving the yard, and if any lift is found to be malfunctioning, a mechanic is to be notified immediately to correct the problem. If the lift cannot be repaired, another bus is assigned to the operator to meet schedule needs. The mechanic will investigate the problem, and if the lift cannot be repaired, the bus is pulled out of service until repairs are completed. The bus must pass inspection before being returned to service. There are two supervisors in the garage monitoring the drivers to make sure drivers comply with all requirements. If a lift failure does occur while a bus is in service, the vehicle must be repaired before its next day of service. Beeline also stated that its system is 100% accessible and it has no headway in excess of 20 minutes.

It is my understanding that during your December 29, 1997, telephone conversation with Ms. Beverly Zeno, you informed her that service has improved tremendously, and you were no longer experiencing problems with inoperable lifts or waiting excessive lengths of time. Since Beeline has a system in place for maintaining lifts in operative condition, and you have confirmed that you are no longer experiencing lift problems, we do not find Beeline to be in violation with this provision of the DOT ADA regulation at this time. Based on the foregoing, we consider this issue to be resolved.

2. Some Beeline drivers are not properly trained on how to deploy lifts.

The DOT ADA regulation at 49 CFR 37.173 states:

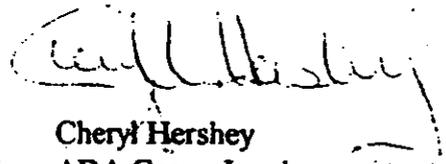
Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Again, without specific dates, times, bus route numbers, or driver information, we were unable to substantiate this allegation. However, we requested that Beeline verify that it provides a training program for its drivers that relates to wheelchair lift requirements and deployment. Beeline provided ADA training materials and the training records for each of its drivers. All drivers acknowledged that they received training in wheelchair lift requirements and deployment on every vehicle operated by Beeline, and that they understood they must follow all policies and procedures pertaining to operating wheelchair lifts. Beeline stated that many drivers have been given refresher courses on the operation of lifts to ensure that incidents, of which you complained, do not occur.

Since Beeline has a training program for its operators in regards to wheelchair lift requirements and deployment, we do not find Beeline to be in violation with this provision of the DOT ADA regulation. If you experience any other difficulties regarding lift use by Beeline operators, we encourage you to continue to work with Beeline and your local government officials to ensure that they comply with this provision of the DOT ADA regulation. Based on the foregoing, we consider this issue to be resolved.

We will take no further action on your complaint unless we hear from you within thirty days from the date of this letter. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on FTA's toll free ADA Assistance Line, at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl Hershey
ADA Group Leader
FTA Office of Civil Rights

cc: RGMA, Inc

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U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20566

MAR 2 1998

[REDACTED]

Re: FTA Complaint Number 97078

Dear [REDACTED]

This letter responds to your complaint regarding the Bloomington Public Transportation Corporation (BPTC) of Bloomington, Indiana and potential noncompliance with the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT/ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies of the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complaint. If FTA cannot resolve apparent violations of the ADA or the DOT/ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. BPTC denied you service when it used small Orion buses, instead of the larger Gillig buses.
2. Some BPTC bus drivers have been rude and discourteous towards you.

We informed BPTC of your allegations, requested information relating to your complaint and reviewed the information presented by BPTC and yourself, and made a determination in relation to the DOT/ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determination, below:

1. BPTC denied you service when it used small Orion buses, instead of the larger Gillig buses.

According to the Federal Transit Laws at 49 U.S.C. 5324(c) which state:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and after a grant is made, may not regulate any charge for the system.

This law prohibits DOT from involving itself in operational matters of local jurisdiction such as setting fares, the location, elimination, or temporary change of bus routes, or what buses are designated for service on each route. Consequently, the decision to use smaller Orion buses on your route is a matter left to the BPTC and not FTA. Therefore, we are unable to take action on this allegation.

2. Some BPTC bus drivers have been rude and discourteous towards you.

The DOT/ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful courteous way, and with appropriate attention to the difference among individuals with disabilities.

Without the specific names of operators, bus routes or dates of incidents, we were unable to substantiate this allegation. Nevertheless, we requested that BPTC verify that it conducts ADA training for its bus operators.

BPTC provided FTA with an overview of employee sensitivity training in working with persons with disabilities, and documentation of training on the use of ramps or lifts. BPTC advised that it is working hard to ensure that its drivers and staff are trained on disability issues. They also stated that they are endeavoring to make as many of their fixed route buses as possible accessible to persons with disabilities.

In response to your concerns, all drivers have been reminded of BPTC's policy which requires operators to lower lifts or ramps upon request. Also, all drivers have been provided additional training to ensure that the necessary assistance is provided to passengers who have difficulty maneuvering turns on ramp-equipped buses.

Since we were unable to substantiate this allegation, we do not find BPTC to be in violation with this provision of the DOT/ADA regulation. If you find that BPTC's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, we encourage you to continue to work with BPTC and your local government officials to ensure that BPTC complies with this provision of the DOT/ ADA regulation.

In conclusion, the DOT/ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operations errors." Although BPTC's actions caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT/ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on FTA's ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
FTA Office of Civil Rights

cc: RGMA, Inc.

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U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 4 1998

[REDACTED]

Re: FTA Complaint Number 92080

Dear [REDACTED]

This letter responds to your complaint regarding the Metro-North Commuter Railroad (Metro-North) in New York, New York, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973 (Section 504). In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Metro-North's conductors and assistant conductors do not inform individual with disabilities when a normally accessible station is temporarily inaccessible.
2. Metro-North's complaint procedure is inadequate.
3. Metro-North's conductors and assistant conductors are rude and insensitive to individuals with disabilities.

We informed Metro-North of your allegations, requested information relating to your complaint and reviewed the information presented by Metro-North and you. We made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. Below, we have restated your allegations followed by our determinations:

1. **Metro-North's conductors and assistant conductors do not inform individuals with disabilities when a normally accessible station is temporarily inaccessible.**

The DOT ADA regulation at 49 CFR 37.161 states:

(a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.

(b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

(c) This section does not prohibit isolation or temporary interruptions in service or access due to maintenance or repairs.

At the time you filed your complaint, Metro-North did acknowledge that on rare occasions announcements could not be heard in every car of a train. Also, without the specific dates, rail car numbers, or train numbers, we could only verify that these incidents were isolated, rare outages and not a systemwide compliance issue.

Outages of public address systems can occur, but it is up to Metro-North to take reasonable steps to accommodate individuals with disabilities when these incidents happen. Metro-North asserts that its announcement policy is strictly enforced by its supervisors and it says that it makes every reasonable effort to maintain accessible features in operating condition and to repair them promptly if damaged or out of order.

According to Metro-North, train crews are routinely monitored by inspectors from their Service Quality Department to ensure that announcements are being made and any exceptions to established performance standards are noted and forwarded to the Transportation Department for handling. If any employee has been found to violate any rules, corrective action, depending upon the nature of the infraction, can range from reinstruction up to a formal investigation. Any disciplinary action taken is in direct proportion to the severity of the rule violation and must be in compliance with established labor agreements.

Since Metro-North does have a policy that addresses the issue of temporary outages of rail car public address systems, we do not find Metro-North to be in violation with this provision of the

DOT ADA regulation. If you find that Metro-North's commitment to ensuring that all employees make stop announcements is inconsistent with these statements, we encourage you to continue to work with Metro-North and your local government officials to ensure that Metro-North complies with this provision of the DOT ADA regulation.

2. Metro-North's complaint process is inadequate.

Section 504 at 49 CFR 27.13 (b) states:

A recipient that employs fifteen or more persons shall, within 180 days, adopt and file with the head of the operating administration procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part.

Transit providers, as required by Section 504, must have a complaint process in place within 180 days of the implementation of service. The regulation does not provide any guidance as to what the complaint process must entail. It is up to each individual transit provider to determine how complaints, received by its agency, are handled. FTA's role is only to determine that a complaint process exists, not to critique the contents of the process. Metro-North stated that it does have a complaint process in place, and this information was confirmed by you in your complaint letter. Since Metro-North does have a complaint process, we do not find them in violation of our regulation.

3. Metro-North's conductors and assistant conductors are rude and insensitive to individuals with disabilities.

The DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful courteous way, and with appropriate attention to the difference among individuals with disabilities.

Without specific names, dates, or train numbers, we were unable to substantiate specific incidents of rude and insensitive employees. We requested that Metro-North verify that it provides ADA training for all of its employees. Metro-North advised that it provides annual ADA training for all employees and it periodically monitors all train crews' performances to ensure compliance with the its rules and regulations.

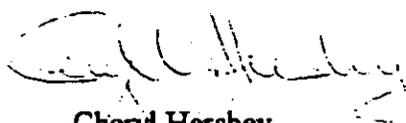
According to Metro-North, all substantiated infractions of its rules are followed up by a Transportation Supervisor for corrective action. Any disciplinary action taken is in direct proportion to the severity of the rule violation and must be in compliance with established labor agreements.

Since ADA training is provided to its employees, and corrective and disciplinary action is taken when necessary, we do not find Metro-North to be in violation with this provision of the DOT ADA regulation.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and pattern and practice kinds of problems, rather than on isolated operational errors." Although Metro-North's actions caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, on FTA's ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl Hershey
ADA Group Leader
FTA Office of Civil Rights

cc: RGMA, Inc.

TCL-20



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 10 1998

[REDACTED]

Re: FTA Complaint No. 97039

Dear [REDACTED]

This letter responds to your complaint regarding Santa Monica Municipal Bus Lines (SMMBL) of Santa Monica, California and potential noncompliance with the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Some SMMBL bus operators are hostile and indifferent in their treatment of individuals with disabilities.
2. Some SMMBL bus operators refuse to deploy the kneel mechanism for you. Specifically, on August 10, 1997, two SMMBL drivers refused to drive the bus to the curb and deploy the kneel to allow you to board.

We informed SMMBL of your allegations, requested information relating to your complaint, and reviewed the information presented by SMMBL and you. We made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. **Some SMMBL bus operators are hostile and indifferent in their treatment of individuals with disabilities.**

The DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

SMMBL informed FTA that each bus operator receives 8 to 10 hours of in-service training each year. Within this training, four videos tapes on ADA issues are presented along with lectures. Sensitivity training is also included in the program.

We understand that you believe that SMMBL's ADA training program is not as strong as it should be and request that we require SMMBL to obtain training from "Project Action." Although FTA provides the funding for "Project Action," we cannot require our grant recipients, such as SMMBL, to participate in its training opportunities. We did obtain a packet of information regarding "Project Action's" program to enclose in our closeout letter to SMMBL.

Although it appears that SMMBL has a training program that is in accordance with the DOT ADA regulation, we understand that providing training does not ensure that the lessons will be implemented. We have reminded SMMBL of its responsibility under this requirement and emphasized that retaliatory conduct will not be tolerated. We will be monitoring any future complaints for allegations of a similar nature.

The Department's enforcement priority is on failures to comply with basic requirements and "pattern and practice" kinds of problems, rather than on isolated operational errors. Based on a lack of other complaints against SMMBL, we do not have evidence at this time that this allegation constitutes a pattern or practice of noncompliance with the DOT ADA regulation.

If you find that SMMBL's commitment to ensuring that all employees treat persons with disabilities with courtesy and respect is inconsistent with these statements, we encourage you to continue to work directly with SMMBL and your local government officials to ensure that it complies with this provision of the DOT ADA regulation. Should you experience treatment that appears to be retaliation, please document the incident with witnesses if possible, and forward the information to us as soon as possible.

2. **Some SMMBLs bus operators refuse to deploy the kneel mechanism for you. Specifically, on August 10, 1997, two SMMBL drivers refused to drive the bus to the curb and deploy the kneel to allow you to board.**

The DOT ADA regulation at 49 CFR Section 37.167(e) states:

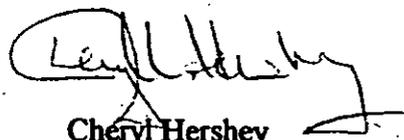
The entity shall ensure that vehicle operators and other personnel make use of accessibility-related equipment or features required by part 38 of this title.

SMMBL provided FTA with documentation of actions taken on all your complaints and correspondence dating back to January 1994. Regarding the August 1997 incidents, SMMBL acknowledges that one driver stated that they panicked and forgot where to locate the kneel mechanism. The other driver states that she tried to operate the kneel mechanism, but it failed. When SMMBL investigated this complaint, it discovered that the kneel mechanism was in working order. SMMBL advised that it discussed these incidents with each driver and took action in accordance with its discipline policy. These discussions will be included in the overall performance evaluation of each driver.

During your February 12, 1998, telephone conversation with Roberta Wolgast, ADA IHU Team Leader, you acknowledged that bus operators now consistently pull to the curb and operate the kneel mechanism in order for you to board. However, you allege that bus operators often do not provide this service to others who need it. Your hope in filing this complaint is that overall service to persons with disabilities as required by the DOT ADA regulation will be improved. We have relayed your concern to SMMBL and made suggestions for improvement. However, as in your first allegation, we do not have complaints from other persons that would indicate a pattern or practice of noncompliance.

Consequently, we will take no further action on your complaint and will consider your file to be closed, unless we hear from you within thirty days from the date of this letter. If you have any questions regarding this decision, please contact Ms. Roberta Wolgast, of my staff, at our toll free ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl Hershey
ADA Group Leader
FTA Office of Civil Rights



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 205
20F

MAR 10 1998

[REDACTED]

Re: FTA Complaint No. 94215

Dear [REDACTED]

This letter responds to your complaint regarding New York City Transit Authority (NYCT) in Brooklyn, New York, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of the complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. NYCT's paratransit service is not coordinated among subcontractors.
2. NYCT denied you a substantial number of trips between boroughs because of "wait listing"; you are often picked up late or not at all; and it is difficult to obtain reservations.
3. NYCT's paratransit vehicles in Brooklyn are uncomfortable for you.
4. NYCT's paratransit hours are not comparable to fixed route service hours.
5. NYCT's policy requiring Access-A-Ride customers to be outside at the pick-up location 15 minutes before the scheduled pick-up time is prohibitive to you, because you are unable to stand for long periods of time.

6. **NYCT did not inform you of the status of your application for subscription service.**

We informed NYCT of your allegations and requested information relating to your complaint, reviewed the information presented by you and NYCT, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations, followed by our determinations, below:

1. **NYCT's paratransit service is not coordinated among subcontractors.**

The Federal Transit Laws at 49 U.S.C. 5424(c) state:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and, after a grant is made, may not regulate any charge for the system.

This law prohibits FTA from involving itself in operational matters of local jurisdiction. Therefore, we will be unable to take any action on this allegation.

2. **NYCT denied you a substantial number of trips between boroughs because of "wait listing"; you are often picked up late or not at all; and it is difficult to obtain reservations.**

The DOT ADA regulation at 49 CFR 37.131(f) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: (1) Restrictions on the number of trips an individual will be provided; (2) Waiting lists for access to the service; or (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of significantly untimely pickups for initial or return trips; (B) Substantial numbers of trip denials or missed trips; (C) Substantial numbers of trips with excessive trip lengths.

You allege that you made 12 trip requests between June 1994 and February 1995, but received only four trips, which equaled a trip denial rate of 66 2/3 percent. NYCT acknowledges that it has had difficulty in meeting the demand for interborough trips (Brooklyn to Manhattan and return), which are extremely lengthy and frequently require "deadhead" trips. At the time of your complaint, the ADA complementary paratransit provider for the borough of residence of a paratransit eligible rider was responsible for taking reservations, scheduling and providing all trips for that rider, whether the rider was traveling between or within boroughs. In June 1997, NYCT implemented a centralized, automated reservation and dispatching system that became operational citywide on August 2, 1997. Although NYCT expects that significant operational changes and service improvements will result from the introduction of this automated system, it is still premature to analyze the improvements to service that have been realized from this new system.

The deadline for full implementation of the DOT ADA regulation complementary paratransit service requirements was January 26, 1997. It appears that NYCT may have experienced capacity constraint difficulties for interborough ADA complementary paratransit service since that date. However, as stated in the first paragraph of this letter, our goal is to work with the transit provider to voluntarily effect compliance. We believe that NYCT has taken positive steps to reach full compliance with the capacity constraints prohibition. We will continue to monitor its status as the new program is implemented, but we will take no further action on your individual complaint regarding this issue. We trust that subscription service has alleviated many of the difficulties that you have previously encountered. Thank you for bringing this to our attention.

3. NYCT's paratransit vehicles in Brooklyn are uncomfortable for you.

The DOT ADA regulation at 49 CFR 37.161 states:

- (a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.
- (b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.
- (c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

We regret that you may be experiencing some discomfort as you ride NYCT's paratransit vehicles; however, you do not raise this issue in regard to accessibility features. Consequently, FTA has no authority to address your complaint regarding NYCT's paratransit vehicles.

4. NYCT's paratransit hours are not comparable to fixed route service hours.

The DOT ADA regulation at 49 CFR 37.131(e) states:

The complementary paratransit service shall be available throughout the same hours and days as the entity's fixed route service.

At the time you filed your complaint, you stated that NYCT's ADA complementary paratransit service runs during "limited hours" and was not comparable to mass transit in New York City, which runs 24 hours per day. As of January 26, 1997, the deadline for full compliance with the DOT ADA regulatory requirements, NYCT's ADA complementary paratransit hours and days of service are the same as fixed route transit.

5. **NYCT's policy requiring Access-A-Ride customers to be ready outside at the pick-up location 15 minutes before the scheduled pick-up time is prohibitive to you because you are unable to stand for long periods of time.**

The DOT ADA regulation at Section 37.121(a) states:

... each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

ADA complementary paratransit is not intended to be a comprehensive system of transportation for persons with disabilities. It is intended to provide individuals with disabilities the same public transportation service opportunities that are available to the general public. Consequently, we do not consider the necessity to wait for an ADA complementary paratransit vehicle, as one would wait for a fixed route vehicle, to be a deficiency under the DOT ADA regulation. We will take no further action on this allegation.

6. **NYCT did not inform you of the status of your application for subscription service.**

The DOT ADA regulation at 49 CFR 37.133 states:

- (a) This part does not prohibit the use of subscription service by public entities as part of a complementary paratransit system, subject to the limitations in this section.
- (b) Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is non-subscription capacity.
- (c) Notwithstanding any other provision of this part, the entity may establish waiting lists or other capacity constraints and trip purpose restrictions or priorities for participation in the subscription service only.

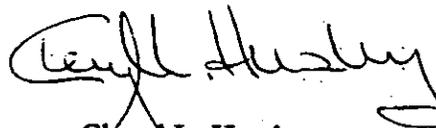
As the regulation does not address the administrative details regarding subscription service, we cannot comment on NYCT's lack of communication regarding your status. However, NYCT informed us that on October 13, 1997, they began providing you with subscription ("standing order") service that meets your trip demand of three round trips per week between your home in Brooklyn and your destination in Manhattan. If you find that NYCT's commitment to providing you subscription service is inconsistent with these statements, we encourage you to work directly with NYCT.

In conclusion, the DOT ADA regulations at Appendix D to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." We concur with you that there appears to be a pattern of trip denials for interborough ADA complementary paratransit trips. We will continue to work with NYCT to resolve this apparent deficiency.

We will take no further action on your complaint and will consider your file closed unless we hear from you within thirty days from the date of this letter. If you have any questions regarding this

decision, please contact Ms. Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff on the FTA ADA Assistance Line at 1-888-446-4511 or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Lawrence Reuter
President, NYCT

Michael Vaccari
General Counsel, MTA

Mary McCorry
Special Counsel, NYCT

7CC 20



U.S. Department
of Transportation
Federal Transit
Administration

MAR 13 1998

400 Seventh St., S.W.
Washington, D.C. 20590

[REDACTED]

Re: FTA Complaint No. 97165.

Dear [REDACTED]

This letter responds to your complaint regarding Prosser Rural Transit in Prosser, Washington, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be that on June 25, 1997, Prosser Rural Transit denied you a ride from the senior center to your home.

We informed Prosser Rural Transit of your allegations, requested information relating to your complaint; reviewed the information presented by Prosser Rural Transit and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

The DOT ADA regulation at 49 CFR 37.5(h) states:

It is not discriminatory under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or

-2-

involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

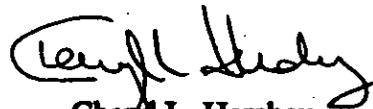
The information we compiled in this investigation documented a continuing pattern of seriously disruptive, albeit involuntary, behavior since mid-1995. Since that time, as a contingency for allowing you to ride its buses, Prosser Rural Transit has required you to ride with a personal care attendant. The explanatory language in Appendix D, Section 37.5(h) of the DOT ADA regulation states:

If an entity may legitimately refuse service to someone, it may condition service to him on actions that would mitigate the problem. The entity could require an attendant as a condition of providing service it otherwise had the right to refuse.

On June 25, 1997, because your attendant was unable to accompany you, Prosser Rural Transit refused to allow you to ride its bus. After this last incident occurred, Prosser Rural Transit made special arrangements for you to ride in another vehicle whenever necessary. It is our opinion that Prosser Rural Transit has gone beyond the requirements of the DOT ADA regulation in its provision of service to you.

Based on this determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, eugene.jenkins@fta.dot.gov, within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. We regret that we could not assist you in this matter.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Prosser Rural Transit

TCK



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 13 1998

[REDACTED]

Re: FTA Complaint No. 97108

Dear [REDACTED]

This letter responds to your complaint against Pace Suburban Bus Division of Regional Transit Authority (PACE), of Arlington Heights, Illinois, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that PACE does not have a proper ADA complementary paratransit visitors' policy as required by the DOT ADA regulations. We informed PACE of your allegation and requested information relating to your complaint; reviewed the information presented by PACE and yourself, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation.

The DOT ADA regulation at 49 CFR 37.127(c) states:

Each public entity shall treat as eligible for its complementary paratransit service all visitors who present documentation that they are ADA paratransit eligible, . . . in the jurisdiction in which they reside.

-2-

We reviewed the documentation that PACE provided regarding its visitors' policy and found that it meets the requirements of the DOT ADA regulation. We acknowledge that the presence of a correct policy does not guarantee that it will always be implemented correctly and encourage you to work directly with PACE should you encounter future difficulties regarding this issue. For your reference, we have enclosed a copy of PACE's response to our letter of inquiry regarding your complaint.

Based on the above we will take no further action on your complaint file. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Enclosure

File



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 13 1998

[Redacted]

Re: FTA Complaint No. 98020

Dear [Redacted]

This letter responds to your complaint against the Transit Authority of Northern Kentucky (TANK), Fort Wright, Kentucky, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your concern to be that TANK intends to contract out its existing ADA complementary paratransit service and to raise its fares. We understand that on January 14, 1998, the TANK Board of Directors voted against the proposal. However, for your future information, the DOT ADA regulation states at Section 37.23(a):

When a public entity enters into a contractual or other arrangement of relationship with a private entity to operate fixed route or demand responsive service, the public entity shall ensure that the private entity meets the requirements of this part that would apply to the public entity is the public entity itself provided the service.

The subcontractor must "stand in the shoes" of the public entity. This ensures that the public entity such as TANK cannot avoid its ADA responsibilities by entering into a contract.

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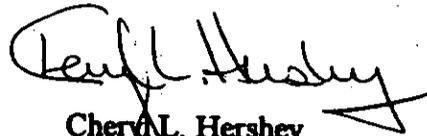
Although we are sensitive to and concerned about the needs of the transit customers, FTA is prohibited by the Federal Transit Laws, as codified under 49 U.S.C., Section 5324(c) "Prohibitions Against Regulating Operations and Charges," from becoming involved in local decisions regarding transit operations. According to 49 U.S.C., Section 5324(c):

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and after a grant is made, may not regulate any charge for the system.

The DOT is prohibited from involving itself in operational matters of local jurisdiction such as setting fares, relocation, elimination, or temporary change of bus routes. We recommend that you continue to express your concerns to TANK as well as other local elected officials regarding this issue.

We regret that we could not assist you further in this matter. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, roger.peralta@fta.dot.gov, within 30 days from the date of this letter. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

13000



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 16 1998

[REDACTED]

Re: FTA Complaint No. 94001

Dear [REDACTED]

This letter responds to your complaint regarding the King County Department of Metro Metropolitan Services (King County Metro) of Seattle, Washington, and potential noncompliance with Title II of the American with Disabilities Act of 1990 (the ADA) and/or The Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulation, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer to the matter to the U.S. Department of Justice for enforcement.

We understand your complaint allegation to be that King County Metro discriminates against you based on your disability because it will not allow you to ride its fixed route bus system. We informed King County Metro of your allegation and requested information relating to your complaint, reviewed the information presented by King County Metro and you, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation.

The DOT ADA regulation at 49 CFR Parts 37.5 (b) and (h) states:

(b) Notwithstanding the provision of any special transportation service to individuals with disabilities, an entity shall not, on the basis of disability, deny to

any individual with a disability the opportunity to use the entity's transportation service for the general public, if the individual is capable of using that service.

(h) It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct.

We understand that King County Metro denied you access to its fixed route service after numerous incident reports and complaints from bus drivers, supervisors, and other passengers regarding your abusive behavior and your inability to maneuver your scooter. King County Metro's determination was that you have been unable to demonstrate that you can drive your scooter consistently and safely to board and maneuver into securement areas without risking injury to yourself, the vehicle, and other passengers. It provided sufficient objective documentation regarding its decision to deny you access. The information we compiled in this investigation supports King County Metro's finding that you have shown a continuing pattern of seriously disruptive behavior.

According to King County Metro, it has offered you help that could mitigate this situation, including the opportunity to re-test every six months with outside professionals who have had no previous encounters with you. It has also offered free travel training to improve your skills.

Based on the documentation provided we find that King County Metro has acted reasonably and within the DOT ADA regulations. Based on this determination, we will take no further action regarding this complaint and will consider your file to be closed. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: King County Metro



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 16 1998

[REDACTED]

Re: FTA Complaint No. 97094

Dear Mr. [REDACTED]

This letter responds to your complaint against Twin Cities Area Transportation Authority (TCATA) of Benton Harbor, Michigan, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that a TCATA bus driver did not allow you to board the bus because you had no proof of your need to use a wheelchair. We informed TCATA of your allegation and requested information relating to your complaint, reviewed the information presented by TCATA and you, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation.

Without further documentation, such as the name of the driver, the bus number, and date and time of occurrence, we will be unable to take further action on this complaint. Should you encounter any drivers who refuse to provide transportation in the future, we recommend that you report it immediately and directly to TCATA. By separate letter we have reminded TCATA of its responsibility under the DOT ADA regulations to ensure that its drivers provide nondiscriminatory transportation to persons with disabilities.

-2-

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although we realize that this alleged incident would have caused you significant inconvenience, we do not have evidence at this time that it constitutes a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl D. Hershey
ADA Team Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 16 1998

[REDACTED]

Re: FTA Complaint No. 97147

Dear [REDACTED]:

This letter responds to your complaint regarding Storer Transit Systems (STS) of Modesto, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. The STS complementary paratransit service, Dial-A-Ride, unfairly charged you as a no show on June 17, 1997;
2. On May 3, 1997, two Dial-A-Ride dispatchers denied your trip requests when you called 48 hours in advance, but when you called the next day, you received the trips you requested; and
3. Some Dial-A-Ride employees treat you disrespectfully and make jokes about you because of your past complaints.

We informed STS of your allegations and received its response to your complaint, reviewed the information presented by STS and you; and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations.

1. **The STS complementary paratransit service, Dial-A-Ride, unfairly charged you as a no show on June 17, 1997.**

Because the DOT ADA regulation does not specifically state under what circumstances no-show policies are to be administered, we are unable to determine if any violations of the DOT ADA regulation occurred. However, STS acknowledged that the vehicle operator arrived at the designated location for your scheduled pick-up, but only circled the building and did not stop. Mr. Dean Galloway, STS Operations Manager, has agreed to remove the no-show charged to you.

2. **On May 3, 1997, two Dial-A-Ride dispatchers, [REDACTED] denied your trip requests when you called 48 hours in advance, but when you called the next day, you received the trips you requested.**

STS provided a copy of an employee sign-in sheet for May 3, 1997, that showed that [REDACTED] and [REDACTED] were not on duty that day. It also provided a copy of your trip records which show that on May 1, 1997, you requested and received reservations for May 5, 1997. With the information provided, we were unable to substantiate this allegation.

3. **Some Dial-A-Ride employees treat you disrespectfully and make jokes about you because of your past complaints.**

We understand from your complaint that you believe that you have been experiencing retaliation by Dial-A-Ride dispatchers and drivers because of past complaints. You cite drivers who ignore you and treat you rudely, and dispatchers who leave you "on hold" and tell you that they cannot schedule trips. Although you have no specific substantiation of this, we understand that retaliation can be a nebulous thing to prove. We have reminded STS of its responsibility under the ADA statute, 42 USC 12203, which states:

Section 503. Prohibition Against Retaliation and Coercion. (a) Retaliation. No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

We have also informed STS that both FTA and the Department of Justice have a zero tolerance policy regarding retaliation. Although it is clear that the ADA prohibits retaliation, it is not our intent to intervene in every perceived conflict between riders and employees. There are other procedures outside of the ADA for that purpose, and we trust that STS will take immediate action to address any reports of orchestrated retaliation. Please be careful to document any future incidents that you believe are retaliatory in nature and report them directly and immediately to STS. If you do not get satisfactory results from STS, please contact us again.

In conclusion, the DOT ADA regulations at Appendix D to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems rather than on isolated operational errors." Although these incidents caused you significant inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations.

If you have any questions regarding this decision, please contact Michael Virts, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, michael.virts@fta.dot.gov, within 30 days of the date of this letter. If we do not hear from you within that time period, we will consider your complaint to be closed. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Dean Galloway
Operations Manager, STS



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 27 1998

Mr. Ben Haynes
President
Brookline Coalition for Citizens with Disabilities
79 Milk Street, Suite 1108
Boston, Massachusetts 02109

Re: FTA Complaint No. 96142

Dear Mr. Haynes:

This letter responds to your complaint regarding the Massachusetts Bay Transportation Authority (MBTA) of Boston, Massachusetts and potential non-compliance with Title II of the American with Disabilities Act of 1990 (the ADA) and/or The Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer to the matter to the U.S. Department of Justice for enforcement.

We understand your complaint allegations to be as follows:

- 1. MBTA did not provide its Fourth Paratransit Plan Update (the Plan Update) in audio tape format until approximately two months after you requested it.**
- 2. MBTA's 4th Paratransit Plan Update did not provide a reasonable explanation for its "Not Available" rate.**

3. **MBTA denies ADA paratransit customers the right to state the time they wish to be picked up when leaving their residence.**
4. **MBTA does not provide information on the Appeals Process in accessible format.**
5. **MBTA treated its Access Advisory Committee (AACT) differently from its other committees by withholding administrative services.**

We informed MBTA of your allegations and requested information relating to your complaint; reviewed the information presented by MBTA and you; and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determinations, below:

1. **MBTA did not provide its 4th Paratransit Plan Update in audio tape format until approximately two months after you requested it.**

The DOT ADA regulation at 49 CFR Part 37.137(b) states:

Public participation. Each submitting entity shall ensure public participation in the development of its paratransit plan, including at least the following:

(2) *Consultation with individuals with disabilities.* Each entity shall contact individuals with disabilities and groups representing them in the community. Consultation shall begin at an early stage in the plan development and should involve persons with disabilities in all phases of plan development. All documents and other information concerning the planning procedure and the provision of service shall be available, upon request, to members of the public, except where disclosure would be an unwarranted invasion of personal privacy.

(3) *Opportunity for public comment.* The submitting entity shall make its plan available for review before the plan is finalized. In making the plan available for public review, the entity shall ensure that the plan is available upon request in accessible formats.

MBTA informed FTA that when it received your request for the Plan Update in audio tape format, the order was immediately placed with the Massachusetts Association for the Blind. MBTA states that this service has a slow turn-around time which was compounded by a clerical error, e.g., incorrect data was submitted for taping. As a result, MBTA did not get the taped materials to you until much later than it had anticipated. Compounding the problem, MBTA refused to allow you and others additional time to respond to equal the time others had who didn't require an accessible format.

We concur with you that the audio tape version of the Plan Update should have been available concurrently with the printed version. MBTA may have made a good faith effort to accomplish this, but encountered a delay because of an administrative error. Based on this one isolated

error, we will not take further action at this time. However, we are advising MBTA that practices that result in depriving persons with disabilities the equal opportunity to participate in the process is a deficiency under Section 37.137(b) of the DOT ADA regulation. They *must* take steps to ensure that you, and all members of the public, have an equal opportunity to participate.

2. MBTA's Paratransit Plan Update does not provide a reasonable explanation for its "Not Available" rate.

In your October 28, 1996, letter, you question MBTA's statistics that show THE RIDE delivered approximately 40,000 fewer rides than it had projected in the previous Plan Update. You believe that this indicated a "Not Available" (NA) rate of 3.46 percent which you would consider to be a capacity constraint. MBTA claimed a Not Available rate of 0 to 1 percent.

The DOT ADA Regulations at 49 CFR 37.131 (f) states:

Capacity Constraints. The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: (1) Restrictions on the number of trips an individual will be provided; (2) Waiting lists for access to the service; or (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.

The DOT ADA regulation does not quantify its definition of capacity constraints.

MBTA denies that this decrease in ridership was a result of capacity constraints. It states that in large part the decrease in ridership resulted from a 44% increase in cancellations during the months of November 1995, through March 1996, a harsh winter with record snowfall. MBTA claims that over the past five years, its NA rate has been contained at approximately the same level. The Fiscal Year 1991 NA Rate was 2.77% while the Fiscal Year 1996 NA Rate was 2.82%. Based on this information we do not find that there is a deficiency under the DOT ADA regulation regarding this allegation at this time.

3. MBTA denies ADA paratransit customers the right to state the time they wish to be picked up when leaving their residence.

The DOT ADA regulation at 49 CFR 37.131(b)(2) states:

The entity may negotiate pickup times with the individual, but the entity shall not require an ADA paratransit eligible individual to schedule a trip to begin more than one hour before or after the individual's desired departure time.

MBTA informed us that it requests the following information when scheduling trips: day, date, address, the time a customer wishes to arrive at the destination, and the time the customer

wishes to be picked up for the return trip. If customers wish, they may request a desired pick up time instead of a desired arrival time.

This is a matter of internal policy and does not appear to conflict with the DOT ADA regulation.

4. MBTA does not provide information on the Appeals Process in accessible format.

The DOT ADA Regulation at 49 CFR 37.167(f) states:

The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

MBTA states that all materials regarding its appeal process are available in Braille, large print and taped versions upon request.

5. MBTA treated the Access Advisory Committee (AACT) differently from its other committees by withholding administrative services.

Based on the documentation you presented, this allegation is based on an internal dispute between you, in your capacity as chairman of the AACT, and MBTA regarding the release of information contained in a report on the THE RIDE. We understand that in response to the MBTA's General Manager (GM) request that the information not be released, you asked the Secretary of the Central Transportation Planning Staff to prepare a letter to notify the GM that AACT planned to release the report.

The DOT ADA regulation at Section 27.7(b)(1) states:

A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability: (i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service; . . . (vi) Deny a qualified handicapped person the opportunity to participate in conferences, in planning or advising recipients, applicants or would-be applicants, or (vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

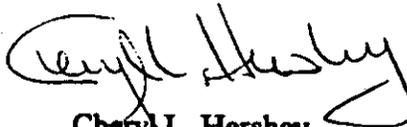
It does not appear from the evidence in your complaint file that the Secretary's refusal to prepare the letter is discrimination based on disability, but rather a disagreement over the roles and responsibilities of the Secretary. Once again this is a matter of internal policy that does not conflict with the DOT ADA regulation.

Per your October 28, 1996, request, we have enclosed a copy of FTA's approval of the MBTA Fourth Plan Update. In accordance with the DOT ADA regulation, FTA no longer requires, nor reviews paratransit plans.

In conclusion, the DOT ADA regulation at Appendix D to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although MBTA's actions may have caused you some inconvenience, we do not have evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff at our toll free ADA Assistance Line 1-888-446-4511 or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Enclosure



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 27 1998

[REDACTED]

Re: Complaint No. 96055

Dear [REDACTED]

This letter responds to your complaint regarding the Washington Metropolitan Area Transit Authority (WMATA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. The Cleveland Park Metro Station elevators were out of service for an unnecessarily long period of time during renovation.
2. Insufficient notification of the renovation was given to individuals who use the elevators.
3. The shuttle system in place to transport persons from one station to another frequently did not work.

We informed WMATA of your allegations and requested information relating to your complaint; reviewed the information presented by WMATA and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. We have restated your allegations, followed by our determinations, below:

1. **The Cleveland Park Metro Station elevators were out of service for an unnecessarily long period of time during renovation.**

WMATA states that some of the system's elevators have been in operation for many years, in some cases as long as twenty years. WMATA claims that it initiated an extensive rehabilitation program to ensure that the elevators would continue to provide safe, reliable, accessible service to Metrorail patrons. According to WMATA's response, the rehabilitation of the elevators was extensive:

(....) the existing elevator car is replaced; new control, electrical, and mechanical systems are installed; corroded structural elements are replaced; enhanced lighting is provided for improved safety; and an announcement system is installed to assist visually impaired passengers. After the contractor's work is completed, the elevator must undergo comprehensive testing, inspection and certification by WMATA and District of Columbia Safety inspectors before being placed in service.

In the DOT ADA implementing regulations, Section 37.161(b) states that:

Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

Appendix D to Section 37.161 of the DOT ADA regulations states, in part:

Repairs must be made "promptly." This rule does not, and probably could not, state a time limit for making particular repairs, given the variety of circumstances involved. However, repairing accessible features must be made a high priority.

WMATA reported that the rehabilitation and replacement of the Cleveland Park elevator began on November 7, 1995, and ended on January 18, 1996, a period of seventy-two days. Given the amount of work involved, it does not seem to be an excessive period of time. We do not find that this is a deficiency under the DOT ADA regulation regarding this allegation.

2. **Insufficient notification of the renovation was given to individuals who use the elevators.**

The DOT ADA regulation at Section 37.167(f) states, "The entity shall make available to individuals with disabilities adequate information concerning transportation services."

WMATA's response letter stated:

At the affected station, patrons are apprised of a scheduled or current elevator outage through signs which are posted at the elevator(s) and in the kiosk areas. On a system-wide basis, the information is publicized through signs which are posted in all station kiosks and announcements which are made over the system and rail car public address systems.

From the evidence we have, it appears that WMATA does have a reasonable notification system in place.

3. The shuttle system in place to transport persons from one station to another frequently did not work.

Appendix D to Section 37.161 of the DOT ADA regulations states that:

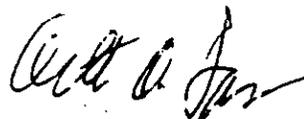
The rule also requires that accommodations be made to individuals with disabilities who would otherwise use an inoperative accessibility feature. For example, when a rail system discovers that an elevator is out of order, blocking access to one of its stations, it could accommodate users of the station by announcing the problem to other stations to alert passengers and offer accessible shuttle bus service around the temporarily inaccessible station.

WMATA contends that shuttle bus service was available during the rehabilitation of the Cleveland Park elevator and reports meeting a demand of 18 trips for the period that the elevator was out of service. It is not possible to determine why you experienced problems on the night in December that you refer to in your letter. If you believe that the problem you experienced is part of a pattern or practice with respect to WMATA's shuttle system, we would need to know of other dates and stations where you experienced problems with WMATA's shuttle service.

The DOT ADA regulations at Appendix D to Section 37.11 states that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although we understand that the elevator being out of service at Cleveland Park made travel difficult for you, we do not have evidence at this time that elevator outages in WMATA's system constitute a pattern or practice of noncompliance with the DOT ADA regulations. If you encounter further problems regarding elevator outages or with WMATA's shuttle system, we recommend that you contact WMATA immediately and directly.

If you have any questions regarding this determination, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, of my staff, at (202)366-4018 or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Ms. Peters told me about the written note she received from you in December, regarding your problems with the vertical gaps in WMATA's system, and the use of attendants when you travel on the Metro. Those issues will be addressed under complaint number 980761. Ms. Peters and I will be in touch with you shortly about those issues.

Sincerely,



Arthur Andrew Lopez
Director, Office of Civil Rights

TC



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

APR 7 1998

Mr. Mark J. Murphy
Attorney At Law
Disabilities Law Project
419 Fourth Avenue
Pittsburgh, Pennsylvania 15219

Re: FTA Complaint No. 95134

Dear Mr. Murphy:

This letter responds to the complaint of your client [REDACTED], regarding Access Transportation Systems, Inc. (ACCESS), of Pittsburgh, Pennsylvania, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If the FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. The FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your client's allegations to be as follows:

1. The Yellow Cab Company's fleet of ADA complementary paratransit vehicles are not all in compliance with the 100-inch length contractual requirement for seat belts which make the vehicles not readily accessible to and usable by persons who use wheelchairs;
2. Yellow Cab's van #702 seat belts are not in compliance with the 100-inch length contractual requirement; and
3. ACCESS drivers are not properly trained to use "safety devices."

We informed ACCESS of [REDACTED] allegations and requested information relating to her complaint; reviewed the information presented by ACCESS and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated [REDACTED] allegations, followed by our determinations, below:

1. **The Yellow Cab Company's fleet of ADA complementary paratransit vehicles are not all in compliance with the 100-inch length contractual requirement for seat belts which make the vehicles not readily accessible to and usable by persons who use wheelchairs.**

Section 37.71(a) of the DOT ADA regulation requires new vehicles purchased or leased after August 25, 1990, to be "readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs." Section 37.7(a) of the regulation sets forth the standards for accessible vehicles, stating:

For purposes of this part, a vehicle shall be considered to be readily accessible to and usable by individuals with disabilities if it meets the requirements of this part and the standards set forth in part 38 of this title.

Section 38.23(d)(7), in turn, specifically addresses the need for seatbelts:

For each wheelchair or mobility aid securement device provided, a passenger seat belt and shoulder harness, ..., shall also be provided for use by wheelchair or mobility aid users. Such seat belts and shoulder harnesses shall not be used in lieu of a device which secures the wheelchair or mobility aid itself.

Your complaint did not allege that the vehicle(s) failed to comply with this requirement. Rather, your complaint is based on an allegation that the seatbelts do not meet a 100-inch requirement. The DOT's ADA regulation does not specify a minimum length for seat belts. Instead, the 100-inch length is required under the service contract between ACCESS and Yellow Cab which states in relevant part:

Seat belts shall be provided at each tiedown position which shall hold passengers securely in their wheelchairs; these belts shall have a minimum usable length of 100 inches. Lift-equipped vans placed in service on or after January 1, 1993, shall include shoulder harnesses as an integral part of the securement system for riders using wheelchairs, and have seat belts that are retractable or can be easily stored off the floor of the vehicle when not in use.

Yellow Cab's alleged failure to comply with the terms of its contract with ACCESS does not constitute a violation of the DOT ADA regulations. Rather, ACCESS has the right and the responsibility to ensure that its contractors comply with its seatbelt specifications. Although FT/ does not have the responsibility to investigate compliance with the terms of the third-party contract between ACCESS and Yellow Cab, my staff contacted ACCESS, which assured FTA that Yellow Cab's entire ADA complementary paratransit fleet is inspected at least twice annually

by the ACCESS Contract and Compliance Manager and that any deficiencies noted in the inspection are corrected as soon as possible. In addition, ACCESS has a procedure in place to call a safety supervisor to bring an extension should the 100 inch seat belt be inadequate. If you believe that Yellow Cab continues to violate the terms of its service contract with ACCESS, I suggest that you inform ACCESS of this problem so that ACCESS can take appropriate action.

2. Yellow Cab's van #702 seat belts are not in compliance with the 100-inch length contractual requirement.

As described above, Yellow Cab's alleged failure to comply with the terms of its contract with ACCESS does not constitute a violation of the DOT ADA regulations. However, according to ACCESS, this vehicle was removed from service on January 1, 1997. ACCESS did not address the issue of the length of its seat belt; however, it noted that should a passenger not be accommodated by the standard equipment (e.g., if the passenger needed a seat belt in excess of 100-inches), the driver is instructed to call the dispatcher for assistance. A safety supervisor is dispatched to meet the vehicle with an additional seat belt extension. If this accommodation solves the problem, the additional equipment requirement is noted in the rider's file so that all future vehicles arrive for pickup with the appropriate equipment. This policy appears to assure that passengers who use wheelchairs will have a usable safety belt. [REDACTED] should report any future difficulties regarding safety belts immediately and directly to ACCESS management.

3. ACCESS drivers are not properly trained to use "safety devices."

An August 6, 1997, letter from Disabilities Law Project Staff Attorney Jennifer Mathis made the general allegation that drivers for ACCESS are not properly trained to ensure that they are aware of the safety devices with which the vehicles are equipped and how to use them properly.

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

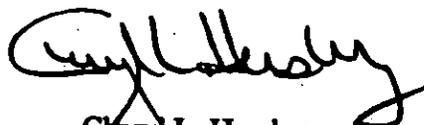
ACCESS confirmed that its contracted ADA complementary paratransit drivers are required to undergo classroom and "on-the-road" training before they are allowed to transport passengers. ACCESS requires its contractors to monitor drivers for performance and also performs its own quality checks which include surprise road audits to check that safety devices are properly used. It also makes random follow-up phone calls to passengers to verify that the drivers provided proper assistance and used the appropriate safety devices.

In the specific incident cited by Ms. Mathis, the driver was disciplined for his failure to fasten the passenger's safety belt. Based on the above, we have determined that ACCESS has a proper policy in place to meet the training requirement in the DOT ADA regulation.

In conclusion, the DOT ADA regulations at Appendix D to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern or practice' kinds of problems, rather than on isolated operational errors." Although these incidents may have caused Ms. Lippold inconvenience, we do not have sufficient evidence at this time that they constitute a pattern or practice of noncompliance with the DOT ADA regulations.

Accordingly, we will take no further action on this complaint and will consider the file closed unless we hear from you within thirty days from the date of this letter. If you have any questions regarding this decision, please contact me or Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff, at our toll free ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Karen Hoesch
ACCESS



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 1 1998

[REDACTED]

Re: FTA Complaint No. 97174

Dear [REDACTED]

This letter responds to your complaint against the Peninsula Corridor Joint Powers Board (PCJPB) of San Carlos, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations and/or concerns to be as follows:

1. PCJPB's existing rail cars that were purchased in 1985 are inaccessible.
2. The Tamien Station is "partially accessible in a limited fashion" because it has a distant elevator.
3. The new station at Lawrence is inaccessible to persons who use wheelchairs.
4. You object to the use of elevators instead of ramps; new stations at Belmont and San Carlos are planned with elevators and center boarding platforms; and PCJPB plans to move the boarding platforms at San Mateo and Redwood City outside of the stations.

-2-

5. **Some CALTRAIN conductors have refused to board disabled passengers or have pretended not to see them.**
6. **No meetings were held with the "disabled community" regarding PCJPB's plans.**

We informed PCJPB of your allegations and requested information relating to your complaint; reviewed the information presented by PCJPB and you, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. We have restated your allegations, followed by our determinations, below:

1. **PCJPB's existing rail cars that were purchased in 1985 are inaccessible;**

Section 37.79 of the DOT ADA regulation requires that:

Each public entity operating a rapid or light rail system making a solicitation after August 25, 1990, to purchase or lease a new rapid or light rail vehicle for use on the system shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

PCJPB responded that its rail cars were purchased by the State of California in 1984 and transferred to PCJPB in 1992 when it took over operation of CALTRAIN. PCJPB has recently solicited bids for new rail cars which will be ADA accessible.

2. **The Tamien Station is "partially accessible in a limited fashion" because it has a distant elevator.**

Section 37.47(a) of the DOT ADA regulation requires that:

Each public entity that provides designated public transportation by means of a light or rapid rail system shall make key stations on its system readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

In August 1996, we performed on-site assessments of two PCJPB key stations including the Tamien Station. We found the accessible route component, which includes the location of the elevator, to be in compliance with the DOT ADA requirements.

3. **The new station at Lawrence is inaccessible to persons who use wheelchairs.**

The DOT ADA regulation requires that key stations, new stations, and to the "maximum extent feasible" stations undergoing alterations are to be made readily accessible to and usable by individuals with disabilities. Based on the information provided by PCJPB, it appears that the station at Lawrence is neither a new or a key station, and it has not been renovated. It is therefore not subject to the accessibility requirements of the DOT ADA regulation.

4. You object to the use of elevators instead of ramps; new stations at Belmont and San Carlos are planned with elevators and center boarding platforms; and PCJPB plans to move the boarding platforms at San Mateo and Redwood City outside of the stations.

The DOT ADA regulations do not prescribe the location or manner in which level changes are accomplished at key or new rail stations as long as there is one accessible path of travel in accordance with Appendix A to Part 37, "ADA Accessibility Guidelines for Buildings and Facilities."

5. Some CALTRAIN conductors have refused to board disabled passengers or have pretended not to see them.

The DOT ADA regulation under Section 37.5(a) states:

No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

The only documentation of this allegation in your file was a copy of a January 1996, complaint provided by PCJPB. Under the ADA, we adhere to a 180 day statute of limitations for complaints. In addition, we base our findings of deficiencies on a pattern or practice of noncompliance with the DOT ADA regulations, not on isolated operational errors. Should you encounter difficulties of this nature in the future, we recommend that you report it directly and immediately to PCJPB and include pertinent information, such as the date, time, train number, the name or description of the conductor, and if possible, the name of a witness.

6. No meetings were held with the "disabled community" regarding PCJPB's plans.

The DOT ADA regulation at Section 37.47(d)(1) required that for the formulation of its key station plan:

The public entity shall consult with individuals with disabilities affected by the plan. The public entity also shall hold at least one public hearing on the plan and solicit comments on it. The plan submitted to FTA shall document this public participation, including summaries of the consultation with individuals with disabilities and the comments received at the hearing and during the comment period. The plan also shall summarize the public entity's responses to the comments and consultation.

PCJPB met this requirement. Although there is no requirement for ongoing public participation regarding key stations, PCJPB has an ADA Key Station Technical Advisory Committee that considers rail issues and comments on proposed plans.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." We do not have

-4-

evidence at this time that it constitutes a pattern or practice of noncompliance with the DOT ADA regulations. We will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,

Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: PCJPB

TEL 20



U.S. Department
of Transportation
Federal Transit
Administration

MAY 7 1998

400 Seventh St., S.W.
Washington, D.C. 0590

[REDACTED]

Re: FTA Complaint No. 98052

Dear [REDACTED]

This letter responds to your complaint regarding the Rail Corridor Accessibility Program (RCAP), a paratransit service provided by Northeast Illinois Regional Commuter Railroad Corporation (METRA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that METRA, which operates the RCAP, discontinued paratransit services for persons with disabilities in its South sector. We informed METRA of your allegations, requested information relating to your complaint, and reviewed both information sources. We made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations.

The DOT ADA regulation at Section 37.121(c), "Requirement for Comparable Complementary Paratransit Service," states that:

Requirements for complementary paratransit do not apply to commuter rail, or intercity rail systems.

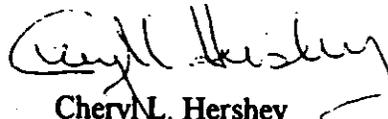
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Although METRA currently provides paratransit service for persons with disabilities, it is under no obligation to do so under the DOT ADA regulation. Therefore, METRA's decision to discontinue paratransit service is not a deficiency under the ADA.

You may be eligible for ADA complementary paratransit service through Chicago's PACE bus system or through the Chicago Transit Authority. We recommend that you pursue both possibilities.

Based on our determination, we consider your complaint closed. We will take no further action on your complaint, unless we hear from you within thirty days from the date of this letter. Please include the FTA complaint number on any correspondence with this office. If you have questions regarding our actions on your complaint, please contact Linda W. King, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511 or at her electronic mail address: linda.king@fta.dot.gov. Thank you for bringing this matter to our attention and we wish you well in resolving your transportation needs.

Sincerely,


Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Mr. Phillip Pagano
Executive Director, METRA

TEL-1



U.S. Department of Transportation
Federal Transit Administration

MAY 7 1998

400 Seventh St., S.W.
Washington, D.C. 20590

[REDACTED]

Re: FTA Complaint No. 97064

Dear [REDACTED]

This letter responds to your complaint regarding Space Coast Area Transit (SCAT) of Cocoa, Florida and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that on December 4, 1996, you were denied access to a SCAT fixed route bus when you attempted to board the bus via the lift. Both you and SCAT agree that the driver informed you that the type of wheelchair that you use is not allowed on the bus.

We informed SCAT of your allegation; requested information relating to your complaint; reviewed the information presented by SCAT and you; and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

A number of sections of the DOT ADA regulation are applicable to this situation. First, the transit provider cannot deny service based on the belief that a certain type of wheelchair cannot be properly secured. Section 37.165(d) states: "The entity may not deny transportation to a

-2-

wheelchair or its user on the ground that the device cannot be secured or restrained satisfactorily by the vehicle's securement system."

Second, if a bus has a lift, the driver must deploy it for persons who use common wheelchairs (as defined by the DOT ADA regulation.) Section 37.167(e) states: "The entity shall ensure that vehicle operators and other personnel make use of accessibility-related equipment or features required by part 38 of this title."

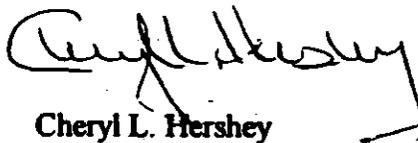
Third, transit providers must ensure that all employees who have contact with customers with disabilities are trained "to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way. . . ."

The SCAT bus driver admitted that he mistakenly believed that SCAT buses could not accommodate the type of wheel chair that you use. SCAT assures that this was an isolated incident and that it will emphasize the proper handling of wheelchairs and scooters in future driver training classes.

The DOT ADA regulations at Appendix D to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although this incident caused you significant inconvenience, we do not have evidence at this time that it constitutes a pattern or practice of noncompliance with the DOT ADA regulations. Therefore, we will take no further action on your complaint at this time.

If you have any questions regarding this determination, please contact Eugene Jenkins, Equal Opportunity Specialist, of my staff, at our toll free ADA Assistance Line 1-888-446-4511, or at his electronic mail address: eugene.jenkins@fta.dot.gov. If we do not hear from you within 30 days of the date of this letter, we will consider your complaint file closed. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Enclosure

cc: James P. Liesenfelt
Interim Director



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 7 1998

[REDACTED]

Re: FTA Complaint No. 97145

Dear [REDACTED]

This letter responds to your complaint regarding Southwest Ohio Regional Transit Authority (SORTA) of Cincinnati, Ohio, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be that on October 12, 1996, a bus driver did not lower the bus steps to allow you to more easily board the bus, and that he drove the bus recklessly. You would like for SORTA to "correct this problem with all of their bus drivers on all bus routes." You stated that you don't believe SORTA took your complaint seriously.

We informed SORTA of your allegations and requested information relating to your complaint; reviewed the information presented by SORTA and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determination follows.

Section 37.165(g) of the DOT ADA regulation states that "The entity shall permit individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle." Although this part does not specifically address the use of bus steps, they are an accessibility feature and their use by persons with disabilities is inferred.

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

SORTA provided documentation that it received your complaint on October 16, 1996, and took action on it on October 18, 1996. The bus operator claimed that he did not recall the particular incident; however, he stated that he is aware of his responsibility to make use of the accessibility features on the bus upon request from any person with a disability. SORTA states that the operator was re-instructed. SORTA also provided documentation that its bus operators are trained in accordance with the DOT ADA regulation. Although the operator in question was originally trained in 1995 and his training was updated in August 1997, we acknowledge that providing training does not guarantee that the lessons taught are implemented. Should a similar incident occur, we encourage you to continue to work directly with SORTA. It appears that SORTA did take your allegation seriously and acted appropriately under the circumstances described.

The DOT ADA regulations at Appendix D to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although this incident caused you significant inconvenience, we do not have evidence at this time that it constitutes a pattern or practice of noncompliance with the DOT ADA regulations.

Based on this determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, eugene.jenkins@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. We regret that we could not assist you in this matter.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Paul Jablonski
General Manager, SORTA

Janice G. Smith
Personnel Manager, SORTA

7CC



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 8 1998

[REDACTED]

Re: FTA Complaint No. 97153

Dear [REDACTED]

This letter responds to your complaint regarding the Massachusetts Bay Transportation Authority (MBTA), Dave Transportation Services (DAVE), and Greater Lynn Senior Services (GLSS) regarding potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. A DAVE driver left you behind while you were outside waiting for a transfer ride at Alewife station on May 14, 1997;
2. A DAVE driver made an illegal turn on the evening of May 14, 1997, and another driver ran a red light on September 9, 1997;
3. A DAVE driver's behavior in discussing negative comments about you with other passengers was unprofessional and inappropriate;
4. On July 17, 1997, GLSS dispatchers did not immediately respond to a medical emergency in which you required an ambulance; and

5. On September 28, 1997, a DAVE dispatcher made a disparaging remark against you.

We informed MBTA of your allegations and requested information relating to your complaint; reviewed the information presented by MBTA and you; and made a determination on each of your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. A DAVE driver left you behind while you were outside waiting for a transfer ride at Alewife Station on May 14, 1997.

The DOT ADA regulation does not require a paratransit vehicle to remain with a passenger until a transfer vehicle arrives to complete a transfer, however, Dave Transportation investigated the incident and found that both the driver's and the dispatcher's actions violated MBTA and DAVE policy not to leave a passenger until another vehicle arrives. Both employees have been reprimanded, and DAVE issued a letter of apology to you.

2. A DAVE driver made an illegal turn on the evening of May 14, 1997, and another driver ran a red light on September 9, 1997.

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173.

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities. (Emphasis added.)

DAVE provided documentation that it trains all of its employees, including operators and dispatchers in accordance with the DOT ADA regulation. The training consists of defensive driving, passenger assistance, sensitivity training, and other appropriate topics.

In response to both of your allegations, the drivers were disciplined according to DAVE's internal policy and you received an apology from DAVE. MBTA has instructed DAVE to monitor its drivers' performance to ensure customer safety.

3. A DAVE driver's behavior in discussing negative comments about you with other passengers was unprofessional and inappropriate.

DAVE Transportation investigated the alleged incidents that occurred on July 22, 1997, and August 4, 1997, and concluded that the driver's behavior was unprofessional and inappropriate. The driver was reprimanded for his "lack of professionalism and judgment" and was warned not to have further contact with you. DAVE has apologized to you for its driver's behavior and nota

-3-

was made in his personnel file that any future incidents of this nature will be grounds for immediate termination.

4. On July 17, 1997, GLSS dispatchers did not immediately respond to a medical emergency in which you required an ambulance.

You allege that the driver attempted to reach GLSS seven times before he was successful and that this delay endangered your life. The driver properly assisted you until the ambulance arrived.

Although response to medical emergencies is of a critical nature, it is not a matter that comes within the jurisdiction of the DOT ADA regulation. GLSS informs us that it switched its radio frequency after the incident to improve its communications system.

5. On September 28, 1997, a dispatcher made a disparaging remark against you.

This allegation, which was investigated and found to be accurate by DAVE, is a deficiency under the training requirements quoted in Item 2. The dispatcher was suspended without pay for one day and issued a "final written warning that any future substantiated complaint of unprofessional conduct toward passengers will be ground for immediate termination." We are extremely concerned about the way this matter was handled by the contractor, but more importantly by MBTA. It does not appear by the handling of this matter that MBTA has a full appreciation of the pervasive atmosphere that would have an employee feel entitled to treat a person in this manner.

On October 30, 1997, the Director of the FTA Office of Civil Rights met with Mr. Robert Prince, MBTA General Manager. Mr. Prince personally apologized for any inconvenience your experiences may have caused you. He also assured the Director that MBTA and its paratransit providers comply with the DOT ADA regulation. We are continuing to specifically address the issue of MBTA's overall response to your allegation described in Item 5 to assure that it will not happen again.

We ask that you bring to the attention of Ms. Mary Lou Daly, Manager of the MBTA's Office for Transportation Access, any further concerns that you may have regarding the service that DAVE and GLSS provide. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fia.dot.gov. Please include your FTA complaint number in any future correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,


Cheryl A. Hershey
ADA Team Leader
Office of Civil Rights

cc: MBTA



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St.,
Washington, D.C.

MAY 13 1998

[REDACTED]

Re: FTA Complaint No. 98023

Dear [REDACTED]

This letter responds to your complaint against Dallas Area Rapid Transit (DART), of Dallas, Texas, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Drivers for the DART ADA complementary paratransit service, HandiRides, have picked you up late on several occasions which has caused you to be late for work, to miss appointments, and has stranded you at work until "well into the evening." You have experienced at least two excessively long trips on HandiRides. Making HandiRides reservations by telephone often takes an excessively long time--15 to 20 minutes on hold--and sometimes the telephone isn't answered at all.
2. On one occasion, a driver was rude to you and took you to the HandiRides "Home Base" with her so she could go off-duty rather than taking you to your destination.

We informed DART of your allegations and requested information relating to your complaint; reviewed the information presented by DART and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations follow:

1. Drivers for the DART ADA complementary paratransit service, HandiRides, have picked you up late on several occasions which has caused you to be late for work, to miss appointments, and have stranded you at work until "well into the evening." You have experienced at least two excessively long trips on HandiRides. Making HandiRides reservations by telephone often takes an excessively long time—15 to 20 minutes on hold—and sometimes the telephone isn't answered at all.

The allegations that you have raised are serious, and if consistent system-wide may indicate capacity constraints.

The DOT ADA regulation at 49 CFR 37.131(f)(3)(i) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: ... (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of significantly untimely pickups for initial or return trips; (B) Substantial numbers of trip denials or missed trips; (C) Substantial numbers of trips with excessive trip lengths.

Although the DOT ADA regulation does not quantitatively define "substantial numbers," to violate this provision, according to Appendix D to Section 37.131(f)(3)(i), there must be both a substantial number of late arrivals, and the arrivals in question must be significant in length. The appendix acknowledges that because ADA complementary paratransit is a shared ride service, the trip usually takes longer, however, when trip lengths becomes so excessive as to make the system unusable by customers, it would be considered a capacity constraint. The appendix also discusses the issue of inaccessible telephone lines for making reservations under the context of trip denials.

DART states that it started a new computer software system for scheduling HandiRides, and that the difficulties that you encountered were a result of "bugs" in the system during the early implementation period. It claims that most of the issues have now been resolved and provided a report of your paratransit trips for January 1998, which showed service that was mostly on-time. According to an April 14, 1998, electronic mail message to Roger Peralta, Equal Opportunity Specialist, of this office, you agreed that HandiRides service has greatly improved, but you are concerned that things may revert back to "business as usual" after your complaint is closed by FTA. If this happens, we encourage you to report your difficulties immediately and directly to DART. If DART does not take any corrective actions, you may contact us again.

2. **On one occasion, a driver was rude to you and took you to the HandiRides "Home Base" with her so she could go off-duty rather than taking you to your destination.**

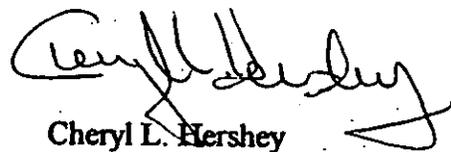
The DOT ADA regulation requires that transit providers educate personnel to work with and treat persons with disabilities with respect. The regulation states at Section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

According to a copy of an October 31, 1997, letter from DART to you, we understand that DART apologized, assured you that it would not tolerate unprofessionalism by DART personnel, and took "appropriate disciplinary action" regarding this incident. We believe that DART has taken sufficient corrective action in this case, and will therefore take no further action regarding this particular allegation.

Based on the apparent resolution of your concerns, we will take no further action on your complaint and will consider your file to be closed unless we hear from you within thirty days from the date of this letter. If you have any questions regarding this decision, please contact Mr. Peralta at FTA's toll free ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Enclosure

cc: Senator Kay Bailey Hutchison

Roger Snoble
President/Executive Director, DART



U.S. Department
of Transportation

Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 18 1998

Mr. Richard DeRock
Executive Director
Access Service, Inc.
P.O. Box 71684
Los Angeles, California 90071-0684

Re: FTA Complaint No. 96178

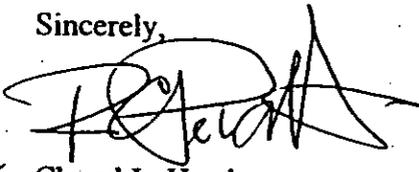
Dear Mr. DeRock:

Enclosed is a copy of the Federal Transit Administration Office of Civil Right's disposition in response to a complaint against Access Service Incorporated (ASI), alleging discrimination under Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation implementing regulations at 49 CFR Parts 27, 37, and 38. (Enclosure 1)

We have determined that a possible deficiency exists in ASI's implementation of the wheelchair securement requirement at Section 38.23(d)(4) of the DOT ADA regulation. The regulation offers the option of securing wheelchairs in a forward or rearward-facing position. Although the DOT ADA regulation does not specifically prohibit securing wheelchairs in a side-facing position, the Department concurred with the Architectural and Transportation Barriers Compliance Board position in an October 22, 1993, Notice, "Determinations of Equivalent Facilitation for Accessibility of Transportation Vehicles and Facilities," (Enclosure 2) that no test data supports side-facing wheelchair securement as being safe. Based on the lack of evidence to the contrary, FTA denied the request for equivalent facilitation for side-facing wheelchair securement systems. We advise ASI to stop its practice of transporting persons traveling in wheelchairs secured in a side-facing position because it is unsafe.

Thank you for your cooperation in resolving this complaint. If you have any questions regarding our determination, please contact me or Roberta Wolgast, Equal Opportunity Specialist, at (202) 366-4018, or at Ms. Wolgast's electronic mail address: roberta.wolgast@fta.dot.gov.

Sincerely,


for

Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Enclosures

cc: Ms. Ayofemi Folayan



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

[Redacted]

MAY 18 1998

Re: FTA Complaint No. 96178

Dear [Redacted]

This letter responds to your complaint regarding the Access Services, Incorporated (ASI), of Los Angeles, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Your wheelchair was damaged due to the improper operation of the lift by an Access Services driver, yet your request for reimbursement for the repairs was denied; and
2. Some ASI paratransit providers will secure your wheelchair side-facing, which you prefer, while other providers will not.

We informed ASI of your allegations and requested information relating to your complaint; reviewed the information presented by ASI and you; and made a determination on each of your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. **Your wheelchair was damaged due to the improper operation of the lift by an ASI driver, yet your request for reimbursement for the repairs was denied.**

Upon investigating this allegation, ASI found that your claim was not handled appropriately and has since paid the for the repair of your wheelchair. Based on the apparent resolution of this allegation, we will take no further action regarding this issue.

2. **Some ASI paratransit providers will secure your wheelchair side-facing, which you prefer, while other providers will not.**

Section 38.23(d)(4) of the DOT ADA regulation requires the securement location to face either forward or rearward with a padded barrier:

...In vehicles 22 feet in length or less, the required securement device may secure the wheelchair or mobility aid either facing toward the front of the vehicle or facing rearward, with a padded barrier.

There is no specific mention of securing wheelchairs in a side-facing manner. In the early days of the regulation, manufacturers of vehicles with side-facing positions and some of their purchasers petitioned FTA for a finding of equivalent facilitation for those vehicles. FTA entertained their petition, but after a thorough review of safety data, videotapes, written reports, and documentary evidence concerning the inability of mobility devices to withstand lateral forces, FTA denied the petition and published a notice explaining FTA's reasoning behind the denial in the Federal Register on October 22, 1993 (58 FR 54864). At that time, FTA solicited information that would demonstrate that side-facing securements were as safe as forward or rearward-facing ones. To date, no party has offered such data.

According to ASI, its vehicles, except for the taxi fleet, are equipped with ADA compliant forward facing tiedown positions which also allow for side-facing wheelchair securement. ASI's current policy is to allow riders to choose the direction they prefer to travel. However, securing wheelchairs in a side-facing position conflicts with the DOT ADA regulations which apply to public transportation. We have informed ASI of this determination.

The DOT ADA regulation, Section 37.165(d) states:

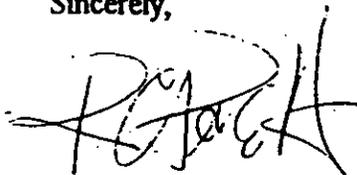
The entity may not deny transportation to a wheelchair or its user on the ground that the device cannot be secured or restrained satisfactorily by the vehicle's securement system.

The wheelchair discussed in the above regulation is a "common" wheelchair which is described in Section 37.3 of the DOT ADA regulation as a mobility device "which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied." ASI has no responsibility under the DOT ADA regulation to provide ADA complementary paratransit service to persons with wheelchairs that exceed the dimensions or weight of a "common wheelchair" as described in the regulation.

In summary, under the ADA DOT regulation, a rider does not have the right to be secured in a side-facing manner which has been proven to be unsafe.

We appreciate your taking the time to advise us of your experience and are pleased that ASI changed its decision about the repair of your wheelchair. We will take no further action at this time on your complaint and will consider your file to be closed. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, of my staff, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Mr. Richard DeRock
Executive Director, ASI

[Rich DeRock]
P.O. Box 71684
Los Angeles, California 90071-0684

Federal Transit Administration
TCR-20:PERALTA 2/11/97:x66745
REVISED: 5/5/98
Copies to: TRO-9, C-50 (Ashby), TPM-20, TCR-1, TCC/R. Wong
TCR-IHU (Hershey, Peralta, Wolgast), Chron/Subject
O: [REDACTED] F.SAM



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 21 1998

Mr. Walter S. Comeaux
City - Parish President
705 W. University Avenue
P.O. Box 4017-C
LaFayette, Louisiana 70502

Re: FTA Complaint No. 96208

Dear Mr. Comeaux:

Enclosed is a copy of the Federal Transit Administration Office of Civil Rights' disposition in response to a complaint against the LaFayette Consolidated Government (LCG) and its paratransit contractor Affiliated Innovative Services (AIS), alleging discrimination under Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation implementing regulations at 49 CFR Parts 27, 37, and 38. (Enclosure)

As we stated in our letter to [REDACTED] it appears that LCG may be experiencing capacity constraints in its ADA complementary paratransit service. This is based partially on [REDACTED] allegations that she is unable to get reservations up to two days in advance, that telephone lines are continuously busy, and that there is insufficient capacity on Saturdays and Thursday afternoons. However, our major concern is the apparent admission on page 17 of the "LCG Paratransit System Policy and Procedures" manual that next day service is routinely not available. As you are aware, the DOT ADA regulation at Section 37.131(b) states, "The entity shall schedule and provide paratransit service to any ADA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day." If next day service is not an option to LCG customers, this indicates a capacity constraint.

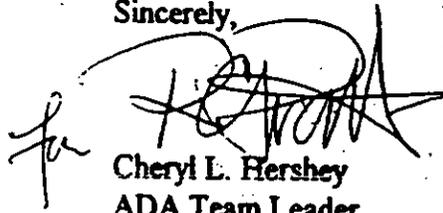
The DOT ADA regulation states at Section 37.135(c)(2):

In the event of any change in circumstances that results in an entity which has submitted a certification of continued compliance falling short of compliance with Secs. 37.121-37.133, the entity shall immediately notify FTA in writing of the problem. In this case, the entity shall also file a plan update meeting the requirements of Secs. 37.137-37.139 of this part on the next following January 26 and in each succeeding year until the entity returns to full compliance.

The date for all transit properties to reach full compliance was January 26, 1997. If LCG is out of compliance, the only alternative short of coming into immediate compliance is the consideration of a voluntary compliance agreement. LCG should analyze its ADA complementary paratransit program regarding capacity constraints and notify the FTA Office of Civil Rights within 60 days of the status of its compliance.

Thank you very much for the cooperation and assistance of your staff in our investigation of this complaint. Should you have any questions regarding our findings, please contact me or Sandra McCrea, Equal Opportunity Specialist, at (202) 366-2285 or at her electronic mail address: sandra.mccrea@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Enclosures

cc:


Senator Landrieu



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 21 1998

[REDACTED]

Re: FTA Complaint No. 96208

Dear [REDACTED]

This letter responds to your complaint regarding the Louisiana Consolidated Government (LCG) and its subcontractor, Affiliated Innovative Services (AIS) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for Civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suite on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. AIS does not have enough ADA complementary paratransit vans on the road on Saturdays and on Thursdays from 4:30 p.m. to 6:30 p.m. The reservation lines are always busy which makes it difficult to reserve or cancel rides. You have been unable to make reservations up to two days in advance.
2. The eligibility section of the new paratransit manual is not in compliance with the DOT ADA regulations. Input from the advisory committee was not incorporated, and the manual was not approved by the committee.

3. AIS drivers are not courteous and do not properly assist passengers. They are not properly trained.
4. AIS drivers do not escort passengers to destinations, such as a particular doctor's office, within a building.
5. AIS will not allow pets on its vans; has a three package per passenger limit; does not require drivers to wait if passengers are not ready to leave; does not have an independent ADA monitor, and does not conduct enough ridership surveys.
6. AIS disseminated a policy change only by posting signs in its vehicles.
7. The placement of signs on AIS vans is not standardized and the signs do not comply with the DOT ADA regulations.

We informed LCG of your allegations, requested information relating to your complaint and reviewed the information presented by LCG and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determinations, below:

1. **AIS does not have enough ADA complementary paratransit vans on the road on Saturdays and on Thursdays from 4:30 p.m. to 6:30 p.m. The reservation lines are always busy which makes it difficult to reserve or cancel rides. You have been unable to make reservations up to two days in advance.**

Although unsubstantiated, together these allegations infer "Capacity Constraints" which is addressed at Section 37.131(f) of the DOT ADA regulation:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: ... (3) Any operational pattern or practice that significantly limits the availability of service to paratransit eligible persons.

We have addressed this issue separately with LCG. For your information, a copy of our letter is enclosed.

2. **The eligibility section of the new "LCG Paratransit System Policy and Procedures" manual is not in compliance with the DOT ADA regulations. Input from the advisory committee was not incorporated, and the manual was not approved by the committee.**

We understand your concern regarding the eligibility section of the manual to be that a list of specific diseases or impairments was included rather than general categories of disabilities. The DOT ADA regulation at 49 CFR Part 37.125(a) requires that, "The [eligibility] process shall strictly limit ADA paratransit eligibility to individuals specified in Section 37.123 of this part."

Section 37.123 is based on a person's functional ability or inability to use the fixed route system, rather than on specific disabilities.

The manual paraphrases the eligibility section of the DOT ADA regulation and gives examples of the types of disabilities that may fall into the categories of eligibility described by the regulation. It clearly states that the list of disabilities is not to be considered exhaustive, and that the final source of determination of eligibility is the DOT ADA regulation. We do not find any deficiencies in this part of the manual.

Although it is clear that the intent of the ADA was to provide a meaningful voice to persons with disabilities in the process, the DOT ADA regulation does not go so far as to require the incorporation of the advisory committee recommendations. Nor does the regulation require that the advisory committee approve the final version of the manual.

3. AIS drivers are not courteous and do not properly assist passengers. They are not properly trained.

You cited some specific incidents about AIS drivers: a driver would not attempt to talk to a deaf/blind woman and would have taken her to the wrong destination without your intervention; a driver would not honk for you to let you know that he was waiting for you; and one driver was discourteous. You stated generally that drivers are not properly trained to assist persons with disabilities.

The DOT ADA regulation at 49 CFR Part 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

LCG verified that all AIS employees have attended ADA sensitivity training, and that by contract all new employees must complete training within two weeks of their employment. Training is periodically updated with the most recent sessions being held in October 1997. Samples of the training materials were provided.

We understand that providing training does not ensure that the lessons learned are always implemented. Should you encounter future difficulties with drivers, we recommend that you report it immediately and directly to AIS. Be sure to include details of the incident such as the name of the driver and the names of any witnesses who could verify your allegations. AIS has a disciplinary policy in place to deal with substantiated misconduct by its drivers.

- 4. AIS drivers do not escort passengers to destinations, such as a particular doctor's office, within a building.**

ADA complementary paratransit service was intended to provide comparable service for those persons who are unable to use the fixed route. Section 37.129(a) of the DOT ADA regulation refers to origin-to-destination demand responsive service. The regulation does not require curb-to-curb service or door-to-door service, but leaves the decision up to the local transit provider. LCG has opted for the more service intensive door-to-door service which requires drivers to assist passengers from the threshold of their pick-up point to the threshold of their destination point. There is absolutely no requirement for drivers to cross the threshold and provide escort service to a particular office.

- 5. AIS will not allow pets on its vans; has a three package per passenger limit; does not require drivers to wait if passengers are not ready to leave; does not have an independent ADA monitor; and does not conduct enough ridership surveys.**

All of these are issues that do not come under the jurisdiction of the ADA and are not required by the DOT ADA regulations.

- 6. AIS disseminated a policy change only by posting signs in its vehicles.**

The DOT ADA regulation at 49 CFR Part 37.131 (e) states:

The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

LCG acknowledged to FTA that on one occasion it posted a notice on its AIS vehicles regarding a policy change, and did not provide the information in any other alternate formats. LCG assured FTA that it corrected this incident within 30 days of its occurrence. LCG is aware of its obligation under the DOT ADA regulations regarding providing information in accessible format.

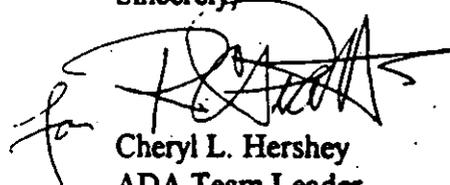
- 7. The placement of signs on AIS vans is not standardized and the signs do not comply with the DOT ADA regulations.**

The DOT ADA regulation does not require paratransit vans to have any particular type or placement of signage. The pages that you provided from the FTA publication, "Guidelines for Improvements to Transit Accessibility for Persons with Disabilities" is advisory material only. LCG advised us that the slight variation in the placement of the logos on the vans are due to variations in vehicle types and lift placement.

In conclusion, the DOT ADA regulations at the appendix to 49 CFR 37.11 requires that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." With the possible exception of capacity constraints, we do not have evidence at this time that they constitute a pattern of noncompliance with the DOT ADA regulations.

If you have any questions regarding this letter, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, of my staff at our toll free ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: Sandra.McCrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Enclosure

cc: Senator Landrieu
LCG



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 21 1998

[REDACTED]

Re: FTA Complaint No. 97193

Dear [REDACTED]

This letter responds to your complaint against the Sacramento Regional Transit District (RTD) in Sacramento, California, regarding potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations and/or concerns to be as follows:

1. On numerous occasions, RTD bus drivers have passed you by and not allowed you to board the bus with your motorized wheelchair.
2. On numerous occasions, you have been unable to get ADA complementary paratransit reservations two days in advance; you have never been able to get next day service even though you have called at 7:00 a.m. when the telephone lines open.
3. Both fixed route bus drivers and ADA complementary paratransit drivers lack training to properly use vehicle accessibility features, including wheelchair securement devices, and many drivers are discourteous and insensitive to persons with disabilities almost to the point of hostility.

4. **RTD's ADA paratransit recertification process is awkward and cumbersome, and the questions asked are intrusive and have no direct bearing on paratransit eligibility.**

We informed RTD of your allegations and requested information relating to your complaint; reviewed the information presented by RTD and you; and made a determination on each of your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. **On numerous occasions, RTD bus drivers have passed you by and not allowed you to board the bus with your motorized wheelchair.**

You allege that when this has happened, the tie down locations are visibly empty through the bus window. The DOT ADA regulation at 49 CFR 37.5(a) states:

No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

We asked RTD to provide us with copies of any complaints that you filed regarding this and the other issues that you raised. RTD responded that it checked its records back to 1996 and could find no complaints that you submitted. However, RTD acknowledged your allegations and stated that your complaint has helped its staff to identify problems. RTD stated that they "have been acted on to the best of our ability."

Without further documentation, such as the bus number, route number, and date, time and location of the occurrences, we will be unable to take further action on this issue. RTD has a complaint/commendation process in place to allow all passengers to contact it with concerns related to service. Should you encounter similar incidents in the future, we recommend that you report it immediately and directly to RTD at 916-321-2877.

2. **On numerous occasions, you have been unable to get ADA complementary paratransit reservations two days in advance; you have never been able to get next day service even though you have called at 7:00 a.m. when the telephone lines open.**

Under the DOT ADA regulation at Section 37.131(b), RTD must "schedule and provide paratransit service to any ADA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day." An inability to meet next day demand may be due to a capacity constraint. The DOT ADA regulation prohibits capacity constraints and states at Section 37.131(f),

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: ...**(3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to, the following: ...**(B) Substantial numbers of trip denials or missed trips.****

The DOT ADA regulation does not quantitatively define the phrase "substantial numbers of trip denials." RTD reported that it provides approximately 90% to 97% of ADA complementary paratransit trips requested. RTD sent us a printout of your paratransit trip history showing trips requested and scheduled between November 1996, and October 1997. According to RTD's data, of 74 requests for trips two days in advance, you were scheduled for 70. RTD also states that you were scheduled for all six of the next day trips that you requested.

As these statements seem to directly conflict with your allegations, we do not believe that we have sufficient documentation to conclude that a prohibited capacity constraint exists. If you believe that a discrepancy exists with regard to RTD's recordkeeping, we recommend that you work directly with RTD through its Customer Relations Department to address this problem.

- 3. Both fixed route bus drivers and ADA complementary paratransit drivers lack training to properly use vehicle accessibility features, including wheelchair securement devices, and many drivers are discourteous and insensitive to persons with disabilities almost to the point of hostility.**

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173.

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

RTD's provided documentation that it has a training program that meets the requirements of the DOT ADA regulations. A new enhanced program was implemented in December 1997. We are aware that providing training does not mean that the lessons taught will be properly implemented. We encourage you to immediately report to RTD personnel who exhibit unprofessional behavior toward persons with disabilities. RTD has a disciplinary process in place to address these problems. Without input from the public, it is difficult for transit providers to monitor drivers' actions.

Because your letter did not contain sufficient documentation on which to base a determination, such as the bus number, route number, driver identification, and date, time and location of the occurrences, we are unable to take further action on this issue.

- 4. RTD's ADA paratransit recertification process is awkward and cumbersome, and the questions asked are intrusive and have no direct bearing on paratransit eligibility.**

The DOT ADA regulation allows for recertification. It states at Section 37.125(f), "The entity may require recertification of the eligibility of ADA paratransit eligible individuals at reasonable intervals." The regulation does not prescribe a particular form or specific questions which may be asked. Instead, paratransit operators are allowed to design a locally-based application process to

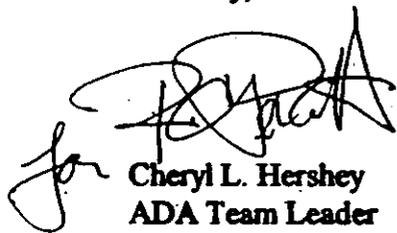
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ensure that paratransit eligibility is provided to individuals meeting one of the three criteria listed in the ADA. Furthermore, section 37.125(f) of the DOT's regulation allows recertification at reasonable intervals. Beyond this statement, there is no additional guidance for the recertification process.

The DOT ADA regulation at Appendix D to 49 CFR 37.11 requires that the Department's enforcement priority is on failures to comply with basic requirements and 'pattern and practice' kinds of problems, rather than on isolated operational errors." Although you allege a pattern and practice, you have offered no documentation beyond the statements in your letter. We do not imply that you have not encountered these problems, but we do believe that they should first be addressed to RTD so that it can attempt to take corrective actions. RTD has affirmed to FTA that it takes complaints seriously and that it appreciates the opportunity to improve service to its disabled customers.

If you have any questions regarding this letter, please contact Roger Peralta, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include your FTA complaint number in any future correspondence with this office. Thank you for bringing this matter to our attention. We regret that we cannot help you further.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Ms. Pilka Robinson
General Manager, RTD

TC-20



U.S. Department of Transportation
Federal Transit Administration

400 Seventh St., S.W.
Washington, D.C. 20560

MAY 21 1998

[REDACTED]

Re: FTA Complaint Number 98099

Dear [REDACTED]

This letter is in response to your complaint filed on behalf of your daughter, [REDACTED], alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) by the Metropolitan Transit Authority of Nashville, Tennessee. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations at 49 CFR Parts 27, 37, and 38, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If deficiencies are identified they are presented to the transit provider and assistance is offered to correct the inadequacies within a predetermined timeframe.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

The FTA Office of Civil Rights is authorized under the Department of Transportation ADA regulation, 49 CFR Part 27, Subpart C, to investigate discrimination complaints against providers of public transportation.

According to our understanding of your letter, the incident of alleged discrimination occurred two years prior to the date that you filed the complaint. The DOT ADA regulation states at Section 27.123(d) that:

Any person who believes himself/herself or any specific class of individuals to be harmed by failure to comply with this part may, personally or through a representative, file a written complaint with the responsible department official. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Departmental official or his/her designee.

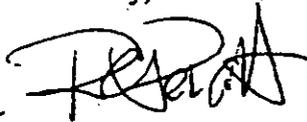
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We will be unable to initiate an investigation on behalf of your daughter because the alleged incident of discrimination occurred more than 180 days prior to the date you filed your complaint.

In response to your concern that your daughter must "scoot" up the steps to access the van, the DOT ADA regulation at Section 37.165(g) requires that upon request, "The entity shall permit individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle."

Should you have any questions regarding this letter, please contact Eugene Jenkins, Equal Opportunity Specialist at our toll free ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: eugene.jenkins@fta.dot.gov. In any correspondence regarding this complaint file, we ask that you include the FTA complaint number. If you need further assistance, please do not hesitate to contact us.

Sincerely,


for
Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 21 1998

[REDACTED]

Re: FTA Complaint No. 97253

Dear [REDACTED]

This letter responds to your complaint regarding the Capital District Transportation Authority (CDTA) in Albany, New York, regarding potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies of the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

From your letter, we understand your allegations to be that on two occasions, the CDTA ADA complementary paratransit service, STAR, did not provide you with transportation that you had requested in advance. On April 29, 1997, STAR did not pick you up from the doctor's office for a return trip from Albany to Scotia, New York, until the police intervened on your behalf. On September 19, 1997, CDTA did not provide you with a paratransit ride even though you made a ride request on September 13, 1997, for your doctor's appointment.

We informed CDTA of your allegations and requested information relating to your complaint; reviewed the information presented by CDTA and you; and made a determination on each of your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determination follows.

-2-

The DOT ADA regulation at Section 37.131(b) requires CDTA to "schedule and provide paratransit service to any ADA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day." Reservations may be taken up to 14 days in advance.

However, the regulation recognizes that every requested trip cannot be provided. It states at Section 37.131(f)(3) that CDTA cannot have "Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons." The phrase "significantly limits" infers that some trip denials are expected. We requested documentation from CDTA regarding STAR's trip denial rate and found that it is less than one percent per month which is not considered a deficiency under the DOT ADA regulations.

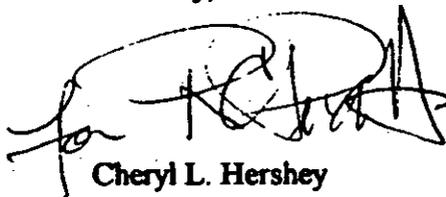
We also requested specific information from CDTA regarding the two incidents that you described in your letter. The first appears to be a misunderstanding. STAR's records confirm that it was not able to provide a return trip for you at the time you requested, and your request for that return trip was denied. Evidently, you did not understand this at the time.

STAR has no record of your September 13, 1997, telephone request for a September 19, 1997, trip reservation. As you had a doctor's appointment and knew that you needed transportation, we assume that the error was on STAR's part. However, we have no documentation of this.

Although both of these incidents were unfortunate and caused you significant inconvenience, the DOT ADA regulation at Appendix D to 49 CFR 37.11 states that "The Department's enforcement priority is on failures to comply with basic requirements and 'pattern or practice' kinds of problems, rather than on isolated operational errors." Based on this, we will be unable to take any further action on your complaint.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov within 30 days of the date of this letter. Please include your FTA complaint number in any future correspondence with this office. Thank you for bringing this matter to our attention. We regret that we cannot assist you further.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Mr. Dennis J. Fitzgerald
Executive Director, CDTA



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 200

AUG 5 1999

[REDACTED]

Re: FTA Complaint No. 98057

Dear [REDACTED]

This letter responds to your complaint against the Transit Authority of River City (TARC) regarding potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

In your letter you referred to Atlantic Transportation as TARC's ADA complementary paratransit contractor. For clarity, we will refer to it as Atlantic Paratrans as it is called in TARC's letter to us. Additionally, we refer to TARC's former ADA complementary paratransit scheduler as ATE. We understand your allegations to be as follows:

1. TARC made significant changes to its fixed route and ADA complementary paratransit services without holding public hearings.
2. TARC enforces a strict "no-show" policy for customers. ATE and Atlantic Paratrans purposely schedule rides to persons who cannot use the service because of sickness or death, and recover charges for "no shows."

3. **TARC Board members who do not have disabilities are given free unlimited access to use ADA complementary paratransit service.**
4. **Atlantic Paratrans hires convicted felons.**
5. **ATE's policy for rescheduling rides is not correct; Atlantic Paratrans will not allow passengers to use its two-way radio system in vehicles to cancel rides.**
6. **Excessive trip lengths on TARC's complementary paratransit service are routine.**
7. **TARC, ATE and Atlantic Paratrans have singled you out for retaliation.**
8. **TARC fixed route drivers do not make stop announcements.**

We informed TARC of your allegations and requested information relating to your complaint; reviewed the information presented by TARC and you, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation.

1. **TARC made significant changes to its fixed route and ADA complementary paratransit services without holding public hearings.**

The DOT ADA regulations do not address this issue. However, according to TARC Executive Director, J. Barry Barker, five public hearings were held in December 1997, before the changes were implemented in February 1998.

2. **TARC enforces a strict "no-show" policy for customers. ATE and Atlantic Paratrans purposely schedule rides to persons who cannot use the service because of sickness or death, and recover charges for "no shows."**

The DOT ADA regulation at Section 37.125(h) allows for a policy to address individuals who are consistent "no shows":

The entity may establish an administrative process to suspend, for a reasonable period of time, the provision of complementary paratransit service to ADA eligible individuals who establish a pattern or practice of missing scheduled trips.

In response to this allegation, TARC explained its no-show policy that was reinstated on January 1, 1998. The policy does not appear to be overly restrictive and is similar to the policies that we have reviewed from other transit providers across the country. TARC claims that "To date no one has been suspended, the number of no-shows has been dramatically reduced, and when a no-show is questioned it is generally removed from the individual's record."

In response to your allegation that ATE and Atlantic Paratrans receive compensation for rides that are not provided, TARC informed us that ATE received a fixed amount of compensation per month regardless of the number of rides scheduled. Atlantic Paratrans' contract combines three

components--fixed overhead, fixed rate for each vehicle in the fleet, and vehicle hours operated--but does not include compensation for trips not provided.

- 3. TARC Board members who do not have disabilities are given free unlimited access to use ADA complementary paratransit service.**

The DOT ADA regulation sets minimum standards for ADA complementary paratransit eligibility. Decisions by TARC to allow someone to ride who may not be eligible rests with the transit provider as long as there is no capacity constraint. There is no indication that even if this was a TARC policy that it has any relationship to the ADA DOT regulation. TARC stated that it has a policy to provide TARC employees and Board members free passage on TARC vehicles, but only those who meet the ADA complementary paratransit eligibility requirements are given that service.

- 4. The TARC paratransit contractor, Atlantic Paratrans, hires convicted felons.**

Although this may be a general concern this has no relation to the ADA. The DOT ADA regulations do not address this issue. However, TARC concedes that Atlantic Paratrans did not meet its contractual standards for hiring in all cases. TARC claims that "All employees not meeting contractual standards have been discharged."

- 5. ATE's policy for rescheduling rides is not correct; Atlantic Paratrans will not allow passengers to use its two-way radio system in vehicles to cancel rides.**

You stated in your letter that ATE will not allow customers to reschedule rides as they desire, but require them to make changes that are at least one hour ahead or behind of a previously scheduled trip. The DOT ADA regulation allows the transit provider to negotiate within a one hour timeframe before or after a desired time, but it may not require the customer to change the desired departure time if there is capacity available. Section 37.131(b)(2) states:

The entity may negotiate pickup times with the individual, but the entity shall not require an ADA paratransit eligible individual to schedule a trip to begin more than one hour before or after the individual's desired departure time.

TARC acknowledges that it was aware that at least one ATE employee would not permit changes in scheduled trips of less than one hour. However, it claims that this was not TARC policy and corrective actions were taken.

You also allege that Atlantic Paratrans will not allow customers to use its two-way radio from the vehicle to cancel or change reservations. TARC is under no obligation by the DOT ADA regulations to provide this service.

- 6. Excessive trip lengths on TARC's complementary paratransit service are routine.**

The DOT ADA regulation at 49 CFR 37.131(f) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: (1) Restrictions on the number of trips an individual will be provided; (2) Waiting lists for access to the service; or (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of significantly untimely pickups for initial or return trips; (B) Substantial numbers of trip denials or missed trips; (C) Substantial numbers of trips with excessive trip lengths.

The DOT ADA regulations do not clearly define the term "excessive trip lengths" but give the following example in Appendix D to Part 37:

Since paratransit is a shared ride service, paratransit rides between Point A and Point B will usually take longer, and involve more intermediate stops, than a taxi ride between the same two points. However, when the number of intermediate stops and the total trip time for a given passenger grows so large as to make use of the system prohibitively inconvenient, then this provision would be triggered. For example, ... a situation in which 9 percent of riders had one way trips averaging between two and four hours, with an average of 16 intermediate stops... would probably trigger this provision.

We contacted five of the witnesses whose names you provided and heard some general complaints about excessive trip lengths without specific corroborating details. Without more specifics it is not possible to make a determination regarding this matter. We believe that these incidents should more appropriately be reported immediately and directly to TARC with sufficient documentation such as the date, time and length of the trip, to allow TARC to investigate each incident.

7. TARC, ATE and Atlantic Paratrans have singled you out for retaliation.

The ADA Statute at 42 U.S.C. 12203 Section 503(a), "Prohibition Against Retaliation and Coercion" states:

No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the Act.

TARC stated in its initial reply that it "strongly denies that [REDACTED] has been subjected to retaliation, denied any opportunity to schedule rides, or deliberately not picked up for a scheduled ride." TARC relayed information about an incident in which you called an ATE reservationist at home and voiced the opinion that this incident may be the source of your suspicions that TARC employees and management have been discussing you. One of the witnesses who we contacted stated that a TARC employee confirmed in his and your presence that there was an internal TARC

memorandum about you. We requested from TARC and received copies of all correspondence regarding you. A copy of the internal memorandum was included. It was in essence an incident report.

Of the five witnesses that we interviewed about this allegation one claimed to have first hand knowledge of retaliation against you. This former employee of Atlantic Paratrans gave the following examples:

- o Paratransit drivers were told that if [REDACTED] was not visible when they arrive to leave a "no-show" notice and leave immediately before Mr. Mayes had a chance to arrive. This applied only to [REDACTED], not to other customers.
- o [REDACTED] name was "on the board." Drivers were cautioned to be careful around him because he is difficult and complains a lot.
- o [REDACTED] was talked about around the office. Personnel were tired of dealing with him.
- o "Sydney" particularly "had it out" for [REDACTED]. He purposely wouldn't send a driver to pick Mr. Mayes up after a no-show.

Retaliation is a very serious offense. It also is a difficult charge to prove. After receiving its initial reply which denied the possibility of retaliation, we provided the above information to TARC and requested that it investigate these specific allegations with Atlantic Paratrans. TARC did so, and although it did not uncover evidence to support the allegations, it committed to the following actions:

1. The Executive Director will review all complaints for possible indications of retaliation.
2. TARC will perform a random telephone survey of ADA paratransit customers to evaluate service performance. The survey will be patterned on a previous survey so that it can evaluate changes in customer service levels. Particular attention will be paid to questions about drivers and/or dispatchers.

In addition to these actions, TARC has sent a strongly worded letter to Atlantic Paratrans that states in part:

Retaliation in any way, shape or form is not only bad customer service but is illegal. We will not tolerate the violation of any customer's rights under the Americans with Disabilities Act.

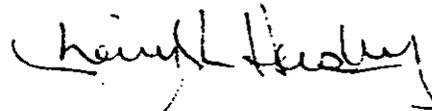
We have every confidence that TARC is committed to its ADA responsibilities. Should you encounter any future difficulties that you believe constitute retaliations by any TARC or Atlantic Paratrans employee, please immediately notify TARC and provide enough information to enable TARC to identify the employee.

8. TARC fixed route drivers do not make stop announcements.

The DOT ADA regulation at Section 37.167(b) requires that stop announcements shall be made at "transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location." TARC provided documentation that it has a proper stop announcement policy in place. TARC bus operators who fail to call stops are subject to progressive disciplinary action; TARC supervisors board vehicles to check for adherence to the policy; and customers are asked to report operators who do not announce stops. Although we acknowledge that these measures do not guarantee compliance with the law, we believe that this issue can be more appropriately handled at the local level. We encourage you to report any future incidents immediately and directly to TARC with sufficient documentation to identify the bus operator in question.

We understand that you now have additional allegations that you wish to file with us against TARC. If you wish, you may send them to us and they will be investigated under a new complaint. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: TARC



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20560

JUN 13 1999

[REDACTED]

Re: FTA Complaint No. 98092

Dear [REDACTED]

This letter responds to your complaint against Developmental Opportunities, doing business as RIDE Transit Services (RIDE) regarding potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Persons with disabilities are denied equal access to RIDE; certain times of day are reserved for transporting school children and subscription riders.
2. Subscription service was not offered to the general public.
3. RIDE should not provide transportation for school children because the school system has its own transportation system.
4. RIDE does not comply with its ADA responsibilities.

5. RIDE has represented to the public that it has weekend and evening transportation for emergencies for persons with disabilities, but it is actually not available because the office is not staffed and no one checks for messages.
6. RIDE statistics on providing transportation to persons with disabilities are not accurate; it combines other Developmental Opportunities programs that are not under the RIDE program.
7. The RIDE facility is not accessible to persons with disabilities; there is no accessible parking, and the ramp to the rest rooms is too steep and cluttered.

We informed RIDE of your allegations and requested information relating to your complaint; reviewed the information presented by RIDE and you, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. We have restated your allegations below followed by our determination on each.

1. **Persons with disabilities are denied equal access to RIDE; certain times of day are reserved for transporting school children and subscription riders.**

Section 37.5(a) of the DOT ADA regulation states that "No entity shall discriminate against an individual with a disability in connection with the provision of transportation service." The intent of the DOT implementing regulation is to ensure equal access to public transportation. However, what may appear to be a violation of the ADA may actually be a potential violation of the FTA School Bus and Charter Bus Regulations. We have forwarded your complaint to the FTA Region VIII Office in Denver, Colorado, for evaluation under those regulations.

2. **Subscription service was not offered to the general public.**

Subscription service as required by the DOT ADA regulation applies only to ADA complementary paratransit service. RIDE offers general public transportation, not ADA paratransit service, and as such the DOT ADA regulation regarding subscription service does not apply to this situation. RIDE explained that its subscription service is available exclusively for "families/children who need transportation services to high traffic areas such as schools, child care centers and recreation programs."

RIDE's subscription service may violate the FTA School Bus and/or Charter Bus Regulations and will also be addressed by the FTA Region VIII Office.

3. **RIDE should not provide transportation for school children because the school system has its own transportation system.**

As this issue is not covered by the DOT ADA regulation, it will be addressed by the FTA Region VIII Office.

4. RIDE does not comply with its ADA responsibilities.

In your letter you stated that there are no written agreements between the City of Cañon City and Developmental Opportunities regarding RIDE's ADA responsibilities and questioned how ADA compliance was ensured. Outside of the above mentioned issues, this allegation was not specific.

As a demand responsive public transportation provider, RIDE must meet certain requirements contained in the DOT ADA regulation. These include the following:

Section 37.5(a)-(h)	<i>Nondiscrimination.</i>
Section 37.77(a)-(e)	<i>Purchase or lease of new non-rail vehicles by public entities operating a demand responsive system for the general public.</i>
Section 37.161(a)-(c)	<i>Maintenance of accessible features: General.</i>
Section 37.163(a)-(e)	<i>Keeping vehicle lifts in operative condition: Public entities.</i>
Section 37.165(a)-(g)	<i>Lift and securement use.</i>
Section 37.167(d)-(h)	<i>Other service requirements.</i>
Section 37.173	<i>Training requirements.</i>

For your reference, we have enclosed a copy of the DOT ADA regulation that applies to RIDE. (Enclosure 1.)

Before receiving Federal funds for public transportation, Developmental Opportunities must sign a certification that it complies with the appropriate ADA requirements. We have enclosed a copy of this document which was signed on May 5, 1997, by Roger Jensen, Executive Director, Developmental Opportunities. (Enclosure 2.) We also asked RIDE for documentation that it meets these requirements and are satisfied that, with the possible exception of providing information in accessible formats, it does. We have addressed this issue with RIDE. (Enclosure 3.) If you have other specific information that conflicts with our finding, please submit it to us with objective documentation to support your allegation.

5. RIDE has represented to the public that it has weekend and evening transportation for emergencies for persons with disabilities, but it is actually not available because the office is not staffed and no one checks for messages.

There is no requirement under the DOT ADA regulation for evening and weekend hours where general public transportation is provided. However, we asked RIDE about this service. RIDE responded and provided documentation that its hours of operation are 8:00 a.m. to 5:00 p.m., Monday through Friday.

6. **RIDE statistics on providing transportation to persons with disabilities are not accurate; it combines other Developmental Opportunities programs that are not under the RIDE program.**

Once again, this issue is not covered by the DOT ADA regulations. However, as we understand RIDE's operations, different segments of the population are all served under the RIDE umbrella. This includes persons with disabilities--as a group, or individually, contracted service, subscription service, elderly persons and the general public. We do not believe that RIDE's method of reporting statistics is deficient.

7. **The RIDE facility is not accessible to persons with disabilities; there is no accessible parking, and the ramp to the rest rooms is too steep and cluttered.**

From your description, we understand that you are referring to the RIDE dispatch and maintenance facility located at 0088 Pedotto Road. As this facility is not open for business to the public, it does not fall under the jurisdiction of the DOT ADA regulation. If you wish, we can forward this part of your complaint to the Equal Employment Opportunities Commission (EEOC), although it is unclear if your position as a former volunteer would give you standing in filing a complaint of this nature. Further, RIDE has informed us that the facility is under contract for sale with a closing date of October 16, 1998, and RIDE is currently awaiting funding to acquire a new maintenance facility. Please notify us if you wish for us to forward this part to EEOC.

We appreciate that your concerns about RIDE are many and varied, and we regret if our interpretation of the DOT ADA regulation does not satisfy them. If you have any questions regarding this decision, please contact Roberta Wolgast, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl E. Hershey
ADA Team Leader
Office of Civil Rights

Enclosures (3)

cc: Congressman Scott McInnis

Mr. George Small (Complainant's Identity Withheld)
Director of Operations, RIDE

Chon



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 3 1998

[REDACTED]

Re: FTA Complaint No. 95069

Dear [REDACTED]

This letter responds to your complaint against the New Jersey Transit Corporation (NJ Transit) in Newark, New Jersey and potential noncompliance with Title 11 of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assist the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. NJ Transit bus operators were abusive, insensitive and rude to you and your wife on numerous occasions.
2. NJ Transit does not have formal ADA complaint procedures to address your complaints.
3. NJ Transit bus operators often fail to make stop announcements as required by the DOT ADA regulations.

4. NJ Transit fails to ensure that the path to the bus lane for the Number 62 bus (Metro Park) is not blocked and that the bus lane is clearly designated.
5. NJ Transit bus operators do not enforce the DOT ADA priority seating requirement.

We informed NJ Transit of your allegations, requested information relating to your complaint and reviewed the information presented by NJ Transit and you. We made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. Below, we have restated your allegations followed by our determinations.

1. **NJ Transit bus operators were abusive, insensitive and rude to you and your wife on numerous occasions.**

The DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

NJ Transit acknowledged that on a number of occasions, some bus operators were indeed rude and abusive to both you and your wife. In every incident in which a bus operator was found to be negligent was substantiated, disciplinary action was taken against that operator. NJ Transit provided detailed documentation of the punitive measures taken against each operator and included the ADA training records of these operators which verified that each received their required ADA training.

2. **NJ Transit does not have formal ADA complaint procedures to address your complaints.**

Section 504 at 49 CFR 27.13 (b) states:

A recipient that employs fifteen or more persons shall, within 180 days, adopt and file with the head of the operating administration procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part.

Transit providers, as required by Section 504, must have a complaint process in place within 180 days of the implementation of service. The regulation does not provide any guidance as to what the complaint process must entail. It is up to each individual transit provider to determine how complaints received by their agency are handled. FTA's only role is to determine that a reasonable complaint process exists and that NJ Transit is following the process. NJ Transit does has a

complaint process in place, and it acknowledged that on many occasions you have filed complaints and received responses to your concerns about fixed route and paratransit service. Because NJ Transit does have a complaint process, we do not find it to be in violation of Section 504.

3. NJ Transit bus operators often fail to make stop announcements as required by the DOT ADA regulation.

The DOT ADA Regulation at 49 CFR 37.167 (b) states:

On fixed route systems, the entity shall announce stops as follows: (1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location. (2) The entity shall announce any stop on request of an individual with a disability.

and the DOT ADA Regulation at 49 CFR 37.167 (c) states:

Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator a person seeking a ride on a particular route.

NJ Transit advised that while it cannot address the specific incidents you reported, through an aggressive educational program and disciplinary measures, the number of reported incidents regarding the failure to make stop announcements has been reduced from system-wide high of 2105 observations in 1994, to 297 in 1995, 239 in 1996, and 24 during the first 3 months in 1997.

With respect to the Number 400 bus which you ride periodically, the number of reported observations of failure to make stop announcements was reduced from 11 in 1994 to 1 in 1995, 0 in 1996, and 0 in the first 3 months of 1997. In reference to the Number 62 bus which you ride frequently, the number of reported observations of failure to make stop announcements was reduced from 51 in 1994 to 3 in 1995, 5 in 1996 and 0 in the first 3 months of 1997.

In August 1994, NJ Transit negotiated an agreement of understanding with the Amalgamated Transit Union in which any operator found violating the stop announcement policy will be automatically suspended in lieu of the normal progressive discipline procedure for the first and subsequent violations. NJ Transit also advised that it periodically monitors its operators by using undercover riders to determine whether or not stop announcements are being made. It provided FTA with copies of its monitoring reports of its stop announcement policy.

We have determined that NJ Transit has taken appropriate steps in implementing this policy and ensuring that its operators announce stops as required by the DOT ADA regulations. If you find that vehicle operators do not comply, we advise you to report the incident immediately and

that vehicle operators do not comply, we advise you to report the incident immediately and directly to NJ Transit along with supporting documentation such as the date, time, bus route, etc. to allow NJ Transit to identify the operator in question.

- 4. NJ Transit fails to ensure that the path to the bus lane for the Number 62 bus (Metro Park) is not blocked and that the bus lane is clearly designated.**

The DOT ADA regulation at 49 CFR 37.43 (a)(2) states:

When a public entity undertakes an alteration that affects or could affect the usability of or access to an area of a facility containing a *primary function*, the entity shall make the alteration in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered areas are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of the alterations... (emphasis added)

and the DOT ADA regulation at 49 CFR 37.43 (c) states:

As used in this section, a *primary function* is a major activity for which the facility is intended. Areas of transportation facilities that involve primary functions include, but are not necessarily limited to, ticket purchase and collection areas, passenger waiting areas, train or bus platforms, baggage checking and return areas and employment areas...

NJ Transit acknowledged that there was a problem with the bus loading areas at its Metro Park Station. Although the bus loading areas were clearly designated, there were many incidents of illegal parking by cab drivers and other automobiles which made boarding buses hazardous. NJ Transit advised that to ensure that the bus lane for the Number 62 bus is not blocked, it entered into an agreement with Middlesex County and the Woodridge Police to enforce this policy.

Also, as a result of your concerns, NJ Transit separated the Number 62 and Number 4 buses drop-off/pick-up areas in February 1996. The Number 4 bus remained in the "saw-tooth" and the Number 62 drop off/pick-up was moved to in front of the station. However, since this arrangement was not satisfactory to you, the drop off/pick-up location for the Number 62 and Number 4 were reversed on March 7, 1996. Finally, after the completion of two parking decks in February 1997, each bus is now assigned separate saw-tooth locations. In a telephone conversation with Annette Adams of RGMA, you indicated that this situation is greatly improved.

- 5. NJ Transit bus operators do not enforce the DOT ADA priority seating requirement.**

The DOT ADA regulation at 49 CFR 37.167 (j)(1) and (3) states:

When an individual with a disability enters a vehicle, and because of a disability, the individual needs to sit in a seat or occupy a wheelchair securement location, the entity shall ask the following persons to move in order to allow the individual with a disability to occupy the seat or securement location; (i) Individuals, except other individuals with a

-5-

and handicapped persons (or other seats as necessary): (ii) Individuals sitting in a fold-down or other movable seat in a wheelchair securement location... (3) The entity is not required to enforce the request that other passengers move from priority seating areas or wheelchair securement locations.

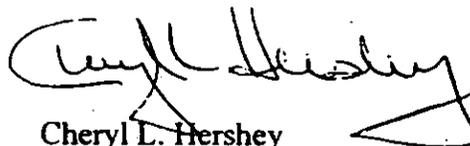
NJ Transit informed FTA that without the names of the operators and the dates of incidents, it was unable to verify your specific allegations regarding its priority seating policy. Nevertheless, FTA requested that NJ Transit verify its efforts to comply with this DOT ADA requirement.

NJ Transit's policy states that people without apparent disabilities, sitting in a regular priority, will be asked, but not forced, to transfer to another seat if a person with a disability or an elderly person boards the bus. This policy, located in the Transportation Employees Service Guide, is provided to each operator during customer service and ADA training. NJ Transit further advised FTA that its records show that during 1996, it completed 529 observations or monitoring trips on the No. 62 route bus. It states that during this period, it observed only one incident of discourtesy and no incidents of failure to provide passenger assistance.

Based on the facts presented, we do not find NJ Transit to be deficient with this provision of the DOT ADA regulation. If you find NJ Transit's actions inconsistent with these statements, we encourage you to continue to work with NJ Transit and your local government officials to ensure that NJ Transit complies with this provision of the DOT ADA regulation.

In conclusion, we find that NJ Transit has acted reasonably and within the DOT ADA regulation. Based on this determination, we will take no further action regarding this complaint and will consider your file to be closed. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: NJ Transit



U.S. Department
of Transportation
**Federal Transit
Administration**

SEP 22 1998

400 Seventh St., S.W.
Washington, D.C. 0590

[REDACTED]

Re: FTA Complaint No. 98066

Dear [REDACTED]

This letter responds to your complaint against the Sacramento Regional Transit District (RT) and its contractor, Paratransit, Inc., of Sacramento, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Paratransit, Inc. failed to inform you of your correct status on the "Standing Ride" list of eligible ADA complementary paratransit riders.
2. Although you have multiple disabilities including blindness, RT placed you in the "Category 3" eligibility status.

We informed RT of your allegations, requested information relating to your complaint, and reviewed both information sources. We made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations below followed by our determinations:

-2-

1. Paratransit, Inc. failed to inform you of your correct status on the "Standing Ride" list of eligible ADA complementary paratransit riders.

Your complaint does not fall squarely within the DOT/ADA regulations as to constitute a violation if the process were not corrected. However, we inquired on your behalf because we thought this matter could be simply rectified. You state that you requested a "standing ride" in November 1997, to transport you to and from college beginning in January 1998. You stated that you were informed by a Paratransit, Inc. employee that you were "on the list" when you spoke with him in December. It appears that this was an unfortunate case of miscommunication on both parts. According to Paratransit, Inc. you were placed on a *waiting* list for subscription service in December and were mailed confirmation of this in December 1997. However, being placed on waiting the list does not guarantee that you will be provided subscription service; it simply means that your request will be considered when capacity becomes available. You understood the letter to mean that your standing ride would start when you requested. We agree that the form letter you received did not clearly communicate your status.

In a February 6, 1998, letter to you Paratransit, Inc. explained its process to you and apologized for the inconvenience that this misunderstanding caused. To prevent future miscommunications of this nature, Paratransit, Inc. changed its confirmation letter to clearly state, "You are on the waiting list for the standing ride below." Staff has been instructed by Paratransit, Inc. to clearly communicate with riders regarding the procedure for obtaining subscription service.

2. Although you have multiple disabilities including blindness, RT placed you in the "Category 3" eligibility status.

The ADA is a civil rights statute. It clearly emphasizes nondiscriminatory access to fixed route service, with complementary paratransit acting as a "safety net" for people who cannot use the fixed route system. Under the ADA, complementary paratransit is not intended to be a comprehensive system of transportation for individuals with disabilities and simply having a disability or multiple disabilities does not, in and of itself, entitle a person to ride. Rather, the DOT ADA regulation provides for three categories of complementary paratransit eligibility. Category 1 is for persons with disabilities who cannot use fixed route without the assistance of another person. Category 2 is for persons who could use the fixed route if the vehicles were accessible. Category 3 is described at Section 37.123(e)(3):

Any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system.

If you believe that you have been placed in the wrong eligibility category, you have the right to appeal. The DOT ADA regulation at 49 CFR 37.125(g) states:

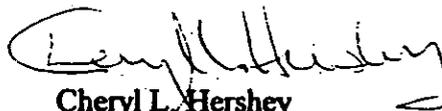
The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial.

-3-

RT provided documentation that it has a proper appeals process in place. Information on how to appeal is included in the notification packet that informs customers of their eligibility status. Although the DOT ADA regulations allow transit providers to limit the appeal period to 60 days after notification, RT allows its customers to file an appeal at any time. If you are still dissatisfied with your Category 3 status, we recommend that you proceed with RT's appeal process. For your information, RT informed us that you are scheduled to go through the recertification process "with the next group."

If you have questions regarding our actions on your complaint, please contact Linda W. King, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511 or at her electronic mail address: linda.king@fta.dot.gov. Please include your FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention. We wish you well in resolving your transportation needs.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Ms. Pilka Robinson
General Manager

Ms. Pricilla Kays
Accessible Services Administrator



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 0590

SEP 22 1998

[REDACTED]

Re: FTA Complaint No. 98110

Dear [REDACTED]

This letter responds to your complaint against Coyote Run Transit, of Oro Valley, Arizona, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

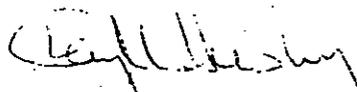
We understand your allegation to be that Oro Valley's Transit Service, Coyote Run, fails to accommodate your transportation needs because it does not operate on a weekend schedule. We informed Coyote Run of your allegation, requested information relating to your complaint, and reviewed both information sources. We made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

We have learned that Coyote Run Transit is not a fixed route service, but a demand responsive service. Demand responsive service means that in order to use the service, the customer must call in advance and reserve a ride. There is no requirement under the DOT ADA regulation that demand responsive service to be provided on weekends.

-2-

We regret that we are unable to assist you further. We recommend that you continue to express your concerns locally regarding this issue. If you have questions regarding our actions on your complaint, please contact Linda W. King, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511 or at her electronic mail address: linda.king@fta.dot.gov. Please include your FTA complaint number on any correspondence with this office. We wish you well in resolving your transportation difficulties.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Mr. John Zukas
Coyote Run Transit

C. R. M.



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 3 1998

[REDACTED]

Re: FTA Complaint No. 98048

Dear [REDACTED]

This letter responds to your complaint against the Chattanooga Area Regional Transit Authority (CARTA) in Chattanooga, Tennessee, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Wheelchair lifts on CARTA buses often malfunction.
2. Drivers either are unwilling or are not trained to properly assist persons with disabilities.

We informed CARTA of your allegations and requested information relating to your complaint; reviewed the information presented by CARTA and you; and made a determination based on our analysis of the complied information in relation to the DOT ADA regulation. We have restated your allegations followed by our determinations, below:

1. Wheelchair lifts on CARTA buses often malfunction.

In your complaint you described a series of lift malfunctions that you experienced in early 1998. On one day in particular, January 8, 1998, you encountered four buses with lifts that were not working or with bus drivers who did not know how to deploy them. The information that you presented appeared to be from a log written contemporaneously with the difficulties that you described and included the time of day, route numbers and bus numbers.

The DOT ADA regulation at Section 37.71 requires that new vehicles purchased for fixed route public transportation must be "readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs." Section 37.75(a)(1) requires that after August 25, 1990, any bus that is remanufactured so as to extend its useful life for five years or more, must, to the maximum extent feasible, be made "readily accessible to and usable by individuals with disabilities including individuals who use wheelchairs." There is no requirement that buses be retrofitted with accessibility equipment unless they are remanufactured.

CARTA responded to this allegation with an explanation of its current bus fleet and the problems it has encountered in trying to make an old fleet accessible. It received 10 new accessible buses in Spring 1998. It equipped 27 of its 1974 model buses with "Ricon" wheelchair lifts and securement locations prior to the effective date of the ADA in 1990. These lifts "occasionally" break down, but sound to be reasonably reliable. After the effective date of the ADA, CARTA retrofitted 30 1985-1987 buses with "Mobiltech" wheelchair lifts that have proven to be very unreliable. According to CARTA, it was these lifts that were on the buses that you were unable to board on January 8, 1998. In part, as a result of the difficulties that you and others have experienced, CARTA has removed the Mobiltech-equipped buses from its accessible routes, has replaced three of the lifts, and plans to replace 14 more of the lifts. CARTA claims to have sufficient lift-equipped buses to service its accessible routes during peak hours.

The DOT ADA regulation Section 37.163(b) regarding preventative maintenance for accessibility equipment states that "The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative."

Although it is not clear if this has always been CARTA's policy, it issued a memorandum to "All Operators" on January 13, 1998, directing them to cycle wheelchair lifts as a part of their daily pre-trip inspection before leaving the garage. The memorandum stated that "Operators failing to comply with this directive, are subject to disciplinary action." The dates coincide with the meeting you had with Thomas W. Dugan, CARTA Executive Director, in which you apparently related the repeated problems that you experienced.

Finally, the DOT ADA regulation at Section 37.163(c) states that "The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service." Section 37.163(f) states:

In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

From your log and from CARTA's reply, it is apparent that CARTA adheres to this requirement. You mentioned several times in your log that the driver called "Care-A-Van" (the ADA paratransit service) to pick you up when the lift failed.

Our investigation of your complaint indicates that there may have existed a "pattern or practice" of noncompliance with the DOT ADA requirements regarding the maintenance of accessible equipment during the early part of 1998. However, it appears that CARTA was aware of the problem and took appropriate corrective action. We have emphasized to CARTA that this cannot recur.

2. **Drivers either are unwilling or are not trained to properly assist persons with disabilities.**

In regard to training, DOT ADA regulation states the following at Section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicle and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

The information gathered during the investigation shows that CARTA conducted a system-wide training of its personnel in the operation of wheelchair lifts, securing wheelchairs, and treating passengers with courtesy and consideration. The drivers have subsequently been retrained twice since the 1990 session, and CARTA plans to conduct another system-wide sensitivity training session during the fall of 1998.

We acknowledge that providing training does not guarantee that the lessons learned are properly implemented, and we sense your frustration with drivers who do not demonstrate their knowledge. We have also addressed this point with CARTA.

We thank you for bringing your concerns to our attention, and hope that your experiences while traveling on the fixed route have improved. If you have any questions or need further assistance, please contact Eugene Jenkins, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line 1-888-446-4511, or at his electronic mail address: eugene.jenkins@fta.dot.gov. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: CARTA

Federal Transit Administration

TCR:EJenkins:ej:9/25/98

Electronic Copies to: TRO-4 (RA & CRO), TCC (Wong), TPM (Chor), All TCR Staff

Copies to: C-50 (Ashby) TCR-IHU Chron/Subject Wolgast, Jenkins

O\wolgast\ [REDACTED]

U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 13 1998

[REDACTED]

Re: FTA Complaint No. 97141

Dear [REDACTED]

This letter responds to your complaint regarding Pinellas (PSTA) Suncoast Transit Authority and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

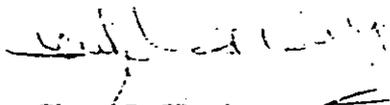
We understand your allegation to be that PSTA discriminated against you by denying you unrestricted ADA complementary paratransit eligibility. We informed PSTA of your allegation; requested information relating to your complaint; reviewed the information presented by PSTA and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. Our determination follows:

According to the DOT ADA regulation at Section 37.121:

...each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route systems.

Eugene Jenkins, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or contact him on his electronic mail address: eugene.jenkins@fta.dot.gov. Thank you for bringing this to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 19 1998

[REDACTED]

Re: FTA Complaint No. 97267

Dear [REDACTED]

This letter responds to your complaint regarding the Regional Transportation Commission of Clark County (RTC), and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that RTC and its ADA complementary paratransit provider, CAT, incorrectly denied you eligibility for paratransit service. We informed RTC of your allegation and requested information relating to your complaint; reviewed the information presented by RTC and you; and made a determination based on our analysis of the compiled information in relation to the DOT/ADA regulation. Our determination follows.

The DOT regulation in regard to ADA Paratransit Transit Eligibility Standards states at Section 37.123(e)(1)(2):

- (1) Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheel chair lift or other boarding assistance device),

to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individual with disabilities.

(2) Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time, or within a reasonable period of such time, when such a vehicle is not being used to provide designated public transportation on the route.

Section 37.125(g) states that:

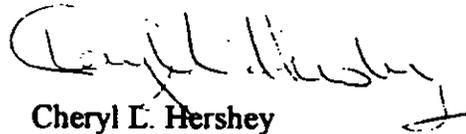
The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the appeal. (1) The entity may require that an appeal be filed within 60 days of the denial of an individual's application. (2) The process shall include an opportunity to be heard and to protest information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it.

The documentation in your file indicates that you applied for recertification for CAT ADA complementary paratransit services on September 10, 1997. On September 22, 1998, you were notified that your application for paratransit service was denied based on a functional assessment which showed that your disability did not prevent you from using the fixed route system. You exercised your right to appeal the decision and an appeal hearing was scheduled for January 22, 1998. The appeal board upheld the decision to deny you eligibility for paratransit service and you were notified on February 13, 1998. Your ADA complementary paratransit service expired on February 22, 1998.

Our normal procedure in complaints of this type is to ensure that the transit provider has an appeals process that complies with the DOT ADA regulation and that the process is properly implemented based on the circumstances presented. Based on the information we have reviewed for this investigation, we see no evidence that in your factual situation, RTC's implementation of its appeal process, resulting in a denial of your request for eligibility for ADA complementary paratransit services, violates our regulation.

If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, eugene.jenkins@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. We regret that we could not assist you in this matter.

Sincerely,



Cheryl E. Hershey
ADA Team Leader
Office of Civil Rights

cc: RTC



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 24 1998

[REDACTED]

Re: FTA Complaint No. 98113

Dear [REDACTED]

This letter responds to your complaint against Southwest Ohio Regional Transit Authority (RTA), Cincinnati, Ohio, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that RTA denied you ADA complementary paratransit eligibility on your initial application and during a re-evaluation process conducted by an independent appeals committee.

According to the DOT ADA regulation at Section 37.121:

...each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route systems.

The ADA is a civil rights statute. It clearly emphasizes nondiscriminatory access to fixed route service, with complementary paratransit acting as a "safety net" for people who cannot use the fixed route system. Under the ADA, complementary paratransit is not intended to be a comprehensive system of transportation for individuals with disabilities and simply having a disability or multiple disabilities does not, in and of itself, entitle a person to ride. Rather, the DOT ADA regulation provides for three categories of complementary paratransit eligibility. Category 1 is for persons with disabilities who cannot use fixed route without the assistance of another person. Category 2 is for persons who could use the fixed route if the vehicles were accessible. Category 3 is described at Section 37.123(e)(3):

Any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system.

The DOT ADA regulation requires that persons who are denied eligibility are granted an objective appeal. Section 37.125(g) states the following:

The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial. (a) The entity may require that an appeal be filed within 60 days of the denial of an individual's application. (b) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it.

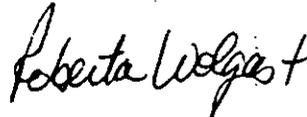
The information we have reviewed, indicates that you requested and received an appeal in accordance with RTA's policy. Such an appeals procedure, as represented, appears to be in accord with the DOT ADA regulation. Your appeal was denied in writing on March 2, 1998. In complaints of this nature, unless the facts of the particular circumstance appear to be egregious or substantively violate the regulation, we consider only the appeals process to determine if it comes within the requirements of the DOT ADA regulations. In your case, it appears that RTA followed the appropriate guidelines in making its decision. Our review of all of the information that we have gathered indicates that you received a proper appeal and that the decision was based on objective evidence gathered in your Travel Training Assessment which was performed January 29, 1998.

-3-

You should be aware that the issue of your personal safety was mentioned several times in the documentation. The ADA was never intended to afford persons with disabilities any greater personal safety than is afforded any person riding public transit. Unfortunately, issues of personal safety, outside of the proper procedures for serving persons with disabilities (e.g., securing wheelchairs properly, operating a wheelchair lift safely, etc.) are not considered by the regulation.

We regret that we are unable to assist you further. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



for Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: The Honorable Steve Chabot

RTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 25 1998

[REDACTED]

Re: FTA Complaint No. 98245

Dear [REDACTED]

This letter responds to your complaint against the Metropolitan Atlanta Rapid Transit Authority (MARTA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Pas 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that upon recertification you were wrongly denied renewal of your eligibility for MARTA's ADA complementary paratransit service and that the decision was upheld on appeal. We reviewed the information you presented and made a determination based on our analysis of that information in relation to the DOT ADA regulations. Our determination on your allegation is stated below.

The DOT ADA regulation at 49 CFR 37.125(f) states that, "The entity may require re-certification of the eligibility of ADA paratransit eligible individuals at reasonable intervals." The DOT ADA regulation allows an entity to re-certify eligibility at reasonable intervals to make sure that changed circumstances have not invalidated or changed the individual's eligibility. Often, there are persons who were, at one time, eligible for paratransit service, but because circumstances have changed (such as fixed route buses have become accessible or the person's

ability to travel on fixed route has improved), these passengers are no longer considered to require ADA complementary paratransit service.

The DOT ADA regulation at 49 CFR 37.125(g) allows for persons who have been denied eligibility the right to an administrative appeal. It states that "The entity shall establish an administrative appeal process through which the individuals who are denied eligibility can obtain review of the denial."

The administrative appeal process is intended to give appellants the opportunity to have their cases heard by some official other than the one who turned them down in the first place. In order to have appropriate separation - a key element of administrative due process - not only must the same person not decide the case on appeal, but the person, to the extent practicable, should not have been involved in the first decision.

The documentation you presented in your complaint shows that your first appeal was heard by the Paratransit Eligibility Review Subcommittee of MARTA's Elderly and Disabled Access Advisory Committee on April 24, 1998. The Subcommittee upheld the original decision to deny you eligibility. You then filed a second appeal with the MARTA Law Department and received a hearing on August 3, 1998, in which you presented additional medical information regarding your disability. Again, the original decision was upheld by the unanimous decision of the review panel. [For your information, this second appeal is not required by the DOT ADA regulation.]

In complaints of this nature, unless the facts of the particular circumstance appear to be egregious or substantively violate the regulation, we consider only the appeals process to determine if it comes within the requirements of the DOT ADA regulations. In your case, it appears that MARTA followed the appropriate guidelines in making its decision. We regret that we will be unable to assist you further with this matter.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, roger.peralta@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. We wish you well in resolving your transportation difficulties.

Sincerely,



for

Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Cc: MARTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 10 1998

[REDACTED]

Re: FTA Complaint No. 98265

Dear [REDACTED]

This letter responds to your complaint against the City of Albuquerque, New Mexico, regarding potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

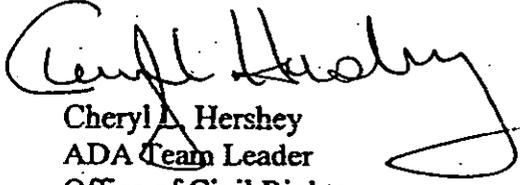
The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that the City of Albuquerque has restricted you from carrying your gas/electric bike on board its buses. We reviewed your allegation and found that the DOT ADA regulations do not address this issue. Bicycles do not meet the definition of a "common" wheelchair under 49 CFR Section 37.3 which states:

Wheelchair means a mobility aid belonging to any class of three or four-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered. A "common wheelchair" is such a device which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied.

We regret that we are unable to take any further action on your complaint. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include your FTA complaint number in any future correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,


Cheryl A. Hershey
ADA Team Leader
Office of Civil Rights

Federal Transit Administration

Control #1998TPA-001009; Doc No. 144; Due 10/13/98

CR:RPeralta/11/24/98:x66745

Electronic Copies to: GC(Tochen/Dunham), C-50(Ashby), TCC(Wong), TRO-9(RA), All TCR Staff

Hard Copies to: TCR-IHU(Wolgast, Peralta);Chron/Subject

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U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

[REDACTED]

DEC 11 1998

Re: FTA Complaint No. 97259

Dear [REDACTED]

This letter responds to the complaint you filed on behalf of your client, [REDACTED], against Tri-County Metropolitan Transportation (Tri-Met) in Portland, Oregon, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand [REDACTED]'s complaint to be that on August 9, 1997, a Broadway Cab, Inc. driver, working under contract to Tri-Met as an ADA complementary paratransit driver, refused to provide her service. [REDACTED] alleges that the driver was "very rude and inconsiderate," refused to assist her with her wheelchair, and refused to transport her service animal.

We informed Tri-Met of [REDACTED] allegations and requested information relating to her complaint; reviewed the information presented by Tri-Met and you; and made a determination

based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determination follows.

Several pertinent parts of the DOT ADA regulation address the issues that arise from this one alleged incident:

No entity shall discriminate against an individual with a disability in connection with the provision of transportation service. (Section 37.5(a))

The entity shall permit service animals to accompany individuals with disabilities in vehicles and facilities. (Section 37.167(d))

All common wheelchairs and their users shall be transported in the entity's vehicles or other conveyances. (Section 37.165(b))

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities. (Section 37.173)

Tri-Met provided documentation that its policies and procedures are in accordance with the above regulatory requirements. Tri-Met denies that its ADA complementary paratransit contractor refused to transport [REDACTED] and provided a copy of the driver's statement as evidence. The driver claims that [REDACTED] became upset when he questioned her about her service animal, but did not refuse to transport her.

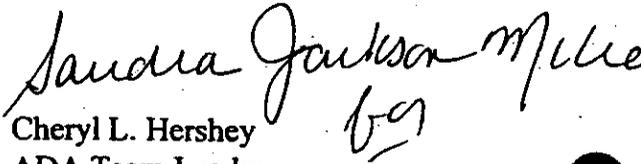
[REDACTED] claims that the driver did not want to get dog hair in his vehicle and refused to transport her. We contacted all three witnesses named in this complaint and found that their statements partially support both Ms. Day and the driver. Two Fred Meyer Home Improvement employees heard the raised voices between [REDACTED] and the driver and started listening more closely to the encounter. [REDACTED] overheard the driver say "dog hair in back seat" and "I did not refuse to give you a ride." She claims that the driver's tone and body language "made it clear to me that he was refusing to give [REDACTED] a ride." The other employee, [REDACTED], essentially repeated the same account that [REDACTED] reported. Both heard the driver repeat several times that he was not denying [REDACTED] a ride, while [REDACTED] kept insisting that he was.

The third witness was [REDACTED], Operations Supervisor, Tri-Met. Her only recollection of the incident was that another taxi was dispatched to Ms. Day immediately and brought her to her destination without incident. [REDACTED] has assured FTA that an incident of this type will not reoccur. Further, Broadway Cab has established a disciplinary policy to take appropriate action against any of its employees, either by oral reprimand, suspension, or termination, if it is proven that they have acted improperly.

We are aware that having the proper policies and procedures in effect does not guarantee that they are always followed. We also acknowledge that under the circumstances, the taxi driver is likely to describe the incident in a manner that is the least incriminating to himself. These two statements aside, the DOT ADA regulations at Appendix D to 49 CFR 37.11 states that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern or practice' kinds of problems, rather than on isolated operational errors." Although we realize that this alleged incident caused Ms. Day significant inconvenience, we do not have evidence at this time that it constitutes a pattern or practice of noncompliance with the DOT ADA regulations. Based on the above, we will take no further action on Ms. Day's complaint and will consider her file to be closed.

If you have any questions regarding this letter, please contact Roger Peralta, Equal Opportunity Specialist, of my staff, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,


Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Tri-Met

Federal Transit Administration
TCR:PERALTA:rp:4/9/98:x66745
Electronic Copies to: TRO-10(RA), GC(Tochen/Dunham), TCC (Wong), C-50 (Ashby) Attl
TCR Staff
TCR-IHU (Wolgast/Peralta/Chron/Subject)
0:PERALTADAY-F.SAM

TCL-20



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 11 1998

[REDACTED]

Re: FTA Complaint No. 98193

Dear [REDACTED]

This letter responds to your complaint against Access Services, Inc. (ASI) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that you were incorrectly denied eligibility by ASI for ADA complementary paratransit service and that the decision was upheld on appeal. We informed ASI of your allegations and requested information relating to your complaint; reviewed the information presented by ASI and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. Our determination on your allegation is stated below.

The ADA is a civil rights statute. It clearly emphasizes nondiscriminatory access to fixed route service, with complementary paratransit acting as a "safety net" for people who cannot use the fixed route system. Under the ADA, complementary paratransit is not intended to be a comprehensive system of transportation for individuals with disabilities and simply having a disability or multiple disabilities does not, in and of itself, entitle a person to ride.

The DOT ADA regulation requires that persons who are denied eligibility are granted an objective appeal. Section 37.125(g) states the following:

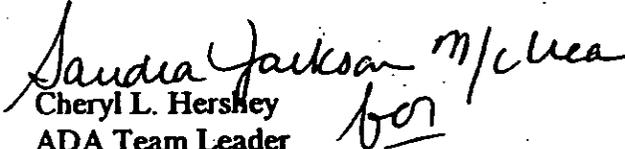
The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial. (a) The entity may require that an appeal be filed within 60 days of the denial of an individual's application. (b) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it.

The administrative appeal process is intended to give appellants the opportunity to have their cases heard by some official other than the one who turned them down in the first place. In order to have appropriate separation - a key element of administrative due process - not only must the same person not decide the case on appeal, but the person, to the extent practicable, should not have been involved in the first decision.

The documentation we obtained in our investigation shows that you requested and received an appeal to ASI's original determination. The decision on your appeal was made based on a physical examination done by medical doctor who was not involved in the original decision to deny you eligibility. In complaints of this nature, unless the facts of the particular circumstance appear to be egregious or substantively violate the regulation, we consider only the appeals process to determine if it comes within the requirements of the DOT ADA regulations. In your case, it appears that ASI followed the appropriate guidelines in making its decision. We regret that we will be unable to assist you further with this matter.

If you have any questions regarding this decision, please contact Sandra Jackson McCrea on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address, sandra.mccrea@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. We wish you well in resolving your transportation difficulties.

Sincerely,


Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: ASI

Federal Transit Administration

TCR:Rwolgast:rw:60802:12/9/1998

Electronic copies to: TRO-9(RA), GC (Tochen), C-50 (Ashby), TCC (Wong), All TCR Staff

Hard copies to: TCR-IHU Chron/Subject/Wolgast

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TCL-20



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 11 1998

[Redacted]

Re: FTA Complaint No. 97056

Dear [Redacted]

This letter responds to your complaint against New York City Transit (NYCT) of Brooklyn, New York, and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand from your letter that you seek clarification of an article printed in the March 9, 1997, *New York Times*, regarding the NYCT policy on service animals. The article segment that you contest states:

Another course segment focused on problems with animals. The rules are fairly straightforward. No matter how big a customer, no one can bring a boa constrictor on a bus. Passengers who argue that their pit bulls are guide dogs need to be told (remember, gently) that only German shepherds or Labradors are trained for such work.

In your letter, you state, "... 1) not all guide dogs are German shepherds or Labradors; 2) not all service dogs (as defined by ADA) are guide dogs; and, 3) not all service dogs are German Shepherds or Labradors."

) We have enumerated your concerns as we understand them:

1. What is the definition of a service animal under the DOT ADA regulation?
2. Is an "Emotional Support Dog" considered a service animal under the DOT ADA regulation?
3. Can a person with a disability be required to show verification that an animal is a service animal?

We informed NYCT of your concerns and requested information relating to your complaint; reviewed the information presented by NYCT and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your concerns below followed by our determinations.

1. **What is the definition of a service animal under the DOT ADA regulation?**

Section 37.167(d) of the DOT ADA regulation states, "The entity shall permit service animals to accompany individuals with disabilities in vehicles and facilities." Section 37.3 defines a service animal as:

... any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items. (Emphasis added.)

NYCT provided a copy of its "Application for Service Animal Pass for Individuals with Disabilities" which states its definition of a service animal as "... animals, (usually dogs) which have been trained or are being trained to aid or guide a person with a disability and are accompanying persons with disabilities." This definition is consistent with the definition in the DOT ADA regulation. The quote from the newspaper referenced in your letter clearly is not an accurate statement as to service animals under the DOT ADA regulations.

2. **Is an "Emotional Support Dog" considered a service animal under the DOT ADA regulation?**

We recognize that under the DOT ADA regulations, disability is defined to include mental impairment and psychological disorder including emotional illness. However, to qualify as a service animal an emotional support dog would have to be trained specifically to work or perform tasks. As emotional support dogs are not trained to perform specific tasks for persons with disabilities, they are not considered service animals under the DOT ADA regulations.

3. Can a person with a disability be required to show verification that an animal is a service animal?

The DOT ADA regulation does not specifically address the issue of licensing and certification for service animals. However, the ADA provides for nondiscriminatory access to public services and strives to thwart any policy that would set persons with disabilities apart.

NYCT has adopted "Rules of Conduct" regarding its policy on service animals. It states, in part:

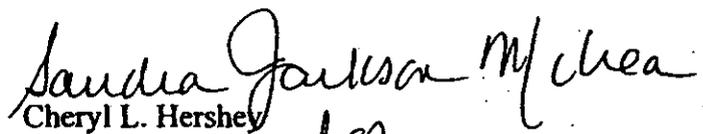
(3) . . . Upon request of designated Authority personnel, a passenger must display a service animal license issued by the Department of Health of the City of New York or by other governmental agencies in New York or elsewhere authorized to issue such licenses, or an identification from a professional training school that the animal is a trained service animal.

(4) Persons with disabilities who use service animals who do not have a service animal license or other proof that the animal is professionally trained as described in this subdivision may apply to the Authority for a service animal identification card.

An entity may inquire whether an animal is a service animal but cannot require certification. This position follows the intent of the ADA as described in the guidance offered by the U.S. Department of Justice. NYCT's policy to require users of service animals to prove the animals have been certified, or in this case, licensed, is not supported by the ADA statute or the DOT ADA regulation. As such we have informed NYCT of our determination and have requested that it revise its policy.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Thank you for bringing this matter to our attention.

Sincerely,


Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights 

cc: Lawrence Reuter, NYCT
Michael Vaccari, MTA
Mary McCorry, NYCT



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 22 1998

[REDACTED]

Re: FTA Complaint Nos. 95042 and 96014

Dear [REDACTED]

This letter responds to your complaint against the Capital Metropolitan Transportation Authority, (Capital Metro), in Austin Texas, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. On September 4, 1996, Capital Metro paratransit service, Special Transit Service (STS), changed your scheduled pick up time without providing sufficient advanced notice; and
2. On September 23, 1996, a STS driver dropped [REDACTED] off in an unsafe location.

We informed Capital Metro of your allegations, requested information relating to your complaint and reviewed the information presented by Capital Metro and you. We made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. Below, we have restated your allegations followed by our determinations.

1. On September 4, 1996, Capital Metro paratransit service, Special Transit, changed your scheduled pick up time without providing sufficient advanced notice.

The DOT ADA regulation at 49 CFR 37.131 (b)(2) states:

The entity may negotiate pick up times with the individual, but the entity shall not require an ADA paratransit eligible individual to schedule a trip to begin more than one hour before or after the individual's desired departure time.

Capital Metro stated that in keeping with its overall goal to provide a demand response service that strives to maximize the number of passengers who can be accommodated, schedule changes of up to 30 minutes may be made after a trip is initially scheduled. For any schedule change of more than five minutes, Capital Metro, by policy, contacts the passenger with the schedule change information. Attempts are now made to contact passengers the evening before the day of the scheduled trip. However, Capital Metro acknowledged that in the past, there were times in which they were unsuccessful in making telephone contact the previous evening.

In regard to the incident on September 4, Capital Metro stated that it is possible that you were not given advance notice of your schedule change until 2 hours before your scheduled trip time. To alleviate this problem, Capital Metro added additional telephone operators that focus solely on this responsibility. Capital Metro acknowledged that this type of error is unacceptable. Although this incident was unacceptable to both FTA and Capital Metro, we find that Capital Metro has taken proper corrective action to address this deficiency.

2. On September 18, 1996, a STS driver dropped [REDACTED] off at an unsafe location.

The DOT ADA regulation at 49 CFR 37.129 states:

Except as provided in this section, complementary paratransit service for ADA paratransit eligible persons shall be origin to destination service.

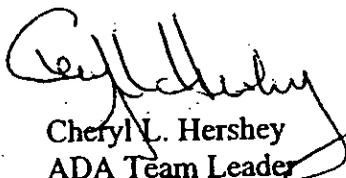
The basic mode of service for complementary paratransit is demand responsive, origin to destination service. The local planning process should decide whether, or in what circumstances, this service is to be provided as door-to-door or curb-to-curb service.

Capital Metro stated that its policy is to provide door-to-door service for all passengers. Apparently, the driver in this instance did not follow Capital Metro's established procedures when he made [REDACTED] disembark in the middle of the street. Because of this clear infraction, the driver was identified and received disciplinary action.

Capital Metro has assured us that if specific drivers are found to be in violation of its door-to-door policy, appropriate disciplinary action will be taken.

In conclusion, we find that Capital Metro has acted reasonably and within the DOT ADA regulations. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,


Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Capital Metro ✓



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 0590

DEC 22 1998



Re: FTA Complaint No. 98097

Dear 

This letter responds to your two complaints against the Brownsville Urban System (BUS), of Brownsville, Texas, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. On two occasions the ADA complementary paratransit drivers did not leave their vehicles to assist you from the mall to the vehicle.
2. An ADA complementary paratransit driver did not assist you by pushing your wheelchair up the ramp of the vehicle.
3. At times, you have waited for over an hour for an ADA complementary paratransit ride.
4. A driver refused to carry your portable ramp for you.

-2-

We informed BUS of your allegations, requested information relating to your complaint, and reviewed both information sources. We made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations below followed by our determinations:

1. **An ADA complementary paratransit driver did not leave his vehicle to assist you from the mall to the vehicle.**

You stated in your letter that on two separate occasions a driver pulled up to the mall exit, deployed the ramp, waited for five minutes and then left although he saw you waiting inside the mall door.

The DOT ADA regulation at Section 37.129(a) states that "...complementary paratransit service for ADA paratransit eligible persons shall be origin-to-destination." It purposely does not specify whether the service is "curb-to-curb" or "door-to-door." This decision is left to the transit provider. In a copy of the BUS "Paratransit Owner's Manual" dated April 1995, which BUS represents is the policy that currently it follows, it states:

We cannot leave the vehicles unattended. In fact, we will not allow our drivers to leave the vehicles' immediate proximity when other passengers are on board. Further, we cannot enter private property to assist the seniors or disabled to the vehicle. Nor can we assist persons from the bus to a destination greater than twenty feet.

We do not make a judgment as to whether the BUS policy of specifying 20 feet is reasonable for all circumstances, but we do not find that the policy is a violation of the DOT ADA regulation in *these* circumstances. We regret that these incidents caused you considerable inconvenience.

2. **An ADA complementary paratransit driver did not assist you by pushing you in your wheelchair up the ramp of the vehicle.**

The DOT ADA regulation at Section 37.165(f) requires the following:

Where necessary or upon request, the entity's personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts. If it is necessary for the personnel to leave their seats to provide this assistance, they shall do so.

It was not clear from your letter whether you asked the driver for assistance and he refused. You stated, "...before I always had help from the driver." From that statement, we infer that this incident was an unusual occurrence and not a pattern of practice. You have a right to expect that a BUS driver will assist you in entering the paratransit vehicle. BUS has a clear responsibility to ensure that its drivers provide this kind of assistance. Through our conversations and by copy of this letter, BUS has been reminded of these responsibilities. We will take no further action at this time on this allegation.

3. **At times, you have waited for over an hour for an ADA complementary paratransit ride.**

The DOT ADA regulation addresses late pickups in relation to capacity constraints on the availability of complementary paratransit service. It states at 37.131(f)(3)(i)(A):

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: ... (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include... (A) Substantial numbers of significantly untimely pickups for initial or return trips.

Appendix D to Section 37 interprets this as follows:

To violate this provision, there must be both a substantial number of late arrivals and the late arrivals in question must be significant in length. For example, a DOT Inspector General's report on one city's paratransit system disclosed that around 30 percent of the trips were between one and five hours late. Such a situation would trigger this provision. On the other hand, only a few instances of trips one to five hours late, or many instances of trips a few minutes late, would not trigger this provision.

We have not received other complaints from BUS clients to indicate that the level of service is compromised to this level. BUS states that on April 14, 1998, 10 new paratransit vans were put into service to replace 8 vans that were in desperate need of repairs and replacement. It claims that this has improved service and should result in a more timely and efficient response time. If you continue to experience late pickups, you should immediately and directly inform BUS of your difficulties.

You also mentioned that BUS will only wait five minutes to pick up a passenger before leaving. This is acceptable **only** if the five minute wait is **after** your scheduled pick up time. BUS may not come early and leave early. From the information that we received, BUS' policy on this issue is not clear, so we have informed BUS of our interpretation on this.

4. **A driver refused to carry your portable ramp for you.**

The DOT ADA regulation states at Section 37.165(f):

Where necessary or upon request, the entity's personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts. If it is necessary for the personnel to leave their seats to provide this assistance, they shall do so.

This required assistance does not extend to lifting and carrying personal property. That decision is left to the discretion of the transit provider.

-4-

If you have questions regarding our actions on your complaint, please contact Linda W. King, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511 or at her electronic mail address: linda.king@fta.dot.gov. Please include your FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: BUS



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 10 1999

[REDACTED]

Re: FTA Complaint No. 97197

Dear [REDACTED]

This letter responds to your complaint against the City of Tecumseh, Nebraska, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that you were repeatedly denied ADA paratransit service on more than two occasions because of the size of your wheelchair. We informed the City of Tecumseh of your allegation and requested information relating to your complaint; reviewed the information presented by the City of Tecumseh and you, and made a determination based on our analysis of the compiled information.

The information we have received indicates that your wheelchair is not a common wheelchair. The wheelchair you currently use is 6 inches larger than the wheelchair lift on the paratransit vans. Section 4.11.2 of the ADA Accessibility Guidelines for Buildings and Facilities (ADAAG) states that if platform lifts (wheelchair lifts) are used, they shall comply with 4.2.4 of the ADAAG. Section 4.2.4 of the ADAAG states that the minimum clear floor or ground space required to accommodate a single stationary wheelchair and occupant is 30 inches by 48 inches (760 mm by 1220 mm). Moreover, section 38.23(b) of the DOT ADA regulation, states that the

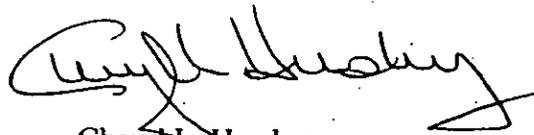
design load of a platform lift shall be at least 600 pounds.

Consequently, a wheelchair that does not fit on a 30" x 48" wheelchair lift and weigh more than 600 pounds when occupied does not have to be carried. The driver, however, may give the rider the option of transferring into a vehicle seat or common wheelchair to receive transportation. We understand that you and your nurse were advised that the only way you could be transported would be to move you to a seat or to transfer you to a regular wheelchair. However, you declined to accept this option.

The City of Tecumseh provided us documentation showing that its vehicles are fully accessible and its lifts meet the requirements of the ADA. However, since your wheelchair does not comply with the 30" x 48", 600 pound lift requirement of the ADA, the City of Tecumseh has no responsibility under the DOT/ADA regulation to provide service. Rather than deny service entirely, they have recommended that you transfer to a common wheelchair or vehicle seat. In our review of the facts provided by you and the City, we find the City of Tecumseh has acted within the intent of the DOT ADA regulation. We appreciate the efforts that the City has made on your behalf and ask that they continue to work with you, so that an agreement to resume travel on its paratransit system can be reached.

Based on the determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, at roger.peralta@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concern to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: City of Tecumseh



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 10 1999

[REDACTED]

Re: FTA Complaint No. 98144

Dear [REDACTED]

This letter responds to your complaint against the Madison Metro Transit System (MMTS) in Madison, Wisconsin, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Pas 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that MMTS unfairly denied you Category 3 (unconditional) paratransit eligibility. We reviewed the information you presented and made a determination based on our analysis of that information in relation to the DOT ADA regulations. Our determination on your allegation is stated below.

The DOT ADA regulation at 49 CFR 37.125(f) states:

The entity may require re-certification of the eligibility of ADA paratransit eligible individuals at reasonable intervals.

The DOT ADA regulation allows an entity to re-certify eligibility at reasonable intervals to make sure that changed circumstances have not invalidated or changed the individual's eligibility. Often, there are persons who were, at one time, eligible for paratransit service, but because circumstances have changed (such as fixed route buses have become accessible or the person's

ability to travel on fixed route has improved), these passengers are no longer considered to require ADA complementary paratransit service.

Also, the DOT ADA regulation at 49 CFR 37.125(g) states:

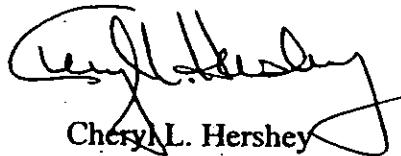
The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the appeal. (1) The entity may require that an appeal be filed within 60 days of the denial of an individual's application. (2) The process shall include an opportunity to be heard and to protest information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it.

Our file review of the facts provided by you and MMTS indicate that on January 17, 1996, and January 20, 1998, you filed re-certification applications seeking to have your Category 2 eligibility changed to Category 3. During both re-certification periods, MMTS failed to find any changes in your disability that would warrant a change in eligibility to Category 3. Although you stated verbally to Ms. Linda King, Equal Opportunity Specialist of this office and investigator of your complaint, that you had appealed these decisions, we have been unable to verify this information.

The administrative appeal process is intended to give appellants the opportunity to have their cases heard by parties other than the persons that made the original determination. Based on the information that we have reviewed for this investigation, we see no evidence, that MMTS' classifying you as Category 2 was in violation of the DOT ADA regulation. Since we were unable to verify that you had appealed these determinations, we recommend that you reapply for a category change, and if you are not satisfied with the determination, please follow through with the administrative appeals process.

Based on the determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Linda W. King, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address, linda.king@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concern to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Madison Metro Transit System



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

MAR - 2 1999



Re: FTA Complaint No. 98102

Dear 

This letter responds to the complaint submitted by the Access BART Coalition (the Coalition) against the Bay Area Rapid Transit District (BART) regarding potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand the Coalition's allegations to be as follows:

1. Train arrivals and destinations appear on illuminated overhead signs, but are not announced over a PA system for the benefit of visually impaired persons.
2. Emergency announcements made over the PA system and any announcements made on the trains by operators are not provided in visual signage.
3. Notifications of elevator outages are made sporadically over the PA system.

4. BART does not provide "way-finding" maps for visually impaired persons. The Braille signage that it recently installed is useless.
5. Persons with multiple chemical sensitivities have difficulty accessing BART because of fumes from cleaning products, herbicides, and newly renovated train cars, as well as scented products worn by "front line staff."
6. Discounted tickets for seniors and persons with disabilities are not sold inside stations.
7. BART personnel need additional training in disability awareness and sensitivity.
8. The distance from elevators to and from fare gates is often prohibitive for persons with mobility impairments.

We informed BART of the Coalition's allegations and requested information relating to the complaint; reviewed the information presented by BART and the Coalition, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. We have restated the allegations below followed by our determination on each.

1. **Train arrivals and destinations appear on illuminated overhead signs, but are not announced over a PA system for the benefit of visually impaired persons.**

The Coalition states that the lack of external speakers on trains makes it impossible to hear announcements made from trains to boarding passengers. In additional correspondence received from the Coalition in November 1998, an allegation was made that when visual signs on trains are malfunctioning, "Central Dispatch," as well as drivers, announce all trains very often and very loudly.

Section 37.167(c) of the DOT ADA regulation states:

Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

BART does provide routine audio announcements of train destinations from each train while it is in the station and with the doors open. However, merely making the announcement does not meet the requirement if the message cannot be heard from outside of the car. BART conducts "Passenger Environment Surveys" on a quarterly basis that measures "performance and service quality." Three of the areas surveyed are P.A. Arrival Announcements; P.A. Transfer Announcements; and P.A. Destination Announcements. BART provided us a copy of its report for January - March 1998, which showed a 78 to 92 percent success rate for these areas. This leaves room for improvement and we have contacted BART about this issue. The existence of this monitoring system demonstrates to us BART's proactive approach to this issue. We will continue to ensure that this issue is addressed.

2. Emergency announcements made over the PA system and any announcements made on the trains by operators are not provided in visual signage.

There is no regulatory requirement for on-board public information systems on buses, trains, and other transit vehicles for hearing impaired riders. Although 37.167(c) and Part 38 require the operator to provide visual signage on the exterior of its vehicles, namely destination and route signs, the Architectural and Transportation Barrier Compliance Board has not yet settled on an appropriate technology to provide effective on-board communication for hearing impaired riders.

3. Notifications of elevator outages are made sporadically over the PA system.

In Appendix A to Part 37 of the DOT ADA regulation, "*Standards for Accessible Transportation Facilities*," Section 10.3.1(14) states the following:

Where public address systems are provided to convey information to the public in terminals, stations, or other fixed facilities, a means of conveying the same or equivalent information to persons with hearing loss or who are deaf shall be provided.

BART makes elevator out-of-service information announcements every half-hour and when there is a change in elevator status. It also posts informational signs about elevator outages at the Station Agent's booth and at the elevator. This issue also was addressed in the class action suit brought by Cupolo and others against BART in July 1996. In its letter to us, BART stated that the court approved the settlement for the Cupolo case on October 23, 1998. In this settlement, BART has:

Agreed with the plaintiff in the Cupolo v. BART class action lawsuit, that it will continue to use its reasonable best efforts to provide information regarding out-of-service elevators as now are provided through announcements over its public address system; manual posting of signage at each station elevator and station agent's booth; and through its telephone information system.

4. BART does not provide "way-finding" maps for visually impaired persons. The Braille signage that it recently installed is useless.

The DOT ADA regulation does not require transit providers to provide way-finding maps; however, according to the Coalition's complaint, BART has expressed an interest in its proposal to assist in developing such maps. We encourage the Coalition to continue to offer its support.

Braille signage is required in new or "key" stations along the accessible path. In Appendix A to Part 37 of the DOT ADA regulation, "*Standards for Accessible Transportation Facilities*," Section 4.1.3(16)(a) states, "Signs which designate permanent rooms and spaces shall comply with 4.30.1, 4.30.4, 4.30.5, and 4.30.6." Section 4.30.4 describes the dimensions of raised lettering and pictograms and requires the usage of Grade 2 Braille. FTA performed an assessment of three BART key stations in June 1998, and found that with minor repairs and some concern over the accessibility of the new Charge-A-Ticket fare vending machines. However, BART's raised letter and Braille signage met the DOT ADA requirements.

5. Persons with multiple chemical sensitivities have difficulty accessing BART because of fumes from cleaning products, herbicides, and newly renovated train cars, as well as scented products worn by "front line staff."

You state that the Coalition has asked BART to place an external decal on newly renovated train cars to warn persons with multiple chemical sensitivities. It is not clear what solution the Coalition desires for the other types of smells or fumes that may cause difficulties.

Any agreement by BART to address this issue would be voluntary, as the DOT ADA regulation does not have any such requirements.

6. Discounted tickets for seniors and persons with disabilities are not sold inside stations.

The ADA guarantees equal access to public accommodations by persons with disabilities. Persons with disabilities may purchase full fare tickets for BART service at any BART station, just as any person who does not have a disability may do so. Discounted tickets for seniors, persons with disabilities, and children, are special benefits provided by BART that are not required under the DOT ADA regulation. These discounted tickets are available at a multitude of locations including banks, food stores, drug stores, senior centers, and other various locations. This does not constitute a violation of the DOT ADA regulation.

7. BART personnel need additional training in disability awareness and sensitivity.

The DOT ADA regulation states at Section 37.173, *Training Requirements*:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

BART states that it provides ADA Awareness Sensitivity Training to new employees and annually to front-line staff as part of a refresher program. It provided samples of training materials as documentation. In its letter to us, BART also stated the following:

BART has agreed with the plaintiff in the Cupolo v. BART class action lawsuit, that it will provide additional training for Station Agents, Train Operators and System Service Workers, regarding access issues for those with mobility disabilities.

We are satisfied that BART is taking appropriate measures to address this allegation.

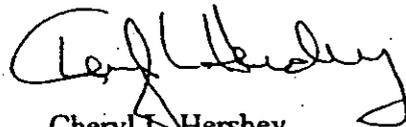
8. The distance from elevators to and from fare gates is often prohibitive for persons with mobility impairments.

The Coalition's recommendation is to place additional benches along the path of travel to enable persons with disabilities and elderly persons to stop and rest.

The DOT ADA regulation does not address the length of the path of travel through a transit facility; therefore any action taken by BART on this allegation would be voluntary. In its reply, BART stated that it will work with members of the disability community to provide additional benches along the accessible path of travel.

If you have any questions regarding this letter of determination, please contact Sandra Jackson McCrea, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Federal Transit Administration

TCR:RWolgast:rw:60802:12/11/98

Electronic Copies to: TRO-9(Rogers, Boursee'), GC(Tochen/Dunham),C-50 (Ashby), TCC (Wong), All TCR Staff

Hard Copies to: TCR-IHU, Chron/Subject (McCrea, Hershey, Wolgast)

O:\wolgast\ [REDACTED]



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 23 1995

[REDACTED]

Re: FTA Complaint No. 98031

Dear [REDACTED]

This letter responds to your complaint against the Sacramento Regional Transit District (SRTD), in Sacramento, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be as follows:

1. The eligibility application for Paratransit Inc., SRTD's paratransit provider, is not in an accessible format;
2. Paratransit Inc. denied your right to appeal your re-certification eligibility determination and failed to inform you in writing of the reasons you were denied unconditionally paratransit eligibility; and
3. Paratransit Inc. cancelled your subscription service without prior notice.

We informed SRTD of your allegations and received a response to your complaint. We made the following determination based on our review of both your allegations and SRTD's response in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. The eligibility application for Paratransit Inc., SRTD's paratransit service, is not in an accessible format.

The DOT ADA regulation at 49 CFR 37.167(f) states:

(f) The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

The DOT ADA regulation requires information to be made available in accessible formats for persons with disabilities. SRTD acknowledged that in error, an inaccessible paratransit eligibility application was mailed to you because its database had you listed under the wrong accessibility code. SRTD has since corrected that error, and stated that if notified earlier, they would have immediately remedied the problem.

We believe that SRTD has taken positive steps to ensure that all information is available in accessible format. We will continue to monitor its status, but we will take no further action on your individual complaint regarding this issue. We trust that SRTD's database correction has alleviated many of the difficulties that you have previously encountered. Thank you for bringing this matter to our attention.

2. Paratransit Inc. denied your right to appeal your re-certification eligibility determination and failed to inform you in writing of the reasons you were denied unconditionally paratransit eligibility.

The DOT ADA regulation at 49 CFR 37.125 (d) and (g) states:

(d) The entity's determination concerning eligibility shall be in writing. If the determination is that an individual is ineligible, the determination shall state the reasons for the finding...

(g) The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial. The entity may require that an appeal be filed within 60 days of the denial of an individual's application. The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it.

You advised that you never received written notification of your determination, and you were informed of it by telephone and it was at this point that you requested an appeal. SRTD provided a copy of Paratransit Inc.'s April 16, 1998, determination letter of your re-certification. This letter included your appeal rights, and was in large print. However, you advised that you never received this letter and SRTD did not have any record of your receiving this letter, (such as a signed receipt of the letter).

To clarify this matter we have recommended to SRTD that it resubmit to you, in accessible format, its determination letter of your re-certification including both the reasons for its decision and your appeal rights. Please contact SRTD if you have any further difficulty obtaining this determination letter. We will continue to monitor the status of SRTD's resubmission of your determination letter, but we will take no further action on your individual complaint regarding this issue. Thank you for bringing this matter to our attention.

3. Paratransit Inc. cancelled your subscription service without prior notice.

The DOT ADA regulation at 49 CFR 37.133 states:

- (a) This part does not prohibit the use of subscription service by public entities as part of a complementary paratransit system, subject to the limitations in this section.
- (b) Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is non-subscription capacity.
- (c) Notwithstanding any other provision of this part, the entity may establish waiting list or other capacity constraints and trip purpose restrictions or priorities for participation in the subscription service only.

Subscription service is an optional, not mandatory, service that paratransit operators provide as convenience to their passengers. Because this service is not mandatory, the DOT ADA regulation does not address the manner in which the cancellation of subscription service is to be administered. However, we contacted SRTD for further clarification in relation to the cancellation of your subscription service.

SRTD stated that again, Paratransit Inc. unintentionally canceled your subscription service because another computer software problem caused all new requests for subscription trips to begin at a later date. SRTD advised that it you were aware of this error, and it has since been corrected. Since the cancellation of subscription service is not addressed by the DOT ADA regulation and your subscription service has been reinstated, we will take no further action on this issue.

Based on the determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Michael Virts, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: michael.virts@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,

Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: SRTD



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St. S.W.
Washington, D.C. 20590

APR - 8 1999

[REDACTED]

Re: FTA Complaint No. 98081

Dear [REDACTED]

This letter responds to your complaint against the San Francisco Municipal Railway (MUNI) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be the following:

1. MUNI is planning to delete the number 42 Downtown Loop bus route, which would prevent you from traveling to Aquatic Park; and
2. MUNI's bus lifts are often inoperable.

We reviewed the information presented by you and MUNI and made a determination based on our analysis of that information in relation to the DOT ADA regulations. Our determinations on your allegations are stated below.

1. MUNI is planning to delete the number 42 Downtown Loop bus route, which would prevent you from traveling to Aquatic Park.

The Federal Transit Laws, as codified under 49 U.S.C. Section 5324(c) entitled "Prohibitions against Regulating Operations and Charges," states:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and after a grant is made, may not regulate any charge for the system.

This law prohibits DOT from involving itself in operational matters of local jurisdiction such as the setting of fares or location, elimination, or temporary change of bus routes. This prohibition specifically does not include violations of an individual's civil rights. After review of the facts we find no such violation here.

MUNI advised that there are no plans to discontinue service of the number 42 Downtown Loop, only discussion of re-routing the service. Since your path of travel to the Aquatic Park originates from the Transbay Terminal, please be aware that this portion of the number 42 Downtown Loop is not under consideration for re-routing.

2. MUNI's bus lifts are often inoperable.

The DOT ADA regulation at 49 CFR 37.163 states:

- (a) This section applies only to public entities with respect to lifts in non-rail vehicles.
- (b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.
- (c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.
- (d) Except as provided in paragraph (e) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service.
- (e) If there is no spare vehicles available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than five days (if the entity serves an area of 50,000 or less population) or three days (if the entity serves an area of over 50,000 population) from the day on which the lift is discovered to be inoperative.
- (f) In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicles because its lift does not work.

MUNI acknowledged that because of the age of some of its buses, lift failures do occur. As a preventive measure, frequent inspections and maintenance of wheelchair lifts and kneeling equipment are conducted on all accessible buses. Wheelchair lifts are checked for proper deployment and any defects identified are repaired before the bus is returned to service. MUNI also inspects, cleans and does all necessary repairs on wheelchair lifts at 1000 miles and six weeks interval.

MUNI advised that if the wheelchair lift cannot be deployed properly while a bus is in service, the operator shall notify the dispatcher and if another accessible bus is not en-route within 30 minutes, a paratransit vehicle will be dispatched to assist that passenger.

We believe that MUNI has taken positive steps to ensure that wheelchair lifts are properly inspected, properly maintained, and all operators promptly report defective lifts while buses are in service. However, the DOT ADA regulation at 49 CFR 37.163 (b) requires a system of regular and frequent maintenance checks of lifts must be sufficient to determine if they are operative. Moreover, Appendix D of Section 37.163 of the DOT ADA regulation states:

It would be a violation of this part, however, for the entity [MUNI] to neglect to check lifts regularly and frequently, or to exhibit a pattern of lift breakdowns in service resulting in stranded passengers when the lifts had not been checked before the vehicle failed to provide required accessibility to passengers that day.

We will continue to monitor MUNI's status regarding lift maintenance, but we will take no further action on your individual complaint regarding this issue at this time. If you experience any other difficulties regarding inoperable lifts by MUNI, we encourage you to continue to work with MUNI to ensure that they comply with this provision of the DOT ADA regulation.

If you have any questions regarding this decision, please contact Mr. Eugene Jenkins, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: eugene.jenkins@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: MUNI

Federal Transit Administration

TCR:EJENKINS:60793. 3/3/1999

Electronic copies to: TRO-9 (Rogers) GC(Ashby, Tochen, Dunham), TCC (Wong) All TCR Staff

Hard copies to: TCR-IHU Chron/Subject/Jenkins/McCrea

O:JENKINS [REDACTED] LOF-F



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 13 1990

Re: FTA Complaint No. 97104

Dear [REDACTED]

This letter responds to your complaint regarding the Louisiana Consolidated Government (LCG) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for Civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suite on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. LCG will not provide a sufficient amount of paratransit vans to serve the growing needs of persons with disabilities who ride its ADA complementary paratransit service; and
2. LCG has not designated a responsible person who is familiar with the requirements of the ADA to serve as its ADA Coordinator.

We informed LCG of your allegations, requested information relating to your complaint and reviewed the information presented by LCG and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determinations, below:

1. **LCG will not provide a sufficient amount of paratransit vans to serve the growing needs of persons with disabilities who ride its ADA complementary paratransit service.**

According to the DOT ADA regulation at 49 CFR 37.131(f) which states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: ... (3) Any operational pattern or practice that significantly limits the availability of service to paratransit eligible persons.

LCG has acknowledged that they did have a concern regarding capacity constraints on their ADA complementary paratransit system. To address this issue, LCG increased its budget for its ADA complementary paratransit system to ensure that enough paratransit vehicles are available to transport eligible riders during all service hours. LCG will continue to monitor this situation and initiate appropriate mitigating actions to ensure that capacity constraints do not become problematic.

While we believe that LCG has taken some positive steps to ensure that vehicle capacity on its ADA complementary paratransit system is sufficient, we will continue to monitor LCG's status regarding capacity constraints. At this time, we will take no further action on your individual complaint regarding this issue. We trust that LCG's budget increase and purchase of new vehicles has alleviated many of the difficulties that you have previously encountered. Thank you for bringing this matter to our attention.

2. **LCG has not designated a responsible person who is familiar with the requirements of the ADA to serve as its ADA Coordinator.**

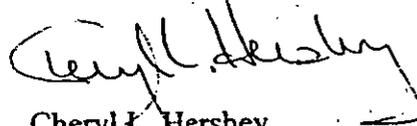
The DOT ADA regulation at 49 CFR Section 27.13(a) states:

Each recipient that employs fifteen or more persons shall, within 90 days of the effective date of this regulation, forward to the head of the operating administration that provides financial assistance to the recipient, with a copy to the responsible Departmental official, the name address and telephone number of at least one person designated to coordinate its efforts to comply with this part. Each such recipient shall inform the head of the operating administration of any subsequent change.

LCG advised that since September 17, 1992, Mr. James Pollock has served as its ADA Coordinator, and still holds this position to date. Mr. Pollock coordinates all of LCG's efforts to comply with the ADA (including all transportation requirements) and investigates any complaints of ADA related discrimination. If you have any concerns regarding the ADA and LCG, you may contact Mr. Pollock at (318) 261-8228. In view of the facts presented, we do not find LCG to be in violation with this provision of the DOT ADA regulation.

Based on the determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concern to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: LCG

TCR:LKing:60803: 03/23/1999

Electronic copies to: TRO-6 (Waddleton), C-50 (Ashby), OST (Dunham, Tochen) TCC (Wong),
TCR Staff

Hard copies to: TCR-IHU Chron/Subject/Hershey/ McCrea
O:MCCREAV [REDACTED] LOF.doc



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 13 1999

[REDACTED]

Re: FTA Complaint No. 98006

Dear [REDACTED]

This letter responds to your complaint, filed on behalf of your son [REDACTED] against Access Services, Incorporated (ASI) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. A driver on San Gabriel Transit (SGT), an ASI's ADA complementary paratransit service provider, was extremely rude and discourteous to your son; and
2. SGT's drivers are consistently late for scheduled pick-ups.

Although your letter included other items that you asked to be investigated, we have chosen to address only those matters within the scope of the DOT ADA regulation. We informed ASI and SGT of your allegations and requested information relating to your complaint; reviewed the information presented by ASI, SGT and you; and made a determination on each of your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations, below:

1. **A driver on San Gabriel Transit (SGT), an ASI's ADA complementary paratransit service provider, was extremely rude and discourteous to your son.**

The DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

ASI and SGT stated that all employees receive substantial training on the requirements of the ADA, including how important it is to treat all passengers in a respectful, courteous manner at all times. Apparently, the driver involved in the July 28, 1997 incident did not appropriately demonstrate his knowledge of the subject, nor follow ASI's and SGT's established procedures. Because of this clear infraction, the driver was identified and received disciplinary action.

ASI and SGT stated that they would continue to monitor this operator closely to ensure that future incidents like this do not recur. In order for a transit property to be in violation with this provision of the DOT ADA regulation, there must be a pattern or practice of operator rudeness and discourtesy when transporting passengers. A pattern or practice involves regular or repeated actions, not isolated, accidental, or singular incidents. Based on the fact that this incident occurred only once, we have not found sufficient evidence at this time that your allegation constitutes a pattern or practice of noncompliance by ASI and SGT with this provision of the DOT ADA regulation.

2. **SGT's drivers are consistently late for scheduled pick-ups.**

The DOT ADA regulation at 49 CFR 37.131(f)(3) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: ... Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons... Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of significantly untimely pickups for initial or return trips; (B) Substantial numbers of trip denials or missed trips.

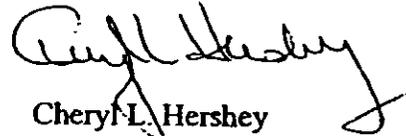
During the first 8 months of 1998, ASI and SGT stated that your son took 76 trips, of which 54 or 71 percent trips were on time. This simply means that about 29 percent of the trips were late pickups. ASI and SGT agreed that this was completely unacceptable and initiated the following actions to address these concerns: 1) A SGT road supervisor was responsible for your son's morning pickup each day for the month of September 1998 to determine the cause of late pickups; 2) SGT upgraded its Mobile Data Terminal to enable its drivers to log in once the vehicle has arrived for a pickup; 3) If [REDACTED] use of SGT ADA complementary paratransit service increases, SGT will assign a specific driver for his standing trip reservations; and 4) ASI will continue to monitor your son's transportation closely to ensure that he receives timely service.

Since these changes have been in effect, ASI and SGT advised that [REDACTED] took 49 trips during the months of September 1998 through November 1998. Of these trips, only three were considered to be late, with an on-time performance of 94 percent. While it is clear that there has been a considerable amount of improvement regarding the service that SGT provides to your son, it is FTA's policy that a transit operator must strive for 100% on time performance, and we have addressed this concern separately with ASI and SGT.

We will continue to monitor this situation, but we will take no further action on your individual complaint regarding this issue at this time. Thank you for bringing this matter to our attention. We regret our delay in responding to your concerns.

Based on the determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Roger Peralta, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Again, thank you for bringing your concern to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: ASI

TCK



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 14 1999

[REDACTED]

Re: FTA Complaint No. 98207

Dear [REDACTED]

This letter responds to your complaint against the Kanawha Valley Regional Transportation Authority (KVRTA) Charleston, West Virginia, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Pas 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that on August 6, 1998, you were unable to schedule a return trip on KVRTA's ADA complementary paratransit. We reviewed the information you presented and KVRTA and made a determination based on our analysis of the information in relation to the DOT ADA regulations. Our determination on your allegation is stated below.

The DOT ADA regulation at 49 CFR 37.121(a) states:

...each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals who use the fixed route system.

Also, the DOT ADA regulation at 49 CFR 37.131(f)(3)(B) states:

Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. Such patterns or practices include, but not limited to, ...substantial number of trip denials or missed trips;....

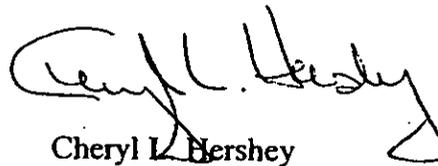
ADA complementary paratransit service must be comparable to fixed route meaning that the level of service provided to those who ride ADA complementary paratransit service must be comparable to the level of service provided to those who ride the fixed route service. Henceforth, if a fixed route rider could not secure a return trip, it is unlikely that the rider would make the trip at all. The security of a return trip is essential to the trip itself. The same is true for ADA complementary paratransit service. To guarantee an outbound trip while denying the ADA paratransit eligible individual return service would frustrate their entire trip purpose and as such, would constitute a trip denial.

KVRTA advised that on August 6, 1998, its paratransit system was operating two vehicles short because two KVRTA operators were absent, one due to illness and one on vacation. We understand that this particular operator shortage contributed to the problem in your scheduling a trip for that day. KVRTA stated that to ensure that incidents like this do not recur, they have purchased new vehicles and hired new drivers to maintain full capacity at all times, even with unexpected absences.

In order for a transit property to be in violation with this provision of the DOT ADA regulation, there must be a pattern or practice of trip denials. A pattern or practice involves regular, or repeated actions, not isolated, accidental, or singular incidents. Based on the fact that this incident occurred on one day, we have not found sufficient evidence at this time that your allegation constitutes a pattern or practice of noncompliance by KVRTA with this provision of the DOT ADA regulation.

If you have any questions regarding this decision, please contact Linda W. King, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address, linda.king@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: KVRTA

100



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 14 1999

Mr. Wayne R. Rasmussen, Esq.
Attorney At Law
66 W. Ramsey Street
Benning, California 92220

Re: FTA Complaint No. 99052

Dear Mr. Rasmussen:

This letter responds to your complaint against the City of Beaumont, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that your client (name not provided), was denied ADA paratransit service because of the weight of his wheelchair. We have reviewed the information you provided and based on our analysis of the compiled information in relation to the DOT ADA regulations.

According to Section 4.11.2 of the ADA Accessibility Guidelines for Buildings and Facilities (ADAAG), if platform lifts (wheelchair lifts) are used, they shall comply with 4.2.4 of the ADAAG. Section 4.2.4 of the ADAAG states that the minimum clear floor or ground space required to accommodate a single stationary wheelchair and occupant is 30 inches by 48 inches (760 mm by 1220 mm). Moreover, section 38.23(b) of the DOT ADA regulation, states that the design load of a platform lift shall be at least 600 pounds.

Consequently, a wheelchair that does not fit on a 30" x 48" wheelchair lift and weighs more than 600 pounds when occupied does not have to be carried. The driver, however, may give the rider the option of transferring into a vehicle seat or common wheelchair to receive transportation.

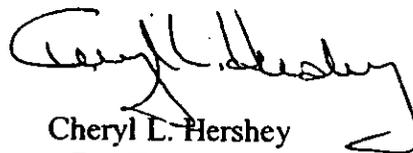
An analysis of the information you provided indicates that your client's current wheelchair weighs 250 pounds unoccupied. However, when occupied, his wheelchair weighs more than the DOT ADA 600 pounds requirement. We understand that your client was advised that the only way he could be transported would be to either transfer to a vehicle seat or resume using his hand-pushed wheel chair. However, he declined to accept this option.

The City of Beaumont provided us documentation showing that its vehicles are fully accessible and its lifts meet the requirements of the DOT ADA regulation. However, since your client's wheelchair does not comply with the 30" x 48", 600 pound lift requirement, the City of Beaumont has no responsibility under the DOT ADA regulation to provide him service while using that wheelchair.

Rather than be denied service entirely, we recommend that your client consider the options of transferring to a common wheelchair or vehicle seat. In our review of the facts provided by you and the City of Beaumont, we do not find the City of Beaumont to be in violation with this provision of the DOT ADA regulation.

Based on the determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Eunice Brown, Program Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address, at eunice.brown@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concern to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: City of Beaumont

14-1



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 14 1999

[REDACTED]

Re: FTA Complaint No. 99054

Dear [REDACTED]

This letter acknowledges our receipt of your complaint against the Pinellas Suncoast Transportation Authority (PSTA), in Clearwater, Florida, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be the following:

- 1) The bus stop located at the Tyrone Square Mall (the Mall) in St. Petersburg, Florida, is not equipped with a bus shelter and is unsafe because cars travel around the bus when it is loading and unloading; and
- 2) The Mall and PSTA agreed to relocate the bus stop 15 months ago, but until now, they have failed to do so.

We informed PSTA of your allegations and requested information related to your complaint; reviewed the information presented by PSTA and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

- 1) **The bus stop located at the Tyrone Square Mall (the Mall) in St. Petersburg, Florida not equipped with a bus shelter and is unsafe because cars travel around the bus while it is loading and unloading.**

The DOT ADA regulation at 49 CFR 37.43(a)(1) states:

When a public entity alters an existing facility or part of an existing facility used in providing designated public transportation services in a way that affects or could affect the usability of the facility or part of the facility, the entity shall make the alterations (or ensure that the alterations are made) in such a manner, to the maximum extent feasible, that the altered portions of the facility are readily accessible to and usable by individuals who use wheelchairs, upon the completion of such alterations.

The DOT ADA regulation contains the dimensional specifications for an accessible bus stop and shelter in ADAAG 10.2 (Appendix A to 49 CFR Part 37). Although the regulation does not require that a bus shelter be provided or a bus stop be altered, it does require the stop and the shelter to comply with the applicable accessibility standards if either the stop or the shelter is altered or constructed.

Regarding your concern about cars traveling around PSTA's buses while loading and unloading passengers, motorists should exercise proper caution while waiting for a transit bus to load or unload while on a mall parking lot. However, traffic regulations are the responsibility of the property owner and should be enforced by local law enforcement officials. We suggest that you contact the mall owner and your local police force for assistance in this area.

- 2) **The Mall and PSTA agreed to relocate the bus stop 15 months ago, but until now, they have failed to do so.**

The Federal Transit Laws, as codified under 49 U.S.C., Section 5324(c) entitled "Prohibitions against Regulating Operations and Charges," states:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and after a grant is made, may not regulate any charge for the system.

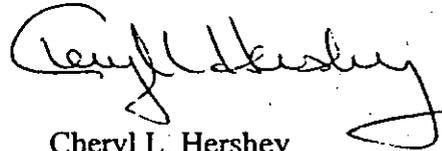
This law prohibits DOT from involving itself in operational matters of local jurisdiction such as the setting of fares or location, elimination, or temporary change of bus routes. This prohibition specifically does not include violations of an individual's civil rights. After review of the facts we find no such violation here.

The placement of this bus stop at its present location affects all passengers, including persons with disabilities. Therefore, we have determined that there is no discrimination based on disability. However, because this is a privately owned shopping center, the owner of that shopping center, not the transit operator, decides the location of the bus stop on its property. PSTA must wait for the owner of the Tyrone Square Mall to determine the exact location of the proposed bus stop. Once the owner decides the location of the new bus stop, PSTA and the mall

owner must work together to ensure that this stop is accessible to persons with disabilities. We suggest that you continue to pursue your concerns with the owners of the Mall and PSTA.

Based on the determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concern to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: PSTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 14 1999

[REDACTED]

Re: FTA Complaint No. 98068

Dear [REDACTED]

This letter responds to your complaint against the Santa Barbara Metropolitan Transit District (SBMTD) Santa Barbara, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Pas 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be the following:

- 1) SBMTD's fixed route bus operators often fail to announce bus stops upon request; and
- 2) SBMTD will not charge blind passengers any fare, including the half fare rate that is charged to other persons with disabilities.

We reviewed both the information you presented and the SBMTD response to your allegation and made a determination based on our analysis of that information and the transit provider response in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1) SBMTD's fixed route bus operators often fail to announce bus stops upon request.

The DOT ADA regulation at 49 CFR 37.167 (b) (1) (2) states:

(1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location.

(2). The entity shall announce any stop on request of an individual with a disability.

Also, the DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individual with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

SBMTD acknowledged that there have been some inconsistencies among its operators in administering its stop announcement policy. In an effort to ensure compliance with this policy, any driver found to be in violation will receive disciplinary action and retraining on this ADA requirement. SBMTD also required operators to attend mandatory ADA training in 1994, 1995, 1996, 1997, and 1998, reminding them that they are obligated to make bus stop announcements and the consequences of not doing so. Furthermore, SBMTD currently employs "ghost riders" to ride its buses to verify if drivers are complying with its stop announcement policy. Since the filing of your complaint, SBMTD advised that it has recently installed public address (PA) systems on all buses to assist passengers in hearing bus stop announcements.

While we believe that SBMTD has taken positive steps to ensure that all bus operators are announcing stops, we understand that there are still some instances in which drivers will not announce stops. Therefore, we will continue to monitor SBMTD's compliance status on this issue but take no further action on your individual complaint.

2) SBMTD will not charge blind passengers any fare, including the half fare rate that is charged to other persons with disabilities.

The "blind travel free" provisions are not, of course, required by the DOT ADA regulation. We understand your concern is that the "blind travel free" provision is discriminatory. This has long been a problematic issue, one that the DOT rules do not directly address. On one hand, we have always interpreted our regulation at 49 CFR 37.5(a) to mean that discrimination between or among classes of persons with disabilities is prohibited.

However, the Department of Justice's Title II rule elaborates this point at 28 CFR 35.130(c), which states:

Nothing in this part prohibits a public entity from providing benefits, services, or advantages to individuals with disabilities, or to a particular class of individuals with disabilities, beyond those required by this part.

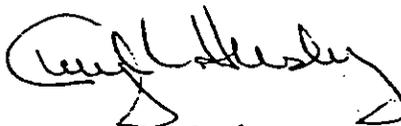
The DOJ preamble explains that this language was intended to:

Clarify that state and local governments may provide special benefits, beyond those required by the nondiscrimination requirements of this part, that are limited to a individuals with disabilities or a particular class of individuals with disabilities, without thereby incurring additional obligations to persons without disabilities or to other classes of individuals with disabilities." (56 FR 35705, July 26, 1991).

Clearly, under the ADA, it is discriminatory for a transit entity to say that they will allow persons with visual impairments on our bus, but not persons with hearing impairments or person who use wheelchair. But per this DOJ provision, it appears that it is not a violation of the ADA if a transit provider provides an extra subsidy to blind passengers that it won't provide to other disabled passengers.

Based on this determination, we will take no further action on your individual complaint. If you have any questions regarding this decision, please contact Michael Virts, Equal Opportunity Specialist, on the FTA toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address; michael.virts@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: SBMTD

TCK



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 14 1999

[REDACTED]

Re: FTA Complaint No. 99019

Dear [REDACTED]

This letter responds to your complaint of discrimination filed against City Transit Management, Incorporated (Citibus), of Lubbock, Texas and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be the following:

- 1) Citibus has discontinued providing door to door ADA complementary paratransit service and now only provides curb-to-curb ADA complementary paratransit service; and
- 2) Citibus now requires that all trips, including "will calls," to be scheduled.

Although your letter included other items that you asked to be investigated, we have determined that those matters not addressed are outside the scope of the DOT ADA regulation. We reviewed the information you presented and made a determination based on our analysis of that information in relation to the DOT ADA regulations.

1) Citibus has discontinued providing door to door ADA complementary paratransit service and now only provides curb-to-curb ADA complementary paratransit service

The DOT ADA regulation at 49 CFR 37.129(a) states:

Except as provided for in this section, complementary paratransit service for ADA paratransit eligible persons shall be origin to destination service.

The basic mode of service for ADA complementary paratransit service is demand responsive, origin-to-destination service. The local planning process decides whether, or in what circumstances, this service is to be provided as either door-to-door or curb-to-curb.

Citibus has advised that the Lubbock Public Transit Advisory Board and the Disability Advisory Committee recommended that curb-to-curb complementary paratransit service be provided in the interest of providing efficient operating practices. Based on that recommendation, Citibus' ADA complementary paratransit service was changed to curb to curb service effective January 1, 1999.

Because the decision of providing door-to-door or curb-to-curb service is essentially a local one, we do not find Citibus in violation with this provision of the DOT ADA regulation.

2) Citibus now requires that all trips, including "will calls," to be scheduled.

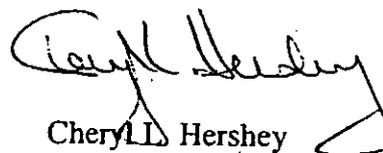
The DOT ADA regulation at 49 CFR 37.131(b) states:

The entity may negotiate pickup times with the individual, but the entity shall not require an ADA paratransit eligible individual to schedule a trip to begin more than one hour before or after the individual's desired departure time... The entity may use real-time scheduling in providing complementary paratransit service.

Transit properties are permitted to negotiate scheduled pickup times with ADA complementary paratransit eligible passengers. Real time scheduling, which is similar to taxi service, is also permitted, but the type of scheduling system used is left up to the local entity to decide. The only mandatory requirement of the DOT ADA regulation is that a transit property shall not require a passenger to schedule a trip one-hour before or after their requested trip time. Therefore, Citibus' requirement that all trips be scheduled, is not a violation of this provision if the DOT ADA regulation.

Based on the determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Linda W. King, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl Hershey
ADA Team Leader
Office of Civil Rights

cc: Citibus



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 27 1999

[REDACTED]

Re: FTA Complaint No. 98212

Dear [REDACTED]

This letter responds to your complaint of discrimination filed on behalf of your daughter, [REDACTED] alleging discrimination against Space Coast Area Transportation (SCAT), Cocoa, Florida, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that SCAT unfairly denied your daughter, who is eligible for ADA Complementary Paratransit service, door to door service. We reviewed the information you presented and made a determination based on our analysis of that information in relation to the DOT ADA regulations. Our determination on your allegation is stated below.

The DOT ADA regulation at 49 CFR 37.129(a) states:

Except as provided for in this section, complementary paratransit service for ADA paratransit eligible persons shall be origin to destination service.

The basic mode of service for ADA complementary paratransit is demand responsive, origin-to-destination service. The local planning process decides whether, or in what circumstances, this service is to be provided. An entity has two options when providing ADA Complementary paratransit service. They may decide to provide curb-to-curb service, the minimum standard allowed under the DOT ADA regulations, or provide door-to-door service.

SCAT's ADA Complementary Paratransit service categorizes each eligible passenger to determine whether they are to be picked up either at their home (door to door) or the closest corner to their home (curb-to-curb). This policy was adopted in the interest of providing efficient ADA Complementary Paratransit service. SCAT advised that at this time, your daughter continues to receive paratransit service at your home.

Because the decision of providing door-to-door or curb-to-curb service is essentially a local one, we do not find SCAT to be in violation with this provision of the DOT ADA.

Based on the determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Ms. Linda W. King, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concern to our attention.

Sincerely,


for Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Space Coast Area Transit



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 27 1999



Re: FTA Complaint No. 98185

Dear 

This letter responds to your complaint against Victor Valley Transit Authority (VVTA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that the VVTA ADA Complementary Paratransit system notified you in December 1997, that ADA Complementary Paratransit service would be discontinued to Lucerne Valley. However, you were notified by letter dated April 15, 1998, that a new contractor would begin service on May 4, 1998. You made an appointment, but were later notified that VVTA ADA Complementary Paratransit did not serve Lucerne Valley.

We reviewed the information presented by you and VVTA and made a determination based on our analysis of that information in relation to the DOT ADA regulations. Our determination on your allegation is stated below.

DOT ADA regulation at 49 CFR 37.131(a) states that:

The entity shall provide complementary paratransit service to origins and destinations within corridors with a width of three-fourths of a mile on each side of each fixed route. The corridors shall include an area with a three-fourths of a mile radius at the ends of each fixed route.

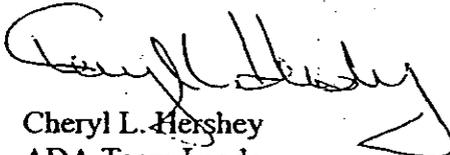
ADA Complementary Paratransit service must be provided to any origin and destination point within a corridor around any route in the bus system. An ADA Complementary Paratransit eligible individual person residing out side of the three fourth mile corridor can also use the service providing the individual can travel to a pick up point within the corridor.

The information submitted by VVTA shows that prior to January 1, 1998, it provided fixed route service to your area, Lucerne Valley. However, because of a significant decrease in ridership, VVTA decided to discontinue fixed route bus service to Lucerne Valley. As a result, VVTA is no longer required to provide ADA Complementary Paratransit where there is not an operating fixed route. Apparently, the new contractor mistakenly sent letters out to all ADA certified clients regardless of where they lived. This is what accounted for the confusion over whether or not Lucerne Valley residents would receive ADA Complementary Paratransit service.

We regret that you can no longer access the ADA Complementary Paratransit service; however, Kevin Kane, VVTA General Manager, informed us that he has sent your name and address to the Department of Aging and Adult Services and to the Department of Adult Protective Services. Hopefully, one of these agencies will be able to provide you with the transportation that you need.

Based on the above information, we will consider this complaint to be closed. If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, eugene.jenkins@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office.

Sincerely,


Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Cc: The Honorable Diane Feinstein

Kevin Kane
General Manager, VVTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 27 1999



Re: FTA Complaint No. 98225

Dear 

This letter responds to your complaint against the Americans with Disabilities Act of 1990 (ADA) Eligibility Office, of the City of Tucson, Arizona, and potential noncompliance with Title II of the ADA and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Pas 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. The City of Tucson ADA Eligibility Office (the City) handled your recertification process for ADA complementary paratransit improperly; and
2. An employee of the City treated you in a rude and insensitive manner and retaliated against you.

We informed the City of your allegation and requested information relating to the complaint; reviewed the information presented by you and the City, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. We have restated your allegations, followed by citations from the DOT ADA regulation and our determination below.

1. The City of Tucson ADA Eligibility Office (the City) handled your recertification process for ADA complementary paratransit improperly.

DOT ADA regulation at 49 CFR 37.125(f) states that "The entity may require recertification of the eligibility of ADA paratransit eligible individuals at reasonable intervals."

As we understand the information submitted by you and the City, the facts are as follows:

- You were granted conditional eligibility for ADA Complementary Paratransit service on June 10, 1996.
- Your Identification Card showed an expiration date of June 11, 1999.
- On July 24, 1998, when you called to schedule a ride you were told that your eligibility had expired and you would not be able to make reservations until you returned a recertification form.
- You requested and received a total of three time extensions in order to complete your recertification paperwork.
- You were not denied service during this timeframe.
- You were informed in an August 31, 1998, letter that the City had discovered a mistake regarding your eligibility expiration date. Your identification card showed an expiration date of June 11, 1999; however, the City's computer showed an expiration date of June 11, 1998. [The City provided dated documentation to this effect.]
- The August 31, 1998, letter stated that it would honor the expiration date on your identification card.

As that date is rapidly approaching, we recommend that if you haven't already done so, you should submit an application for recertification as soon as possible. Although, there has been some confusion surrounding your recertification, we do not find this to be a violation of the ADA in this specific incident. The difference in your eligibility card expiration date and the computer expiration date appears to be an isolated error. Beyond that, we do not see any discrepancies in the City's recertification process.

2. An employee of the Office treated you in a rude and insensitive manner and retaliated against you.

You relayed the essence of several telephone conversations that you had with this staff person and asked for a written apology from the City for her behavior.

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173:

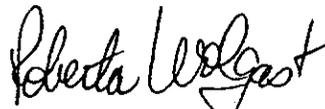
Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

As always in the case of conflict, there are two sides to be told. The employee and the City deny your allegations that she treated you rudely or retaliated against you. However, in a letter dated August 3, 1998, the City stated: "As I mentioned in our conversation, I apologize to you since you feel you were not handled correctly on the phone when you called into this office."

In this case of a dispute in material facts we have no way to establish what actually occurred. However, the City confirmed to us that its employees are trained in accordance with the DOT ADA regulation, and we have reminded the City of its obligation to ensure that its employees treat persons with disabilities with courtesy and respect.

Based on the results of our investigation, we will close this case and not take any further action on it. If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, eugene.jenkins@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office

Sincerely,

for 
Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Cc: The City



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 27 1999

[REDACTED]

Re: FTA Complaint No. 96189

Dear [REDACTED]

This letter responds to your complaint regarding Access Services Incorporated (ASI), in Los Angeles, California and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. ASI will not provide you with your choice of vehicle;
2. On numerous occasions ASI either did not show for scheduled pick-ups or was late for scheduled pick ups;
3. ASI will not provide information in accessible format when requested or does not provide such information in a timely manner; and
4. ASI operators are rude and refuse to reveal their names when asked.

Although your letter included other items that you asked to be investigated, we have determined that those matters not addressed are outside the scope of the ADA/DOT regulation. We informed ASI of your allegations and requested information related to your complaint; reviewed the information presented by ASI and yourself; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. ASI will not provide you with your choice of vehicle.

The DOT ADA regulation at 49 CFR 37.131 lists six types of service criteria for ADA complementary paratransit service in which a transit operator must be in compliance. These criteria include Service Area, Response Time, Fares, Trip Purpose Restrictions, Hours and Days of Service, and Capacity Constraints. The regulations do not require a transit operator to dispatch a preferred vehicle to a passenger for each scheduled pick-up. The only requirement regarding scheduled pick-ups is that the operator must be on time. ASI's responding to your request for service by the provision of a van is clearly within the DOT ADA regulation.

2. On numerous occasions, ASI either did not show for scheduled pick-ups or was late for scheduled pick-ups.

The DOT ADA regulation at 49 CFR 37.131(f)(3) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: ... Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons... Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of significantly untimely pickups for initial or return trips; (B) Substantial numbers of trip denials or missed trips.

ASI provided data of 118 randomly reviewed and sampled trips you booked during 1996 and 1997 for on-time performance. Of the 118 trips that were reviewed, from ASI's computer records, the following was observed:

62	On Time	(5 minutes to 15 minutes after scheduled time)
12	Now	(All delivered within one hour or less)
21	Early	(all but 1 was between 1 and 8 minutes early)
8	Late	(over 15 minutes, all but one were only a few minutes late)
13	Passenger "no shows"	

Of the 118 trips reviewed, 6.8% were late and 11% were passenger no shows. ASI stated that in comparison, San Gabriel Transit, the ADA Complementary Paratransit system for you, had an on time rate of 91%. FTA's interpretation of the DOT ADA regulation is that a transit operator must have a goal of delivering 100% on time performance. San Gabriel Transit's on-time rate of 91% may indicate a capacity constraints issue. A separate letter to ASI has been sent to address this issue.

We will continue to monitor this situation, but we will take no further action on your individual complaint regarding this issue at this time. Thank you for bringing this matter to our attention.

3. ASI will not provide information in accessible format when requested or does not provide such information in a timely manner.

The DOT ADA regulation at 49 CFR 37.167 (f) states:

The entity shall make available individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

Also, the Department of Justice's (DOJ) ADA regulation at 28 CFR 35.160 states:

A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others. A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in and enjoy the benefits of, a service program, or activity conducted by a public entity.

A transit provider should keep an adequate supply of accessible materials on hand, which would allow the operator to provide those materials within the same time as somebody requesting that information in a conventional format. Although the DOT ADA regulation does not prescribe a precise time in which a request must be honored, it does require public entities to ensure that communications with applicants, participants, and members of the public with disabilities must be as "effective" as communications with others.

According to [REDACTED], ASI Customer Relations Supervisor, all requests for documents in an accessible format must be completed within 72 hours. [REDACTED] stated that over the past two years, all of your special requests for information in an accessible format were provided within 72 hours. ASI also provided regular correspondence (that is sent to all passengers) immediately to you in an accessible format. In addition, ASI has an inventory of materials in alternative formats that are immediately available upon request. Listed below is the existing inventory of alternative format materials available:

Brochures:

L.A. Basin	audio tape and Braille
Antelope Valley	audio tape and Braille
Santa Clarita	audio tape and Braille
Riders Guide	audio tape and Braille
RIDEINFO	Braille
Riders News	audio tape and Braille

Fact Sheets:

Certification Process	Braille
ADA Paratransit Obligations	Braille
Proposed Fare Structures	Braille
New Fare Policies	Braille and audio tape

Based on our review of ASI's records in regards to its accessible format policy, we find that your requests for special materials are being honored. We do not find ASI to be in violation with this provision of the DOT ADA regulation.

4. ASI operators are rude and refuse to reveal their names when asked.

The DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

ASI stated that there was a concern about operator rudeness and to address this issue, all operators were retrained on the requirements of the ADA. We have been assured by ASI that such actions are not tolerated and subject to immediate dismissal.

We believe that ASI has taken positive steps to ensure that its operators are courteous and treat individuals with disabilities with respect. We will take no further action on your individual complaint regarding this issue. We trust that ASI's ADA retraining has alleviated many of the difficulties that you have previously encountered. Thank you for bringing this matter to our attention.

Based on the determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Sandra Jackson McCrea, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: sandra.mccrea@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concern to our attention. We regret our delay in responding to your concerns.

Sincerely,



for Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: ASI



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 1 1999

[REDACTED]

Re: FTA Complaint No. 97281

Dear [REDACTED]

This letter responds to your complaint regarding the City of Colorado Springs, Colorado and its potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. The City of Colorado Springs ADA eligibility recertification process is not correct; and
2. Mr. [REDACTED] the person who assessed you for ADA eligibility, may have retaliated against you because of previous complaints that you filed.

We informed the City of Colorado Springs of your allegations and requested information relating to your complaint; reviewed the information presented by the City and you; and made a determination on each of your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. The City of Colorado Springs ADA eligibility recertification process is not correct.

The DOT ADA regulation at 49 CFR 37.125(f) states that "The entity may require recertification of the eligibility of ADA paratransit eligible individuals at reasonable intervals."

The DOT ADA regulation allows an entity to recertify eligibility at reasonable intervals to make sure that changed circumstances have not invalidated or changed the individual's eligibility. Often, persons who were at one time eligible for paratransit service no longer need paratransit service to the degree they once did because circumstances have changed--fixed route buses have become accessible or the person's ability to travel on fixed route has improved.

We understand that based on the City of Colorado Springs review of your application and functional assessment, you were recertified eligible ADA Complementary Paratransit on November 16, 1998, for a period of three years. Because you have been granted eligibility, we will take no further action on this allegation.

2. Mr. [REDACTED] the person who assessed you for ADA eligibility, may have retaliated against you because of previous complaints that you filed.

Section 503(a) of the ADA [42 USC 12203] explicitly prohibits retaliation. It states:

Retaliation. -- No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

You did not state any specific actions which you believe [REDACTED] has taken against you. We infer from your letter that you were unhappy with statements that he made during your recertification process.

According to your letter, [REDACTED] allegedly said, "If you are capable of taking the bus now, you do not require our services." You also allege that he "implied that disabled or not, arthritis or not, I would have to be in a wheelchair to now qualify for the Springs Mobility services."

These statements, if made by [REDACTED], are not in themselves retaliatory. At the same time they need to be qualified. A correct interpretation of the DOT ADA regulation is that ADA Complementary Paratransit is meant to be a safety net for persons who cannot use the regular fixed route bus system because of a disability or because the bus system is inaccessible. The decision to grant eligibility is based on a person's functional ability, not on a medical diagnosis. However, it is not true that you must use a wheelchair to be considered eligible for ADA Complementary Paratransit.

As you have been granted eligibility, and as you did not make a specific allegation regarding retaliatory actions taken by [REDACTED] we will take no further action on this allegation.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,


for Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Cc: City of Colorado Springs

Federal Transit Administration

TCR:PERALTA:5/13/99:x66745

Electronic copies to: GC (Tochen/Dunham), C-50 (Ashby), TRO-8, TCR-Staff, TCC(Wong)

Paper copies: Peralta/Wolgast, Chron/Subject-Craig

O:\wolgast\ 



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 9 1999

[REDACTED]

Re: FTA Complaint No. 99064

Dear [REDACTED]

This letter responds to your complaint against New York City Transit (NYCT), New York, New York, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Pas 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand that your allegation to be that NYCT's Park Avenue South and 33rd Street subway stations are inaccessible to persons with disabilities. Although your letter included other items that you asked to be investigated, we have determined that those matters not addressed are outside the scope of the ADA/DOT regulation.

We have reviewed the information you presented to us and made a determination in relation to the DOT ADA regulation. We have restated your allegation followed by our determination, below:

The DOT ADA regulation at 49 CFR 37.43 states:

When a public entity alters an existing facility or a part of an existing facility used in providing designated public transportation services in a way that affects or could affect the usability of the facility, the entity shall make the alterations (or ensure that the alterations are made) in such a manner to the maximum extent feasible that the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alteration.

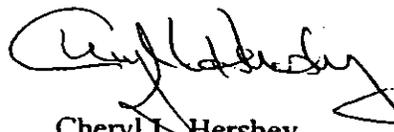
Also, the DOT ADA regulation at 49 CFR 37.47 states:

Each public entity that provides designated public transportation by means of a light or rapid rail system shall make key stations on its systems readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. This requirement is separate from and in addition to requirements set forth in §37.43 of this part.

The two stations in question, Park Avenue South and 33rd Street, were not designated as key stations by NYCT. Since the DOT ADA regulation does not require non-key rail stations to be made accessible, any renovations that may take place are done under NYCT's own initiative and timeframe. However, when NYCT decides to make renovations at these stations, they must make them accessible to persons with disabilities.

We regret that we were unable to assist you in this matter. Based on the determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Michael Virts, Equal Opportunity Specialist of this office, on the FTA toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: michael.virts@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: NYCTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 17 1999



Re: FTA Complaint No. 99035

Dear 

This letter responds to your complaint against Worcester Regional Transit Authority (WRTA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that some WRTA bus operators smoke cigarettes on the bus or while standing on the bottom step of the bus which allows smoke fumes to draft into the passenger area. You are very sensitive to smoke fumes, and this aggravates your medical condition.

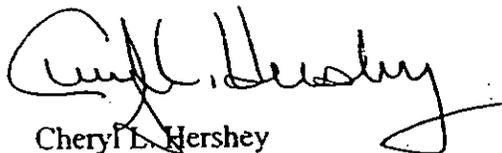
The DOT ADA regulation does not address the issue of smoking on public transportation vehicles. The Department of Justice ADA regulation that implements subtitle A of title II states at section 35.132:

This part does not preclude the prohibition of, or the imposition of restrictions on, smoking in transportation covered by this part.

This means that although the Federal government does not have regulations regarding smoking in public transportation facilities or vehicles, it does not prevent State and Local governments from enacting and enforcing their own laws. As Massachusetts has a state law prohibiting smoking on buses, we recommend that you continue to address it through the state Department of Public Health.

We regret that we will be unable to assist you further with this matter. If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, eugene.jenkins@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Federal Transit Administration

TCR:EJENKINS:60793. 5/27/1999

Electronic copies to: TRO-1; C-50(Ashby), OST(Tochen, Dunham), TCC (Wong), TCR Staff

Hard copies to: TCR-IHU Chron/Subject/JENKINS/wolgast/craig

O:JENKINS [REDACTED]



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 23 1999

[REDACTED]

Re: FTA Complaint No. 97274

Dear [REDACTED]

This letter responds to your complaint of discrimination on behalf of your husband, [REDACTED] against the Metropolitan Transit Authority (METRO) in Houston, Texas, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. METRO does not have ADA complementary paratransit bus service in the Bay Area (a suburb south of Houston); and
2. METRO fixed route buses are inaccessible to persons with disabilities.

We informed METRO of your allegations and requested information relating to your complaint; reviewed the information presented by METRO and you; and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations below:

1. **METRO does not have ADA complementary paratransit bus service in the Bay Area (a suburb south of Houston).**

The DOT ADA regulation at 49 CFR 37.3 defines commuter bus service as follows:

Commuter bus service means fixed route bus service, characterized by service predominantly in one direction during peak periods, limited stops, use of multi-ride tickets, and routes of extended length, usually between the central business district and outlying suburbs. Commuter bus service may also include other service, characterized by a limited route structure, limited stops, and a coordinated relationship to another mode of transportation.

The DOT ADA regulation does not require ADA complementary paratransit to be provided in conjunction with commuter routes. It states at 49 CFR 37.121 that "Requirements for complementary paratransit do not apply to commuter bus, commuter rail, or intercity rail systems."

In reviewing the documentation that we gathered during our investigation, we found that the public transportation provided to the Bay Area is a park-and-ride commuter service into the Houston downtown area. Consequently, METRO is not required to provide ADA complementary paratransit service.

2. **METRO fixed route buses are inaccessible to persons with disabilities.**

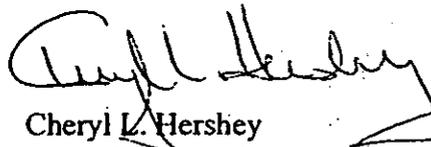
According to the DOT ADA regulation at Section 37.71(a):

...each public entity operating a fixed route system making a solicitation after August 25, 1990, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

We reviewed the information provided by METRO and found that many of its buses were acquired prior to the implementation of the DOT ADA regulations. There is no requirement to retrofit these buses to meet current standards. METRO claims that its bus fleet is currently 80 percent lift-equipped. It expects to have its entire fleet ADA accessible by the year 2002.

If you have any questions regarding this letter, please contact Roger Peralta, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention. We regret that we are unable to assist you further.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: METRO

Federal Transit Administration

TCR:RPeralta:rp:11/9/98:x66745

REVISED: 7/15/99

Electronic copies to:GC(Tochen,Dunham), C-50 (Ashby), TCC (Wong), TRO-6, All TCR Staff

Copies to: TCR-IHU, (Peralta, Wolgast), Chron/Subject

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U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 23 1999

[REDACTED]

Re: FTA Complaint No. 98242

Dear [REDACTED]

This letter responds to your complaint regarding the Connecticut Transit Authority (CTA) in New Haven, Connecticut and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suite on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

We understand your allegations to be that on October 6, 1998, a CTA fixed route bus driver was verbally abusive and threatening toward you. We informed CTA of your allegations, requested information relating to your complaint and reviewed the information presented by CTA and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

The DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

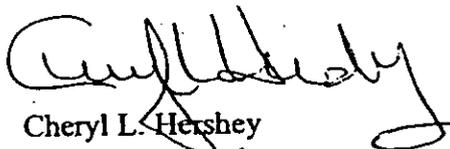
-2-

FTA confirmed your allegation and stated that the driver in question failed to comply with both their customer service and ADA policies. As a result, the operator was counseled about his behavior and was required to attend to formal ADA retraining. This complaint has been noted in his permanent performance record and should you have any problems in the future, CTA provided the name of Mr. Paul Smith, Assistant General Manager for Transit Services, as a direct contact.

In order for a transit property to be in violation with this provision of the DOT ADA regulation, there must be a pattern or practice of rude and discourteous behavior by an operator.. A pattern or practice involves regular or repeated actions, not isolated, accidental, or singular incidents. Since this incident occurred on one day, we have not found sufficient evidence at this time that your allegation constitutes a pattern or practice of noncompliance by CTA with this provision of the DOT ADA regulation.

Based on this determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concern to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: CTA

TCR:MEPETERS: 04/23/1999

Rewritten: SMCCREA:05/03/99

Electronic copies to: TCC/Wong; TCR Staff.

Hard copies to: TCR-IHU Chron/Subject/Hershey/McCrea/Wolgast

O:\Peters\Complaints/Russell LOF.doc

Craig



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 16 1999

[REDACTED]

Re: FTA Complaint No. 99033

Dear [REDACTED]

This letter responds to your complaint regarding the Regional Transportation Commission CAT Paratransit Service (CAT), Las Vegas, Nevada, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suite on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

We understand your allegation to be that you were denied eligibility for ADA Complementary Paratransit service, even though you cannot ride the fixed route bus because of extreme pain caused by walking to and from the bus stop.

The DOT ADA regulation at 49 CFR 37.123 (e) states:

The following individuals are ADA paratransit eligible: (1) Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities.

We understand that you were found to be temporarily eligible for ADA Complementary Paratransit for three months, but upon re-evaluation, your temporary eligibility was not converted to a permanent status. You appealed the decision and were again denied eligibility upon appeal. The DOT ADA regulation requires that persons who are denied eligibility are granted an objective appeal. Section 37.125(g) states the following:

The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial. (a) The entity may require that an appeal be filed within 60 days of the denial of an individual's application. (b) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it.

The decision on your appeal was made based on a review of the documentation in your file which included the results of your functional evaluation, and letters from doctors who treated and/or evaluated you. The final decision was made by an Appeal Board Hearing Officer who was not involved in the original decision to deny you eligibility. In complaints of this nature, unless the facts of the particular circumstance appear to be egregious or substantively violate the regulation, we consider only the appeals process to determine if it comes within the requirements of the DOT ADA regulations. In your case, it appears that CAT followed the appropriate guidelines in making its decision. If you obtain definitive documentation that you cannot use the fixed route bus system and wish to reapply, Monica Schlegel, Assistant Customer Service Supervisor of CAT Paratransit Services, has assured us that CAT will reevaluate your eligibility.

Based on the determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. We regret that we will be unable to assist you further with this matter.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: CAT Paratransit



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 17 1999

[REDACTED]

Re: FTA Complaint No. 97199

Dear [REDACTED]

This letter responds to your complaint against the San Mateo County Transit District (SamTrans), of San Carlos, California, regarding potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If deficiencies are identified they are presented to the transit provider and assistance is offered to correct the inadequacies within a predetermined timeframe.

The ADA does not provide FTA the authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may result in the termination of Federal funds. FTA may also refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. SamTrans denied you eligibility to use its ADA Complementary Paratransit service; and
2. SamTrans denied your request for an appeal of its ADA Complementary Paratransit eligibility determination.

We informed SamTrans of your allegations and requested information relating to your complaint; reviewed the information presented by SamTrans and you; and made a determination based on our analysis of the information in relation to the DOT ADA

regulations. We have restated your allegations, followed by our determinations, below:

1. **SamTrans denied you eligibility to use its ADA Complementary Paratransit service.**

The purpose of ADA Complementary Paratransit service is to act as a safety net for persons with disabilities who cannot use fixed route transportation; however, it was never intended to be a comprehensive system of transportation for individuals with disabilities. SamTrans is required to provide this service to persons who are eligible if they can be accommodated. It appears that you would be eligible if you could use a wheelchair that fits the definition of a "common wheelchair" under the DOT ADA regulation. The definition states at 49 CFR part 37.3:

Wheelchair means a mobility aid belonging to any class of three or four wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered. A "common wheelchair" is such a device which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied.

In applying for ADA Complementary Paratransit service, you stated that you need to travel while reclining on a gurney. The correspondence you submitted from SamTrans indicated that its paratransit vehicles are not designed to accommodate gurneys. The DOT ADA regulation does not require transit providers to transport ADA paratransit eligible individuals whose mobility devices exceed the measurements described above. Consequently, we do not find SamTrans to be in noncompliance with the DOT ADA regulation on this issue.

2. **SamTrans denied your request for an appeal of its ADA Complementary Paratransit eligibility determination.**

Section 37.125(g) of the DOT ADA regulation states:

(g) The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial. . .

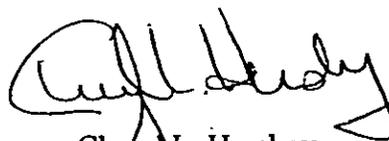
. . . (2) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved in with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it.

You provided us a copy of the April 25, 1997, letter to you from SamTrans Accessible Transit Services, which denied you the right to appeal the determination on your ADA Complementary Paratransit eligibility. In response to our investigation, SamTrans acknowledged in a

March 12, 1998, letter that this was a mistake and offered you the opportunity to appeal. As this appears to have been an isolated error, we will take no further action on your complaint.

If you have any questions regarding this determination, please contact Michael Virts, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: *michael.virts@fta.dot.gov*. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: John Milam
General Manager, SamTrans



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 19 1999

[REDACTED]

Re: FTA Complaint No. 98213

Dear [REDACTED]

This letter responds to your complaint regarding the Regional Transportation Authority (RTA) of Chicago, Illinois, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suite on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

We understand your allegation to be that you were denied eligibility for ADA Complementary Paratransit service, even though your multiple health problems make riding the fixed route bus very difficult.

The DOT ADA regulation at 49 CFR 37.123 (e) states:

The following individuals are ADA paratransit eligible: (1) Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities.

We understand the facts of your complaint to be as follows:

You applied and were initially found ineligible for ADA Complementary Paratransit on October 25, 1995. You reapplied on June 10, 1997, and as part of RTA's eligibility process, you were granted temporary service until an In-Depth Review (IDR) could be scheduled. Apparently there were many delays before the IDR finally took place on September 21, 1998. You were notified by letter dated October 29, 1998, that you were ineligible for ADA Complementary Paratransit service because the condition of your health did not prevent you from using the fixed route transit system. The letter also indicated that if you disagreed with the finding, you had the right to appeal the decision to RTA within 60 days of the date of notification.

By letter dated December 2, 1998, you exercised your right to appeal RTA's decision. An appeal hearing was scheduled for you on January 28, 1999, with the Eligibility Review Board which consisted of members who did not participate in the original decision to deny the service. The Eligibility Review Board upheld the original decision and determined that you are ineligible for ADA Complementary Paratransit service.

The DOT ADA regulation requires that persons who are denied eligibility are granted an objective appeal. Section 37.125(g) states the following:

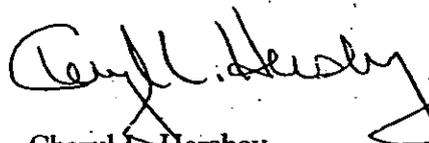
The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial. (a) The entity may require that an appeal be filed within 60 days of the denial of an individual's application. (b) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it.

In complaints of this nature, unless the facts of the particular circumstance appear to be egregious or substantively violate the regulation, we consider only the appeals process to determine if it comes within the requirements of the DOT ADA regulations. In your case, it appears that RTA followed the appropriate guidelines in making its decision.

We understand from your most recent letter to Mr. Eugene Jenkins (dated June 12, 1999) that you have undergone, or will be undergoing, back surgery. If this occurs and your mobility is further decreased, you have the right to reapply to RTA for ADA Complementary Paratransit service.

Based on the determination, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Mr. Jenkins, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: eugene.jenkins@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. We regret that we will be unable to assist you further with this matter, and wish you well with your continuing health difficulties.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: RTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 19 1999

[REDACTED]

Re: FTA Complaint No. 99003

Dear [REDACTED]

This letter responds to your complaint against Omnitrans, of San Bernardino, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Part 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by asking the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations against Omnitrans Access, the ADA Complementary Paratransit service provider, to be the following:

1. Access is often untimely for pickups.
2. Access does not allow passengers to reserve rides for the same day they desire service.
3. Access waits only three minutes for passengers before leaving.
4. The Dial-a-Ride program for elderly persons and persons with disabilities does not work properly.

We informed Omnitrans of your allegations and requested information relating to your complaint. We reviewed the information presented by Omnitrans and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determination below.

1. Access is often untimely for pickups.

The DOT ADA regulation at 49 CFR 37.131(f)(3)(A) through (C) states:

(f) *Capacity Constraints.* The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:
... (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of untimely pickups for initial or return trips; (B) Substantial numbers of trip denials; (C) Substantial numbers of trips with excessive trip lengths. (ii) Operational problems attributable to causes beyond the control of the entity (including, but not limited to, weather or traffic conditions affecting all vehicular traffic that were not anticipated at the time a trip was scheduled) shall not be a basis for determining that such a pattern or practice exists.

In your complaint you brought to our attention several occasions in which you were left waiting for long periods of time for your ride, including one time that you were taken to the emergency room after waiting for three hours in 112 degree weather. This particular incident occurred on August 12, 1998.

Omnitrans responded that it installed a new computer system during July and August 1998, and as a result of the transition, severe service problems occurred. It stated in a letter to us:

A new state-of-the-art dispatching/scheduling computer system was installed the second week of July 1998. Incredible glitches grew into a series of system crashes throughout the following month. Omnitrans' administration put the service contractor's "feet to the fire" during this time, and, to the operator's (Laidlaw Transportation Services) credit, they spared no expense or staff time to resolve the problems. Extra vehicles were put into service to "pick up the pieces" and try to provide adequate response times during the emergency while computer technicians were flown in to work on the system. Around the first of September service returned to normal.

Omnitrans admits that the "ramifications for our ADA service was horrendous." Unfortunately, you were severely affected by this series of events. From Omnitrans records, we ascertain that on four occasions during that time frame your ride arrived later than the scheduled window:

7/31/98 15 minutes late on first leg of trip; 6 minutes late on return leg of trip
8/5/98 1 hour and 35 minutes late
8/12/98 2 hours and 15 minutes late [minimum] at which time you fainted and were taken to the hospital
8/24/98 2 minutes late, but you arrived at your doctor's appointment late

Repeated untimely pick-ups violate the ADA regulation if they establish a pattern and practice. In this instance it appears that Omnitrans immediately addressed the situation and undertook corrective measures to mitigate the problem. It notified its customers and gave out free passes to

those who were adversely affected. Our goal when we find deficiencies by a transit provider is to assist it in correcting those deficiencies. As Omnitrans has addressed its difficulties without our intervention, we will take no further action on this allegation at this time.

2. Access does not allow passengers to reserve rides for the same day they desire service.

The DOT ADA Regulation at 49 CFR 37.131(b) states:

Response time. The entity shall schedule and provide paratransit service to any ADA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day.

There is no requirement that ADA Complementary Paratransit service must be provided on a same day basis. For your information, Access Services, Inc., of Los Angeles, which you mentioned in your letter, is one of the few providers in the country that has same day service.

3. Access waits only three minutes for passengers before leaving.

The DOT ADA regulation only requires that the ADA Complementary Paratransit vehicle must wait for a passenger until the designated pick-up time. It appears that the service complies with this requirement.

4. The Dial-a-Ride program for elderly persons and persons with disabilities does not work properly.

We understand that this service is a discount taxi ride program offered to senior citizens and persons with disabilities. It is not required by the DOT ADA regulations, and we will not be able to address your concerns on this issue.

We regret that we are unable to assist you further. If you have any questions regarding this decision, please contact Linda W. King, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address, linda.king@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Omnitrans



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 24 1999

[REDACTED]

Re: FTA Complaint No. 99077

Dear [REDACTED]

This letter responds to your complaint against the King County Metro Transit Division, of Seattle, Washington, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Part 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that King County incorrectly denied you eligibility for ADA Complementary Paratransit service as you have multiple disabilities, and that the decision was upheld on appeal. We informed King County of your allegation (your name was withheld), reviewed the information presented by King County and you, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. Our determination on your allegation is stated below.

The DOT ADA regulation at 49 CFR 37.121(a) states:

...each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

The ADA is a civil rights statute. It clearly emphasizes nondiscriminatory access to fixed route service, with Complementary Paratransit acting as a "safety net" for people who cannot use the fixed route system. Under the ADA, Complementary Paratransit service is not intended to be a comprehensive system of transportation for individuals with disabilities, and simply having a disability or multiple disabilities does not, in and of itself, entitle a person to ride. Rather, the DOT ADA regulation provides for three categories of ADA Complementary Paratransit eligibility. Category 1 is for persons with disabilities who cannot use fixed route without the assistance of another person. Category 2 is for persons who could use the fixed route if the vehicles were accessible. Category 3 is described at DOT ADA regulation at 37.123(e)(3):

Any individual with a disability who has a specific impairment-related condition, which prevents such individual from traveling to a boarding location or from a disembarking location on such system.

The DOT ADA regulation requires that persons who are denied eligibility are granted an objective appeal. DOT ADA regulation at 37.125(g) states the following:

The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial. (1) The entity may require that an appeal be filed within 60 days of the denial of an individual's application. (2) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it. (3) The entity is not required to provide paratransit service to the individual pending the determination on appeal. However, if the entity has not made a decision within 30 days of the completion of the appeal process, the entity shall provide paratransit service from that time until and unless a decision to deny the appeal is issued.

The administrative appeal process is intended to give appellants the opportunity to have their cases heard by some official other than the one who turned them down in the first place. In order to have appropriate separation, a key element of administrative due process, not only must the same person not decide the case of appeal, the person, to the extent practicable, should not have been involved in the first decision.

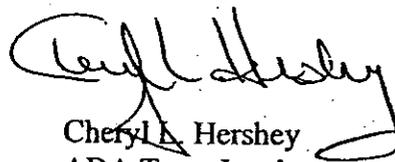
We reviewed King County's appeal procedures as well as your appeal documents and found them to be in accordance with the DOT ADA regulations. You requested and received an appeal to King County's original determination. The appeal hearing was held within 30 days, and you were promptly notified in writing of the decision. The decision on your appeal was based on an evaluation conducted by a Northwest Hospital physician who was not involved in the original decision to deny you eligibility.

In complaints of this nature, unless the facts of the particular circumstance appear to be egregious or substantively violate the regulation, we consider only the appeals process to determine if it meets the requirements of the DOT ADA regulations. In your case, it appears that King County

followed the appropriate guidelines in making its decision. We regret that we are unable to assist you further.

If you have any questions regarding this decision, please contact Linda W. King, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address, linda.king@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl A. Hershey
ADA Team Leader
Office of Civil Rights

cc: King County Metro Transit
Nancy Poultney, Senior Transit Planner



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 2 1999



Re: FTA Complaint No. 99149

Dear [REDACTED]

This letter responds to your complaint originally sent to the Architectural and Transportation Barriers Compliance Board (Access Board) regarding the Washington Metropolitan Transportation Authority (WMATA), and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. WMATA improperly installed "physical barriers that conduct a passenger from the elevator through a narrow, twisting, 36-inch wide, corral back to the area behind the faregates" in the L'Enfant Plaza Metro Station.
2. The subway service gate or swing gate at the L'Enfant Plaza Metro Station is sometimes blocked by people and equipment that in turn blocks your passageway.
3. WMATA personnel and transit police have harassed you and insisted that you travel through the "extended paid area" rather than through the swing gate.

We informed WMATA of your allegations, and made an on-site visit to L'Enfant Station to take measurements and pictures of the extended paid area. Two investigators from this office also met with you at the station so that you could demonstrate your difficulties negotiating the extended paid area. We have reviewed the documentation in your file and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. Your allegations have been restated below followed by our determination on each allegation.

- 1. WMATA improperly installed "physical barriers that conduct a passenger from the elevator through a narrow, twisting, 36-inch wide, corral back to the area behind the faregates" in the L'Enfant Plaza Metro Station.**

You complain that the cordoned off area (described as the "extended paid area" by WMATA) blocks your safe passage through the station, and allege that it is discriminatory.

The DOT ADA regulation at 49 CFR part 37.43(a)(1) states:

When a public entity alters an existing facility or a part of an existing facility used in providing designated public transportation services in a way that affects or could affect the usability of the facility or part of the facility, the entity shall make the alterations (or ensure that the alterations are made) in such a manner, to the maximum extent feasible, that the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations.

The DOT ADA regulation at Appendix A, "Standards for Accessible Transportation Facilities," states at Section 4.3.3 that "The minimum clear width of an accessible route shall be 36 in (915 mm) except at doors (see 4.13.5 and 4.13.6)." According to our measurements, the width of the extended paid area is a minimum of 38 inches and is in compliance with the stated requirement.

After we measured the area, you informed us that you rely upon the courtesy of the WMATA Station Managers to allow you access through the swing gates. WMATA is commended for taking the extra step in allowing you to use the swing gates although it is not required to do so. No further action on this allegation appears to be required.

- 2. The subway service gate or swing gate at the L'Enfant Plaza Metro Station is sometimes blocked by people and equipment that in turn blocks your passageway.**

The swing gates serve many uses. It is to be expected that they would be used by passengers. We have observed that during the course of travel and use, the path may appear to be temporarily blocked by passengers' use, making it difficult for you to get through. These gates are intended to be used by the public for various purposes and, as in your situation, by persons with disabilities.

The station manager flatly denies that the swing gates are ever blocked by equipment. He stated that because the swing gates are designated for emergency evacuation, they remain clear of physical obstructions at all times.

We recommend that if this is a recurring problem for you that you consider taking the accessible path of travel through the extended pay area, or that you report the situation directly to WMATA for its intervention.

3. WMATA personnel and transit police have harassed you and insisted that you travel through the "extended paid area" rather than through the swing gate.

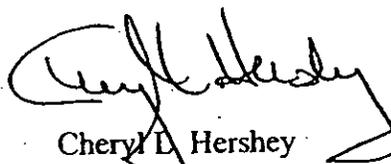
This was a verbal allegation that you made when you met with the investigators at L'Enfant Station. Based on your statements, it appears that this occurs when WMATA personnel, who are not aware that WMATA has extended you the courtesy of using the swing gates, are on duty. Your use of the swing gates is simply a courtesy and not a right. The station managers are responsible for ensuring the public has paid the proper fare, and have the duty to stop you from using the swing gates if they are not familiar with your individual circumstances. Your patience and understanding when this occurs will help alleviate any potential discord.

However, WMATA staff is aware that retaliation based upon your voicing your concerns about what you may believe are your rights under the ADA is strictly forbidden at 42 USC 12203 Section 503(a):

Retaliation. No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

Based on the above, will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Linda Craig, Equal Opportunity Assistant, on FTA's toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: linda.craig@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concern to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: WMATA
Access Board



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 2 1999



Re: FTA Complaint No. 99066

Dear 

This letter responds to your complaint regarding the City of Santa Monica Big Blue Bus, of Santa Monica, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

There is a 180 day statute of limitations on filing complaints under the DOT ADA regulation. Based on that we have accepted your specific allegation about an incidents that occurred in February 1999, while considering the general implications of your allegations of events that occurred in 1998. We understand your allegation to be that on February 24, 1999, a Big Blue Bus driver initially refused to assist you and your husband, who uses a wheelchair, into the securement area of the bus; did not properly secure your husband's wheelchair to the bus; and did not use the safety belt to secure your husband in the wheelchair. As a result your husband "tipped out of the chair" and would have fallen to the floor if you didn't catch him.

We informed the City of Santa Monica Big Blue Bus of your allegations; requested information relating to your complaint; reviewed the information presented by the Big Blue Bus and you; and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determination follows.

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Drivers are required at Section 37.165(f) to provide assistance to persons who use wheelchairs:

Where necessary or upon request, the entity's personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts. If it is necessary for the personnel to leave their seats to provide this assistance, they shall do so.

The Big Blue Bus acknowledged that drivers in the February 24, 1999, incident as well as the 1998 incidents did not perform their duties correctly. In response to your complaints to the Big Blue Bus, all of the drivers involved were counseled regarding their attitude and behavior, and retrained on proper procedures. Also in response to your complaints, the Big Blue Bus implemented new operational procedures to ensure that its wheelchair lifts and securement devices are maintained in working order. The Big Blue Bus sent you a letter of apology and explanation of these new procedures dated March 9, 1998. These actions were taken by the Big Blue Bus before you submitted your complaint to FTA.

The driver in the 1999 incident was reprimanded and was required to attend a two day Safety Awareness Workshop. This workshop was developed by the Big Blue Bus Training Supervisors in response to concerns that some drivers needed follow-up safety training. The training includes ADA requirements and customer service techniques and all drivers will be required to attend this training in due course.

Our goal when we find cases of noncompliance with the DOT ADA regulation is to assist the transit provider in correcting its deficiencies. In this case it appears that the Big Blue Bus are making concerted efforts to ensure that its drivers are aware of and complying with the DOT ADA requirements, and we will take no further action at this time on the above allegations.

We will address one issue that stands out from one of the 1998 incidents as it appears from the City's response that it may be under a misconception regarding the following section of the DOT ADA regulation at 37.165(d):

The entity may not deny transportation to a wheelchair or its user on the ground that the device cannot be secured or restrained satisfactorily by the vehicle's securement system.

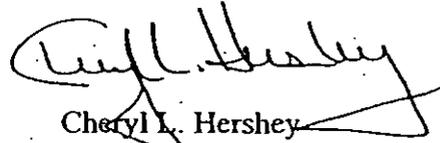
In the City's June 14, 1999, response to us it stated:

The Dispatcher instructed the Operator to inform the passenger that the equipment was not working and for their safety, they should alight and wait for the following bus. The Operator did this, however, [REDACTED] initially refused to leave the bus. It should be noted that the service on this line operates on a 15 minute headway.

The driver and dispatcher should not have required you and your husband to leave the bus, as it was up to your discretion to decide whether or not to disembark and await the next bus. We have informed the City and the Big Blue Bus of this discrepancy.

All of this said, we understand your frustration that your first attempt to use the Big Blue Bus after the 1998 incidents, you and your husband encountered yet another driver who did not assist you as appropriate to the DOT ADA requirements. We will be alert to any future complaints that allege these same type of violations against the Big Blue Bus. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: The Santa Monica Big Blue Bus



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 8 1999

[REDACTED]

Re: FTA Complaint No. 98230

Dear [REDACTED]

This letter responds to your complaint regarding the Phoenix Transit Service (PTS) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for Civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suite on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. PTS fixed route operators (especially those on Route #8) frequently pass you without stopping.
2. PTS fixed route bus operators often stop too close to the bus stop sign pole, making it impossible to lower the bus lift, and therefore denying you a chance to board the bus.
3. A PTS operator "kicked you off a bus" because you had a battery operated wheelchair.

We informed PTS of your allegations and requested information relating to your complaint; reviewed the information presented by PTS and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We were unable to complete as thorough an investigation as we would have liked due to your lack of cooperation. Our determination follows.

1. PTS fixed route operators (especially those on Route #8) frequently pass you without stopping.

PTS provided documentation of all complaints from you of which it had record. Only one complaint dated August 1993, pertained to a bus passing you. Our investigator tried on several occasions to obtain more information from you so that we could address any current difficulties, but found you uncooperative. As the statute of limitations on ADA complaints is 180 days, we will be unable to take further action on this allegation.

2. PTS fixed route bus operators often stop too close to the bus stop sign pole, making it impossible to lower the bus lift, and therefore denying you a chance to board the bus.

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

PTS states that all drivers are trained in accordance with the above regulation, which includes maneuvering buses to deploy the lift and accommodate passengers with disabilities. Again, PTS needs specific incident information that we were unable to obtain in order to address this allegation. We will take no further action on this allegation.

3. A PTS operator "kicked you off" a bus because you had a battery operated wheelchair.

A common wheelchair is defined as follows:

A mobility aid belonging to any class of three or four-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered. A "common wheelchair" is such a device which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied.

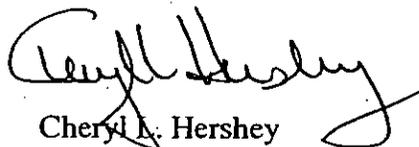
Provided your wheelchair fits within these parameters, you have a right to ride public transportation vehicles that are lift-equipped. PTS has no record of this complaint and responded

) that its operators are trained to provide service to all common wheelchairs as defined by the DOT ADA regulation.

In your correspondence you included a copy of a lawsuit you filed against PTS which made allegations of bus drivers who do not treat you courteously; drivers who refuse to pick you; and drivers who do not strap your wheelchair down. Upon the conclusion of your lawsuit, if you are still dissatisfied with actions of PTS bus drivers, we recommend that you contact PTS immediately and directly with enough information, such as the bus route, bus number, driver identification or description, date and time of day, so that PTS can identify the driver about whom you complain.

We will take no further action on your complaint at this time. If you have any questions regarding this decision, you may contact FTA's toll free ADA Assistance Line at 1-888-446-4511, or our email address at: ada.assistance@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Cc: PTS



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 20 1999

Mr. Kurt Dessauer
Accessibility Coordinator
Community Action for the Disabled
P.O. Box 5274
Bellingham, Washington 98227

Re: FTA Complaint Number 99078

Dear Mr. Dessauer:

This letter responds to your complaint regarding the Whatcom Transportation Authority (WTA) of Bellingham, Washington and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the mass transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

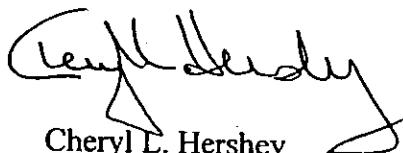
We understand your allegation to be that the accessible parking spaces at the Civil Field Parking Lot are not located the shortest distance possible to the sheltered bus stop; the surface is not smooth, firm, stable and slip resistant; and the accessible route of travel is of insufficient width.

Under Appendix A to part 37 – *Standards for Accessible Transportation Facilities*, section 4.1.2 states that the minimum required number of designated accessible parking spaces out of a total of 200 spaces is six. Section 4.6.3 states that, "Accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance."

The Whatcom General Manager, Richard G. Walsh, stated that Whatcom entered into an agreement with Western University to provide shuttle service from Civil Field to the college campus. Civil Field is a park and ride lot owned by the City of Bellingham, and Whatcom leases approximately 200 parking spaces from the city. Of these 200 parking spaces, Whatcom is planning to designate eight parking spaces for persons with disabilities adjacent to the sheltered bus stop. These parking spaces should be completed before the shuttle service to the university resumes in late September 1999 and will comply with the ADA Standards for Accessible Transportation Facilities.

In conclusion, we find that Whatcom's plan to designate eight of its 200 leased parking spaces nearest to the bus shelter for persons with disabilities is an appropriate response to your complaint. If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: *eugene.jenkins@fta.dot.gov*. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Whatcom Transportation Authority



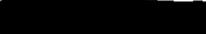
U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 20 1999



Re: FTA Complaint No. 97102

Dear 

This letter responds to your complaint regarding the San Mateo County Transit District (SamTrans), and the potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. You often cannot schedule a ride within an hour of the time you wish to travel on Redi-Wheels, SamTrans' ADA Complementary Paratransit service;
2. When you call before 5 p.m. to schedule a ride and are placed on hold, the scheduler will not accept your reservation if it is after 5 p.m. when she returns to your call;

We informed SamTrans of your allegations and requested information relating to your complaint; reviewed the information presented by SamTrans and you; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below:

1. You often cannot schedule a ride within an hour of the time you wish to travel on Redi-Wheels, SamTrans' ADA Complementary Paratransit.

The DOT ADA regulation at 49 CFR 37.131(f) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: (1) Restrictions on the number of trips an individual will be provided; (2) Waiting lists for access to the service; or (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to, the following: (a) Substantial numbers of significantly untimely pickups for initial or return trips; (b) Substantial numbers of trip denials or missed trips; (c) Substantial numbers of trips with excessive trip lengths.

On January 12, 1998, during a conversation with [REDACTED], a contractor who previously worked on behalf of the FTA Office of Civil Rights, you stated that this problem has improved. You indicated that although you have increased your use of SamTrans' ADA Complementary Paratransit system, you have experienced significantly fewer trip denials. Based on the foregoing, we will take no further action on this allegation.

2. When you call before 5 p.m. to schedule a ride and are placed on hold, the scheduler will not accept your reservation if it is after 5 p.m. when she returns to your call.

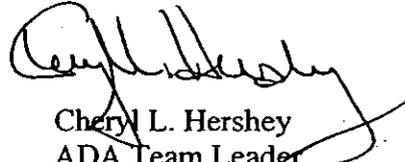
The DOT ADA regulation at 49 CFR 37.131(b)(1) states:

The entity shall make reservation service available during at least all normal business hours of the entity's administrative offices, as well as during times, comparable to normal business hours, on a day when the entity's offices are not open before a service day.

Redi-Wheels accepts reservations between the hours of 8:30 a.m. and 5:00 p.m., seven days a week, and it is conceivable that calls were refused after 5:00 p.m. even if they were already on hold. However, SamTrans has changed its telephone system to alleviate this situation. Any calls that are received before 5:00 p.m. are routed into a "queue." When the telephone is switched to the night message, calls remain in the queue until answered. Reservationists are instructed to answer all calls received before 5:00 p.m. before leaving for the day, and all reservationists are trained in the use of the system and in all policies and procedures of Redi-Wheels service. According to a conversation with Ms. Zenó, we understand that you no longer experience this difficulty.

Based on the above, we will take no further action regarding this complaint. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. We sincerely regret the delay in our response.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: SamTrans

Clay



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 21 1999

[REDACTED]

Re: FTA Complaint No. 94237

Dear [REDACTED]

This letter responds to your complaint against the Kansas City Area Transportation Authority (KCATA), and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Over the years since the ADA was implemented, you have addressed a number of concerns regarding the rights of persons with disabilities in relation to public transportation to FTA. With the phased in implementation of the DOT ADA regulations and with the learning curve that the industry as a whole has undergone, many of your previous concerns have been addressed. According to the documentation in your complaint file, we understand your current concerns to be as follows:

1. The KCATA ADA complementary paratransit application has the following inaccuracies: it contains questions regarding trip purpose; no information on presumptive eligibility is provided; and no information on the appeals process is provided.
2. KCATA has an incorrect visitors' policy for ADA complementary paratransit.
3. KCATA does not coordinate service with other paratransit providers.

4. KCATA experiences a high rate of lift failures on its fixed route buses.
5. KCATA employees are not properly trained to work with persons with disabilities.
6. Ambulatory persons with disabilities are not allowed to use vehicle lifts.
7. KCATA does not provide alternate transportation for persons with disabilities who are stranded because of lift failures.
8. Stop announcements are not routinely made.

We informed KCATA of your concerns and requested information relating to your complaint; reviewed the information presented by KCATA and you, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. Some of these issues have been discussed and partially resolved between you, KCATA, and FTA's contractor, Marshall Mendez of JDG Associates. We have restated your concerns below, followed by our determination on each issue.

1. **The KCATA ADA complementary paratransit application has the following inaccuracies: it contains questions regarding trip purpose; no information on presumptive eligibility is provided; and no information on the appeals process is provided.**

These discrepancies were corrected in an August 1997, revision to KCATA's eligibility application.

2. **KCATA has an incorrect visitors' policy for ADA complementary paratransit.**

At issue is whether or not residents of Johnson County, Kansas, should be considered visitors for the purpose of receiving ADA complementary paratransit service from KCATA. Johnson County is one of seven counties in the Missouri-Kansas bi-state area in which KCATA is authorized to operate. KCATA provides fixed route service to the eastern edge of Johnson County, and ADA complementary paratransit is provided within a three-fourths mile corridor of the fixed route. Johnson County does not have its own fixed route system, and therefore does not provide ADA complementary paratransit. KCATA allows for anyone living within the seven county area to apply for eligibility and to receive the same service as those living within its service area.

The DOT ADA regulation addresses ADA complementary paratransit visitors' policy at Section 37.127:

- (a) Each public entity required to provide complementary paratransit service under Section 37.121 of this part shall make the service available to visitors as provided in this section.
- (b) For purposes of this section, a visitor is an individual with disabilities who does not reside in the jurisdiction(s) served by the public entity or other entities with which the public entity provides coordinated complementary paratransit

service within a region.

(c) Each public entity shall treat as eligible for its complementary paratransit service all visitors who present documentation that they are ADA paratransit eligible, under the criteria of Section 37.125 of this part, in the jurisdiction in which they reside. ...

Because you live in Johnson County, a participating jurisdiction within the KCATA system, we do not agree that you should be granted visitor status. Your situation is the same as others who live outside of the three-fourths mile service area for ADA complementary paratransit. You may apply for and receive eligibility as a resident if you meet the functional ability requirements, and if you are granted eligibility, you may use the service within KCATA's stated service area. The fact that you have an eligibility card from the now discontinued Johnson County ADA paratransit system is irrelevant to this issue.

3. KCATA does not coordinate service with other paratransit providers.

The DOT ADA regulation states the following at Section 37.139, "*Plan Contents*":

Each plan shall contain the following information: ... (g) Efforts to coordinate service with other entities subject to the complementary paratransit requirements of this part which have overlapping or contiguous service areas of jurisdictions. (h) The following endorsements or certifications: ... (4)(iii) To the extent service provided by other entities is included in the entity's plan for comparable paratransit service, the entity must certify that: ... Efforts will be made to coordinate the provision of paratransit service by other providers.

The above requirement applied to the submission of paratransit plans which were first due January 26, 1992, with yearly updates due each subsequent January 26, until the transit provider reached compliance. This section did not intend to force operators to coordinate. It required a survey of existing services (Section 37.137(a)) and the consideration of how those existing services could be coordinated to avoid wasteful and duplicative services. The choice of whether to coordinate service, and how it would be managed was left to the discretion of the local transit provider.

DOT policy strongly encourages transit providers to coordinate services. It is clear that coordination will most likely play an important role if comprehensive service to persons with disabilities and others is to be provided. However, there is no ongoing requirement for coordination in the delivery of ADA complementary paratransit service.

4. KCATA experiences a high rate of lift failures on its fixed route buses.

The DOT ADA regulation addresses the maintenance of accessible features in Section 37.161(a)-(c):

(a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals

with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.

(b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

(c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

The DOT ADA regulation at Section 37.163(d) and (e) address the length of time allowed to repair wheelchair lifts:

(d) Except as provided in paragraph (e) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service.

(e) If there is no spare vehicle available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than . . . three days (if the entity serves an area of over 50,000 population) from the day on which the lift is discovered to be inoperative.

In addition, Section 37.163(b) requires public transit providers to perform regular and frequent maintenance checks on wheelchair lifts to ensure that they are working properly.

KCATA provided documentation that its wheelchair maintenance policy is in compliance with the above requirements. The KCATA "Manual of Instruction, Operating Rules and Discipline Code" requires bus operators to complete a "Pre-Trip Inspection" which includes cycling the wheelchair lift before leaving the garage. An ascending order of disciplinary measures beginning with a written warning and ending with dismissal, is used for enforcement of this requirement.

A check of a sample of KCATA's maintenance records indicates that wheelchair lift repairs are completed well within the three day requirement in Section 37.163(e) above. You state that KCATA experiences an "extremely high rate of lift failure[s] in 92 or 93 batch of vehicles." Our review of the documentation collected does not support your allegations.

5. KCATA employees are not properly trained to work with persons with disabilities.

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

KCATA provided documentation of employee initial training and mandatory refresher training. It periodically issues "Operator Bulletins" on key ADA requirements and has in place a disciplinary scale for ADA infractions. However, we acknowledge that providing training does not ensure that the lessons taught are properly implemented. We recommend that should you experience further difficulties with drivers, you should contact KCATA immediately and directly with sufficient information such as bus number, bus route, operator name/number, time of day, etc. to allow KCATA to identify the driver.

6. Ambulatory persons with disabilities are not allowed to use vehicle lifts.

The DOT ADA regulation at Section 37.165(g) states that "The entity shall permit individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle."

KCATA has a proper policy regarding this requirement which is included in its training, Operators' Manual, and periodic bulletins, but as stated above, this does not guarantee proper implementation. Please see our enclosed letter to KCATA regarding this and other operator compliance issues.

7. KCATA does not provide alternate transportation for persons with disabilities who are stranded because of lift failures.

The DOT ADA regulation at Section 37.163(f) states:

In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

KCATA's policy is to dispatch replacement buses if the next scheduled bus will not arrive within 30 minutes; however, often this is unnecessary as the headway to the next bus is usually less than 30 minutes. If you find that KCATA does not consistently follow this policy, we recommend that you report it immediately and directly to KCATA with sufficient information (e.g., bus number, route and time of day) for it to identify and correct the deficiency.

8. Stop announcements are not routinely made.

The DOT ADA regulation at 49 CFR 37.167(b) (1) and (2) and (c) states:

(b) On fixed route systems, the entity shall announce stops as follows: (1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location. (2) The entity shall announce any stop on request of an individual with a disability.

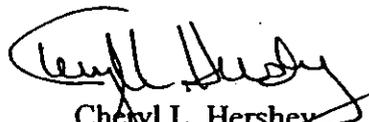
(c) Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

From the documentation supplied by KCATA, it is apparent that the lack of cooperation among bus operators on making stop announcements is an ongoing area of concern. We have addressed this further in our letter to KCATA. Please see enclosure.

In your correspondence you mention that others have reported to you, in your capacity as Advocate, alleged violations about lift deployment and maintenance, stop announcements, and improper training. Although we do not question the veracity of these issues, we always recommend that complainants first try to resolve difficulties locally with the transit provider. To do this, the individual should file a complaint with KCATA and provide sufficient information to allow KCATA to identify the bus operator and vehicle in question. Because your complaint dates back to 1994, we accepted your general allegations under our previous system of complaints investigation. For your information, we will no longer accept complaints filed by a third party without the express written permission of the aggrieved person. We recommend that you advise complainants to first address their issues to KCATA, and if they are not satisfied with KCATA's action, to contact this office directly.

If you have any questions regarding this decision, please contact Roberta Wolgast, Equal Opportunity Specialist, of my staff, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,


Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Enclosure

cc: KCATA

way



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 23 1999

[REDACTED]

Re: FTA Complaint No. 99108

Dear [REDACTED]

This letter responds to your complaint against the Metropolitan Transportation Authority (MTA), in New York City, New York, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand that you are unhappy with the detour travel arrangements made by MTA during New York City Transit (NYCT) track repair work that affects the "#1 train." You suggest an alternate plan that in your opinion would make the detour more passenger friendly.

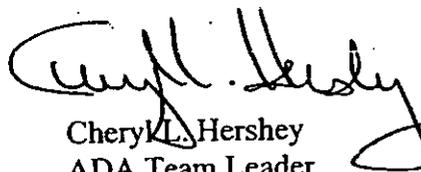
The Federal Transit Law prohibits FTA from involving itself in operational matters of local jurisdiction. It states at 49 U.S.C. 5424(c):

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title, and, after a grant is made, may not regulate any charge for the system.

FTA would seek to intervene only if the issues that you raise directly violate an individual's civil rights. This does not appear to be the situation, and based on the facts that you raised we will be unable to take any action on your complaint. From your email message, we are aware that you have been in contact with MTA regarding this issue. It appears that MTA has listened to your complaint and is willing to discuss other options. Further, if you have a disability that prevents you from climbing stairs or otherwise following the detour, NYCT should offer you the option of using its ADA Complementary Paratransit service.

We regret that we are unable to assist you with this issue and wish you luck in your campaign to change the detour route. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,


Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: MTA

Craig



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 23 1999

[REDACTED]

Re: FTA Complaint No. 98211

Dear [REDACTED]

This letter responds to your complaint against Bi-State Development Agency's Metrolink in St. Louis, Missouri, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Pas 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your specific allegation to be that the accessible parking spaces at Bi-State Development Agency's Metrolink parking lot at 5th and Missouri, East St. Louis, Illinois, are poorly marked, and Metrolink fails to provide security to prevent the improper use of the accessible parking spaces by persons who do not have disabilities.

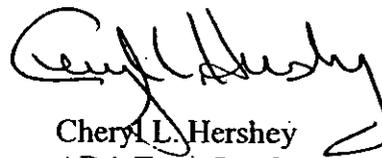
The DOT ADA regulation at 49 CFR 37.161(a) states that:

Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities.

We contacted Bi-State in regard to your allegation, and Bi-State submitted documents to verify that corrective actions have been taken. The parking spaces designated for persons with disabilities at 5th and Missouri have been re-striped to make them more visible to the users, and proper signage has been erected. In addition, barriers have been installed to prevent parking in the spaces adjacent to accessible parking spaces. Bi-State also coordinated with the local authorities to ensure that the Metrolink parking lot will be routinely inspected by law enforcement and citations will be issued to persons who improperly park in spaces designated for persons with disabilities.

We consider these actions taken by Bi-State to be an appropriate response to your complaint, and we will take no further action on this complaint. If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, eugene.jenkins@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Bi-State Development Agency

Craig



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 23 1999

[REDACTED]

Re: FTA Complaint No. 99064

Dear [REDACTED]

This letter responds to your complaint against the Antelope Valley Transit Authority (AVTA) of Lancaster, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that AVTA wrongly accused you of disruptive behavior and forced you to leave Dial-a-Ride vans on two separate occasions. We reviewed the information you provided and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

The DOT ADA regulation at 49 CFR 37.5(h) states:

It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

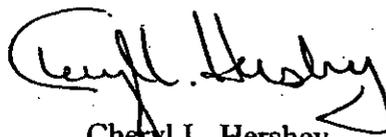
The first incident on November 6, 1998, involved a dispute over correct fare. AVTA alleges that the driver determined it was unsafe to transport you because you were upset and disruptive. As a result you were forced to leave the van. You did not contest this allegation in your letter to us.

In the second incident, there appears to have been a misunderstanding between you and the reservationist about a return trip from your doctor's appointment on February 25, 1999. You claim to have had a confirmed reservation, but Dial-a-Ride claims that it did not have you on its schedule. You entered a Dial-A-Ride van anyway and were forcefully removed by law enforcement officials.

The letter dated March 17, 1999, that you received from AVTA is a warning notice to alert you to the possible consequences of another incident of "Improper Ride Conduct" on a Dial-a-Ride van. The letter did not take any disciplinary action against you; it was simply a warning. AVTA is within its rights under the DOT ADA regulations to suspend service to you for documented seriously disruptive behavior. However, if AVTA does suspend you, you have the right to appeal its decision and present your side of the issue to an independent body.

We regret that we are unable to assist you further in this matter. If you have any questions regarding this letter, please contact Michael Virts, Equal Opportunity Specialist at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: michael.virts@fta.dot.gov. We wish you success in resolving your misunderstanding with AVTA.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: AVTA

Craig



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 23 1999

[Redacted]

Re: FTA Complaint No. 99057

Dear [Redacted]

This letter responds to your complaint against Los Angeles County Metropolitan Transit Authority (MTA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to lev fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that on February 6, 1999, an MTA bus operator tried to prevent you from boarding a bus and insisted that you disembark the bus after you entered without his permission. He claimed that the bus was overcrowded. You left the bus when he threatened to call the police. You believe that you were treated in this manner because of your disability.

The DOT ADA regulation is based on the premise of nondiscriminatory access to public transportation. The Appendix to 49 CFR section 37 quotes one disability group representative saying:

The ADA is intended simply to provide to individuals with disabilities the same mass transportation service opportunities everyone else gets, whether that be good, bad, or mediocre.

Section 37.5(a) of the DOT ADA regulation states:

No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

From your letter and from information received from MTA, we learned that the other persons waiting at the bus stop also were prevented from riding that particular bus.

The DOT ADA regulation at 49 CFR 37.173 states that:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

MTA explained that the bus was an Aerotech 240 coach that has a maximum capacity of 27 riders which includes seven standees. The bus was already at or over capacity when it reached your stop. Because the bus operator's actions affected all of the persons waiting for the bus, it appears that you were not singled out for disparate treatment. MTA acknowledged that the bus operator's response to the situation was too aggressive. He has received counseling and additional training in customer relations, particularly in the treatment of persons with disabilities, to ensure that they are treated with courtesy and respect.

Based on the determinations above, we will take no further action on your complaint at this time. If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, eugene.jenkins@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Cc: MTA



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 29 1999

[REDACTED]

Re: FTA Complaint No. 99067

Dear [REDACTED]

This letter responds to your complaint against the San Joaquin Regional Transit District (SMART), of Stockton, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Some SMART ADA Complementary Paratransit vehicle operators take circuitous routes that result in excessive trip lengths.
2. SMART ADA Complementary Paratransit vehicle operators retaliated against you because you filed a complaint.

We informed SMART of your allegations and requested information relating to your complaint; reviewed the information presented by SMART and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. We have restated your allegations, followed by our determinations, below:

621

1. Some SMART ADA Complementary Paratransit vehicle operators take circuitous routes that result in excessive trip lengths.

The DOT ADA regulation at 49 CFR 37.121(a) states:

...each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals who use the fixed route system.

You state that often drivers do not take the most direct route to your destination. You detailed several trips to demonstrate your point, and SMART responded to each with specific information about the trip. In most cases, it appears that the driver simply chose to use a different route than the route you would have preferred. SMART allows its drivers discretion in determining the most convenient and direct route considering the time of day and traffic congestion. On one occasion, February 26, 1999, the driver made an error in assuming that you were returning to your home. This was a driver error and resulted in a longer trip for you than was necessary. On March 5, 1999, trip, the driver reversed direction to pick up another passenger who was going to the same destination as you. The other passenger had not previously been on the trip roster due to a malfunction of the Mobile Data Terminal.

ADA Complementary Paratransit is a shared ride; it is meant to be comparable to fixed bus routes for persons with disabilities who cannot use the fixed route system. It is intended to provide individuals with disabilities the same public transportation service opportunity that are available to the general public. ADA Complementary Paratransit is not a taxi service. It is expected that a trip will take longer than a direct route via a taxi because it is a shared ride. We do not see any evidence in your complaint that suggests that SMART is deficient under this requirement.

2. SMART ADA Complementary Paratransit vehicle operators retaliated against you because you filed a complaint.

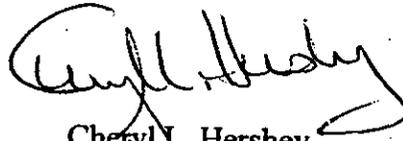
Section 503(a) of the ADA [42 USC 12203] explicitly prohibits retaliation. It states:

Retaliation. – No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

You claim that the reason that drivers take circuitous routes is retaliatory in nature. In your letter to us, you stated, "Because of my complaint the Union orchestrated a tour of the city to show their displeasure of me complaining about their union's Vice-President." As we stated above, after analyzing the information SMART submitted in response to your complaint, we do not believe that the routes chosen by SMART drivers are unnecessarily circuitous.

Based on the above, we will take on further action regarding this complaint. If you have any questions regarding this decision, please contact Linda Craig, Equal Opportunity Assistant, on FTA's toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: linda.craig@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: SMART



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

[REDACTED]

OCT 6 1999

Re: FTA Complaint No. 98215

Dear [REDACTED]

This letter responds to your complaint against the Regional Transportation Commission (RTC) of Las Vegas, Nevada, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Part 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that RTC incorrectly denied you eligibility for ADA Complementary Paratransit service despite multiple health problems. We informed RTC of your allegation, reviewed the information presented by RTC and you, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. Our determination on your allegation is stated below.

The DOT ADA regulation at 49 CFR 37.121(a) states:

...each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

624

The ADA is a civil rights statute. It clearly emphasizes nondiscriminatory access to fixed route service, with Complementary Paratransit acting as a "safety net" for people who cannot use the fixed route system. Under the ADA, Complementary Paratransit service is not intended to be a comprehensive system of transportation for individuals with disabilities, and simply having a disability or multiple disabilities does not, in and of itself, entitle a person to ride. Rather, the DOT ADA regulation provides for three categories of ADA Complementary Paratransit eligibility. Category 1 is for persons with disabilities who cannot use fixed route without the assistance of another person. Category 2 is for persons who could use the fixed route if the vehicles were accessible. Category 3 is described at DOT ADA regulation at 37.123(e)(3):

Any individual with a disability who has a specific impairment-related condition, which prevents such individual from traveling to a boarding location or from a disembarking location on such system.

The DOT ADA regulation requires that persons who are denied eligibility are granted an objective appeal. DOT ADA regulation at 37.125(g) states the following:

The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial. (1) The entity may require that an appeal be filed within 60 days of the denial of an individual's application. (2) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it. (3) The entity is not required to provide paratransit service to the individual pending the determination on appeal. However, if the entity has not made a decision within 30 days of the completion of the appeal process, the entity shall provide paratransit service from that time until and unless a decision to deny the appeal is issued.

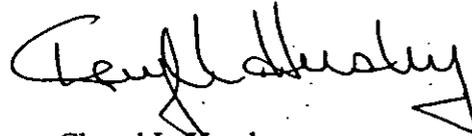
The administrative appeal process is intended to give appellants the opportunity to have their cases heard by some official other than the one who turned them down in the first place. In order to have appropriate separation, a key element of administrative due process, not only must the same person not decide the case of appeal, the person, to the extent practicable, should not have been involved in the first decision.

We reviewed RTC's appeal procedures as well as your appeal documents and found them to be in accordance with the DOT ADA regulations. You requested and received an appeal to RTC's original determination; you were notified in writing within 30 days of the decision to deny your appeal; and the decision on your appeal was made by an independent Appeal Panel.

In complaints of this nature, unless the facts of the particular circumstance appear to be egregious or substantively violate the regulation, we consider only the appeals process to determine if it meets the requirements of the DOT ADA regulations. In your case, it appears that RTC followed the appropriate guidelines in making its decision.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, roger.peralta@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. We regret that we are unable to assist you further.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: RTC



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 13 1999

[REDACTED]

Re: FTA Complaint No. 98002

Dear [REDACTED]

This letter responds to your complaint against East Bay Paratransit Consortium (EBPC), an ADA paratransit service provider for AC Transit and the San Francisco Bay Area Rapid Transit District, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

On August 26, 1999, you discussed with Roger Peralta, Equal Opportunity Specialist, the following unresolved allegations:

1. EBPC's monitoring of incoming telephone ride requests is an invasion of privacy; and
2. You experienced an unacceptably long ride in September 1997, because the driver was lost and did not have a map in the vehicle.

We informed EBPC of your allegations and requested information relating to your complaint; reviewed the information presented by EBPC and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have repeated your allegations followed by our determination below.

1. EBPC's monitoring of incoming telephone ride requests is an invasion of privacy.

The DOT ADA regulations do not address this issue and therefore, we have no jurisdiction over your allegation. Further, the Federal Transit Law prohibits FTA from involving itself in operational matters of local jurisdiction. It states at 49 U.S.C. 54249(c):

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title. . . .

It appears that this is a decision that was made to monitor service quality. We recommend that you continue to address this at the local level, and possibly through the EBPC Disability Advisory Committee or its equivalent.

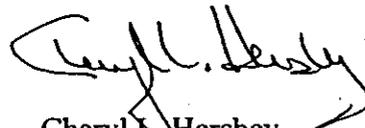
2. You experienced an unacceptably long ride in September 1997, because the driver was lost and did not have a map in the vehicle.

EBPC stated that by contract, all drivers are required to have a map in their vehicle. Apparently in this case, the map was missing.

The DOT ADA regulation at Appendix D to 49 CFR part 37.11 states that the "Department's enforcement priority is on failures to comply with basic requirements and 'pattern or practice' kinds of problems, rather than on isolated operational errors." Although we realize that this incident caused you inconvenience, we do not have evidence at this time that it constitutes a pattern or practice of noncompliance with the DOT ADA regulations.

If you have any questions regarding this letter, please contact Mr. Peralta at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please refer to your FTA complaint number in any correspondence regarding this complaint. We regret that we are unable to assist you further.

Sincerely,


Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: EBPC
AC Transit
Bay Area Rapid Transit District



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 13 1999

[REDACTED]

Re: FTA Complaint No. 98189

Dear [REDACTED]

This letter responds to your complaint on behalf of your son, [REDACTED] regarding the Orange County Transit Authority (OCTA), of Orange, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines, or file suite on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

We reviewed the information presented by you and OCTA and made a determination based on our analysis of that information in relation to the DOT ADA regulations. The analysis of the allegations follows.

- 1. Your son is frequently denied access by fixed route bus drivers who say the bus is full when it is not.**

The DOT ADA regulation at 49 CFR part 37.5(a) states, "No entity shall discriminate against an individual with a disability in connection with the provision of transportation service."

OCTA checked its records for the past three years. Three complaints pertaining to a bus passing [REDACTED] by were found. All had been investigated. In one instance, the bus driver has no recollection of a person in a wheelchair being at the stop indicated. In another, the driver recalls

a person in a wheelchair being at the Fashion Island bus stop area but indicated the customer was waiting at a stop for a bus on another route. In the third instance, your son indicated a bus went by that was full but did not stop. A short time later, another bus came by with no passengers that did not stop. [REDACTED] did not know if the second bus was in service or not. According to OCTA policy, full buses do not have to stop to let customers know they are full. A bus that is out of service indicates so on the head sign and also does not have to stop for customers.

In your letter to us, you stated that [REDACTED] is frequently passed by buses that are not full. Based on your statement, we assume that you have not lodged an official complaint with OCTA after each occurrence. Unfortunately, without specific information such as the exact time, route number, and bus number, OCTA is not able to fully investigate these incidents. However, we noted that in your complaints to OCTA you usually mentioned more than one incident. We believe that your persistence in complaining to OCTA, as well as this office, lends credibility to your allegation that there is a problem with the way bus drivers provide service to your son.

All public transportation providers are required by the DOT ADA regulation at 49 CFR part 37.173 to train personnel whose jobs involve interaction with persons with disabilities as follows:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

OCTA reported that in the last three years, they received two complaints from you regarding rude drivers. In both instances, there was not enough specific information to identify and discipline particular drivers. Once again, your letter indicated that this occurs more frequently than your two complaints on this subject to OCTA would suggest.

OCTA did provide verification that all of its drivers have been trained in accordance with the DOT ADA regulation. To help ensure that drivers implement their training, OCTA staff ride the system incognito to observe operators; posts reminders; and posts copies of complaints (with customer name withheld) for drivers to review. We also requested and received a report of other complaints from persons with disabilities and the disciplinary actions taken in response to those complaints. It appears that OCTA investigates each complaint that it receives and does not hesitate to discipline a driver based on its analysis of the incident and the driver's past history of complaints and performance.

All of this said, we understand that [REDACTED] still encounters the occasional driver who does not treat him respectfully. We have asked OCTA to work with you and [REDACTED] to address this continuing issue.

- 2. Your son was in a crosswalk to meet the fixed route bus, and his companion who was helping him, begged the driver to wait for him. She would not. They had to wait 45 minutes for the next bus.**

OCTA policy is for all customers to be at the stop and ready to board the bus before it arrives. This policy, in and of itself, does not violate the DOT ADA regulations. However, OCTA states that some of its drivers strictly adhere to the policy while others will wait for customers. We interpret this to be that OCTA's *actual* policy is the latter. If some drivers wait for ambulatory customers, but not for customers who need to use the wheelchair lift to board, the actual policy would have a discriminatory effect against persons with disabilities. We have asked OCTA to review this policy and its possible unintended effects.

- 3. You make reservations every week on ACCESS Services for your son to get a ride to church. You have to be on hold for 45 minutes to an hour every week.**

The DOT ADA regulation at 49 CFR part 37.131(f) prohibits "capacity constraints" which is anything that limits the availability of ADA Complementary Paratransit service. This can include situations such as you described if the effect is that you are not able to schedule rides.

OCTA investigated this allegation and found that there were telephone system problems during this time period that have been repaired. On other occasions, personnel shortages were the problem and they were also rectified as soon as possible. As OCTA has corrected this problem, we will take no further action on this allegation.

As [redacted] rides to church on ACCESS every week, we would suggest that you consider contacting ACCESS about subscription service for that weekly trip. In subscription service, a reservation is automatically made for a ride scheduled for a specific day and time on a continuous basis. Subscription service would eliminate the necessity for you to call every week to make a reservation for him.

- 4. A bus driver physically pushed your son away from entering a bus three times, saying the bus was full when it was not.**

OCTA reports no complaints in its file for the past three years about a bus driver making physical contact with your son. Again, there is a lack of specific information that we could give to OCTA to investigate and possibly discipline the driver. Physical contact by a driver with a passenger is considered a major infraction by OCTA and may subject a driver to immediate dismissal.

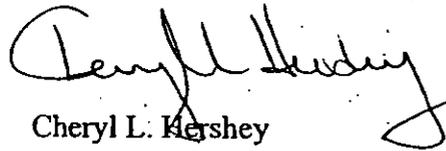
Without information about a specific driver, we will not be able to take any action on this complaint. Should this occur in the future, every effort should be made to identify the driver and any witnesses to the incident.

Our investigator has noted that your son cannot talk and uses a speech board to communicate. We realize that poses a difficulty when [redacted] experiences problems with bus services or drivers. However, OCTA has been hampered in its investigations of complaints by a lack of specific information. This has made it difficult to correct problems or discipline drivers. If you could

devise a means by which [REDACTED] could at least give you the day, time and route number of the bus when problems occur, OCTA would have more information for its investigations. We have asked OCTA to work with you and Rick to address this issue.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office.

Sincerely,



Cheryl L. Kershey
ADA Team Leader
Office of Civil Rights

cc: OCTA



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 13 1999

[REDACTED]

Re: FTA Complaint No. 98140

Dear [REDACTED]

This letter responds to your complaint of discrimination against the Capital District Transportation Authority (CDTA) of Albany, New York, and the potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that you were denied an ADA Complementary Paratransit trip on the evening of June 7, 1998, from the Albany International Airport to your home. We reviewed the information presented by you and MCAT and made a determination based on our analysis of that information in relation to the DOT ADA regulations. Our determination on your allegation is stated below.

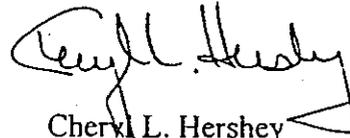
The DOT ADA regulation at 49 CFR part 37.123(b) describes "conditional eligibility" as follows:

If an individual meets the eligibility criteria of this section with respect to some trips but not others, the individual shall be ADA paratransit eligible for those trips for which he or she meets the criteria.

We understand from CDTA that your eligibility is conditional based on seasonal eligibility. In many areas across the country that have severe weather conditions in the winter, it is common for transit providers to set aside certain months in which persons are considered seasonally eligible for ADA Complementary Paratransit. This is true of CDTA. Your trip was denied because it was requested for June, a month that falls outside of CDTA's seasonal eligibility parameters.

Based on this, we will take no further action regarding this complaint. If you have any questions regarding this letter, please contact Roger Peralta, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. We regret we are unable to assist you further.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Cc: CDTA

copy



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 9 1999

[REDACTED]

Re: FTA Complaint No. 99104

Dear [REDACTED]

This letter responds to your complaint against Brazos Transit District (BTD), which provides commuter bus service between The Woodlands and Houston, Texas. Your complaint alleges potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Part 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations against BTD to be that it does not provide lift-equipped buses for service on its commuter route between The Woodlands and Houston, Texas. We informed BTD of your allegation and requested information relating to your complaint; reviewed the information presented by BTD and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determination follows.

Section 37.23(b) of the DOT ADA regulation states that:

A private entity which purchases or leases new, used, or remanufactured vehicles, or remanufactured vehicles, for use, or in contemplation of use; in fixed route or demand responsive service under contract or other arrangement or relationship with a public entity, shall acquire accessible vehicles in all situations in which the public entity itself would be required to do so by this part.

As we understand the facts, BTD service is provided under a contract with a private entity, Coach USA, which was executed in 1993. According to BTD, the over-the-road buses were existing vehicles in the Coach USA fleet. In 1993, there was no requirement that over-the-road buses purchased by private transportation providers for their own use had to be lift-equipped. Section 37.103(b) of the DOT ADA regulation states that any new vehicle purchased after August 25, 1990 must meet the following requirement:

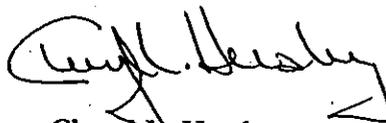
Fixed Route Systems. If the entity operates a fixed route system, and purchases or leases a new vehicle other than an automobile, a van with a seating capacity of less than eight persons (including the driver), or an over-the-road bus, it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

If Coach USA obtained any new vehicles in the interim that it put on line for this service (even if also used for other purposes, as on weekends) then those new buses would have to be accessible. As long as the vehicles used for the service were not obtained by Coach USA for the service in question or in contemplation of same, then the regulation does not require them to be accessible.

BDT stated in its response to us that it is "currently developing a new specification for commuter bus service, which will require all equipment to be fully ADA accessible." This service should begin in September 2000. In the interim, there is no requirement for BDT to provide you with accessible transportation. For the purposes of this determination we have relied upon the representations made to us by BTD. If you have other information that changes these facts then we would certainly reconsider our position.

We regret that we are unable to assist you further. If you have any questions regarding this decision, please contact Roberta Wolgast, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address, roberta.wolgast@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl E. Hershey
ADA Team Leader
Office of Civil Rights

cc: Congressman Kevin Brady
Brazos Transit District
The Goodman Corporation

Craig



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 15 1999

[REDACTED]

Re: FTA Complaint No. 98037

Dear [REDACTED]

This letter responds to your complaint filed on behalf of your son, [REDACTED] against Manatee County Area Transit (MCAT) of Bradenton, Florida and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

The ADA does not provide FTA authority to directly seek compensatory, punitive or other types of monetary relief or damages on behalf of a complainant. Nor does the ADA allow FTA to levy fines or file suit on behalf of a complainant. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that in a meeting on June 29, 1997, you were informed by MCAT that [REDACTED] would no longer be allowed to ride the MCAT Handi-Bus that provides paratransit service to Easter Seals clients because he often made loud noises and disturbed the other passengers. You allege that the real reason for [REDACTED] expulsion is because MCAT "does not want to provide service due to our location."

We informed MCAT of your allegation and requested additional information from MCAT, Easter Seals and you relating to your complaint. This service that MCAT provides to Easter Seal sponsored clients is not ADA Complementary Paratransit under the DOT ADA regulations, and therefore the service area requirement at 49 CFR part 37.131(a) does not apply. Because of this, we will not address the allegation that MCAT's decision to deny [REDACTED] service is based on the location of his residence. This is contractual matter to be resolved between Easter Seal and MCAT.

After a review of the information presented, we have made a determination based on our analysis of the DOT ADA regulation that prohibits discrimination based on disability. The DOT ADA regulation at 49 CFR 37.5(h) states:

It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

According to Easter Seals, [REDACTED] has ridden the MCAT Handi-Bus since 1991. As there are no incident reports to document disruptive behavior prior to March 26, 1997, we must assume that he did not experience difficulties until that time. The three reports that were dated contemporaneously with the occurrence of the incidents [March 26, 1997; April 16, 1997; and June 12, 1997] and given to you by MCAT on June 29, 1997, cited Paul's screaming, incontinence, and pushing persons away from him. These reports did not state that Paul had left his seat, threatened or physically touched any drivers.

We asked MCAT to provide documentation to back up its decision to discontinue [REDACTED] service. It provided statements from three drivers and one supervisor describing the following behaviors by [REDACTED] loud and continuous screaming that upset the other passengers; walking around the bus and touching other passengers and drivers--at times in inappropriate places; and grabbing the bus driver's arm while he was driving. These behaviors forced the drivers to divert attention to [REDACTED] and sometimes necessitated stopping the bus to intervene. These reports were all dated on February 25, 1998, and did not give the specific dates that the alleged incidents occurred.

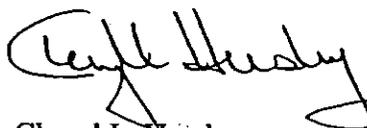
An Easter Seals representative, John Wanecski, acknowledges that he had been informed by MCAT of these incidents on two occasions before a June 19, 1997, meeting between MCAT and Easter Seals. Mr. Wanecski wrote in the minutes from that meeting that MCAT "did consent to give [REDACTED] another chance. They stated that they would communicate his progress to me on a daily basis as well as submit any incident reports." However, Mr. Wanecski reported in a memorandum to the "[REDACTED]" dated July 8, 1997, that he did not receive notice before MCAT terminated [REDACTED] service.

We note that MCAT provided untimely notice to you and Easter Seals of [REDACTED] difficulties. In essence there appeared to be an ongoing problem that remained undocumented. Only when MCAT determined to terminate service does it appear that all of the incidents were compiled allowing [REDACTED] family little time to take corrective action.

We believe that our investigation supports that the incidents occurred and that MCAT acted within its rights under 49 CFR section 37.5(h) providing for an entity to refuse service to an individual with disabilities because the individual engages in "seriously disruptive" conduct. However, the transit property must afford full due process rights prior to any termination of service. This would include a written notice of impending termination; the opportunity to have a hearing prior to termination of services; the opportunity to be heard and present information and arguments; written notification of a final decision and the reason for it; and the opportunity to appeal the decision.

We have informed MCAT of our determination and have advised it to afford you the full due process rights outlined above. If you have any questions regarding our determination, please contact Eugene Jenkins, Equal Opportunity Specialist, at our toll free ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: eugene.jenkins@fta.dot.gov. Thank you for bringing this matter to our attention. We regret our delay in completing this investigation.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Enclosure

cc: Sen. Bob Graham

Peter Gajdjis
MCAT, Assistant Transit Division Manager

J. Benton Stewart II

Craig



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 30 1999

[REDACTED]

Re: FTA Complaint No. 99006

Dear [REDACTED]

This letter responds to your complaint against the New Jersey Transit Corporation (NJTC), and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

On November 2, 1999, you informed Mr. Roger Peralta,

Equal Opportunity Specialist, that your main concern is that you are on a "conditional" eligibility status for ADA Complementary Paratransit service. You also stated that you have some doubts about NJT's ADA recertification process in January 2000.

We informed NJT of your concerns and requested information relating to your complaint; reviewed the information presented by NJT and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determination is stated below.

Conditional Eligibility Status:

According to the documentation in your file, you were initially denied eligibility for ADA Complementary Paratransit services, and you were also denied on your first appeal. However, you were eventually granted "conditional" eligibility by NJT on January 21, 1999. You are eligible for all trips in NJT's service area except for those on bus route #62. New Jersey Transit found that you were able to use bus route #62 as despite your vision impairment at your appeal hearing you indicated repeatedly that you were familiar with the 62 bus route and can use it. However, we understand that you are not satisfied with this eligibility category.

The DOT ADA regulation at 49 CFR 37.123(b) describes "conditional eligibility" as follows:

If an individual meets the eligibility criteria of this section with respect to some trips but not others, the individual shall be ADA paratransit eligible for those trips for which he or she meets the criteria.

The DOT ADA regulation at 49 CFR part 37.125(g) states that:

The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial.

You were afforded two appeals, and even though you are not satisfied with the outcome, it appears that NJT acted within its responsibilities under the DOT ADA regulation. Therefore, we will take no further action regarding this issue.

Recertification Process:

The DOT ADA regulation allows an entity to recertify eligibility at reasonable intervals to make sure that changed circumstances have not invalidated or changed the individual's eligibility. Often, persons who were at one time eligible for ADA Complementary Paratransit service no longer need the service to the degree they once did because circumstances have changed—fixed route buses have become accessible or the person's ability to travel on fixed route has improved.

According to NJT's January 21, 1999, letter to you, it periodically reviews conditional riders' trip records for trips that are frequently taken and that could be accomplished on the fixed route. If it identifies such a trip, it may offer travel training for the trip on a fixed route bus, and further limitations may be placed on the rider's conditional eligibility. This is not a violation of the DOT ADA regulation.

At the time of your recertification process, we recommend that you submit any additional documentation to NJT that shows the deterioration of your mobility status. Beyond this, we are unable to take any further action on this issue.

We regret that we are unable to assist you further. Thank you for bringing this matter to our attention. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: *roger.peralta@fta.dot.gov*. Please identify the FTA complaint number in any correspondence with this office.

Sincerely,


**Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights**

cc: NJT



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 30 1999

[REDACTED]

Re: FTA Complaint No. 98118

Dear [REDACTED]

This letter responds to your complaint on behalf of your mother, [REDACTED] against the Massachusetts Bay Transportation Authority (MBTA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. On May 27, 1998, Thompson Transit, MBTA's ADA Complementary Paratransit provider for your area, did not pick your mother up for a trip that you had reserved the previous day. On May 29, 1998, the driver came for your mother 35 minutes late after she had made other arrangements. He informed you that her return trip would be cancelled.
2. You allege widespread mismanagement by Thompson Transit with no oversight by MBTA on its contractor's performance in providing ADA Complementary Paratransit service.

We informed MBTA of your allegations and requested information relating to your complaint; reviewed the information presented by MBTA and you; and made a determination on each of your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations, below:

1. **On May 27, 1998, Thompson Transit, MBTA's ADA Complementary Paratransit provider for your area, did not pick your mother up for a trip that you had reserved the previous day. On May 29, 1998, the driver came for your mother 35 minutes late after she had made other arrangements. He informed you that her return trip would be cancelled.**

Under the DOT ADA regulation at Section 37.131(b), MBTA must "schedule and provide paratransit service to any ADA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day." The DOT ADA regulation prohibits capacity constraints and states at Section 37.131(f):

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: ... (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practice include, but are not limited to, the following: ... (A) Substantial numbers of significantly untimely pickups for initial or return trips; (B) Substantial numbers of trip denials or missed trips.

MBTA investigated your allegations and found that you were correct in both cases. A staff member, who normally worked in dispatch and scheduling, was substituting as a scheduler when you called to make a reservation for May 27. She did not record the reservation properly and as a result, your mother did not receive a ride. The staff person has since been trained to properly take reservations.

On May 29, the driver was running behind schedule, and your mother had to make other arrangements for her trip. He was incorrect in telling you that your mother would not be picked up for her return trip, and he was reprimanded for this mistake. Regardless, we learned that your mother did return home on that day via MBTA. MBTA provided us with a copy of a June 25, 1998, letter of explanation and apology to you.

Both of these incidents were a result of human errors. We do not consider this to be a "pattern or practice" of missed or late trips that would indicate capacity constraints as envisioned by the DOT ADA regulation. We believe that MBTA's corrective actions were an appropriate response to the errors, and will take no further action on this allegation.

2. **You claim that there is no oversight by MBTA on its contractor's poor performance in providing service to persons with disabilities.**

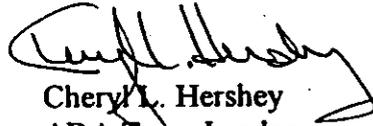
The DOT ADA regulations apply to the relationship between a transit agency and its contractor only in the following context as stated in 49 CFR part 37.23(a):

When a public entity enters into a contractual or other arrangement or relationship with a private entity to operate fixed route or demand responsive service, the public entity shall ensure that the private entity meets the requirements of this part that would apply to the public entity if the public entity itself provided the service.

MBTA has responded to our request for information regarding the allegation of inadequate management of their contractor. Their response explained that they have contracted with Thompson Transit and its affiliate, Tommy's Taxi, to operate ADA Complementary Paratransit service in the West Service Area. MBTA has monitored their performance as well as the number of complaints filed against Thompson Transit. MBTA advises that Thompson Transit has provided consistently high quality service and has provided 83,984 passenger trips between the period of July 1, 1997 and May 31, 1998. MBTA has monitored the number of complaints lodged against this provider of service and found less than (1) percent of the riders have filed a complaint against Thompson Transit in that period of time. Based on the response from MBTA, we do not believe that your allegation is supported by the facts. In reviewing other complaints against MBTA along with yours, we do not find evidence of a pattern or practice of capacity constraints.

Based on this determination, we will take no further action and will consider your complaint file to be closed. If you have any questions regarding this letter, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Thank you for bringing this matter to our attention. We regret our delay in responding to your concerns.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: MBTA

copy



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 30 1999

[REDACTED]

Re: FTA Complaint No. 98145 & 98253

Dear [REDACTED]

This letter responds to your complaint against the Regional Transportation Council (RTC), in Vancouver, Washington, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider.

If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If we cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that RTC leases an inaccessible building at 1351 Officers' Row where public meetings are held.

The DOT ADA regulation at Section 37.61 requires the following of public transportation entities:

- (a) A public entity shall operate a designated public transportation program or activity conducted in an existing facility so that, when viewed in its entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

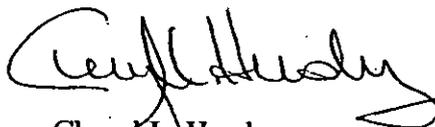
- (b) This section does not require a public entity to make structural changes to existing facilities in order to make facilities accessible by individuals who use wheelchairs unless and to the extent required by 37.43 (with respect to alterations).

RTC informed you in a letter dated April 30, 1998, that public meetings or appointments with mobility impaired persons are now held at Marshall House which complies with ADA accessibility requirements. These arrangements are an acceptable alternative to making alterations to the building about which you complain.

This office has no jurisdiction over matters concerning fraud, waste or abuse. Should you wish to pursue your allegations that RTC pays excessive rent for its lease and that the square footage of the building is overstated in the lease agreement, we recommend that you contact the DOT Office of the Inspector General at 202-366-1461.

Based on the above, we will take no further action on your complaint and will consider your file to be closed. If you have any questions regarding this letter, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: RTC

Craig



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 30 1999

[REDACTED]

Re: FTA Complaint No. 99095

Dear [REDACTED]

This letter responds to your complaint of discrimination against Cobb County Transit (CCT) in Marietta, Georgia, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider.

If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If we cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that CCT does not have door-to-door ADA Complementary Paratransit service.

We informed CCT of your allegation and requested information relating to your complaint; reviewed the information presented by CCT and you; and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determination follows.

The DOT ADA regulation at 49 CFR 37.129(a) states:

Except as provided in this section, complementary paratransit service for ADA paratransit eligible persons shall be origin-to-destination service.

The DOT ADA regulation requires only "origin-to-destination service." It does not specify whether that service should be curb-to-curb or door-to-door. In response to our inquiry, CCT advised us that in 1994 it decided, in accordance with section 37.129, to provide curb-to-curb service. CCT's decision to provide curb-to-curb service is not a violation of the DOT ADA regulation.

Mary Elizabeth Peters, the investigator in your case, contacted the transit property and explained your problem regarding accessing the van and the difficulty you have in waiting outside especially in inclement weather. Mary Shavaliere, Transit Division Manager, advised that CCT assisted you in obtaining a ramp at your front entrance, which allows you to wait inside until the van arrives. This action by the transit property is an act of good faith and not one explicitly required by the ADA. We hope that this action solves the problem of you waiting outside in inclement weather.

If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Cobb County Transit

Craig



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 30 1999



Re: FTA Complaint No. 98022

Dear [Redacted]

This letter responds to your complaint against the Dallas Area Rapid Transit (DART) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. You find it difficult to schedule ADA Complementary Paratransit, and when you get through, reservation agents are rude; and
2. Drivers on DART's ADA Complementary Paratransit buses are often late for scheduled pick ups.

We informed DART of your allegations and requested information relating to your complaint; reviewed the information presented by DART and you; and made a determination on each of your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations, below:

1. **You find it difficult to schedule ADA Complementary Paratransit trips and when you get through, reservation agents are rude.**

The DOT ADA regulation at Section 37.131(f), *Capacity Constraints* states that:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: ... (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.

Appendix D to this section explains that this would be triggered if the telephone lines are so busy that you are not able to get through to schedule rides. This did not appear to be the case during the time period about which you complained. According to DART's documentation, during the months of October 1997, through January 1998, you called to schedule 200 rides and called back to cancel 114 of those rides. Presuming that these statistics are accurate, you would have gotten through to the reservation line 314 times. This, and the number of trips that you scheduled, does not appear to support that DART experienced capacity constraints during this time frame.

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

We received documentation that DART trains its employees as required by the ADA. However, training to proficiency requires that staff should be able to properly perform their duties in a courteous manner regardless of the situation. We recommend that you immediately report any incidents with rude employees directly to DART with enough information for DART to identify the offending person, such as the name, identification number, time of day, and circumstances surrounding the incident. DART has assured us that it will investigate, follow-up, and take appropriate disciplinary action if the incident is substantiated.

2. Drivers on DART's ADA Complementary Paratransit service are often late for scheduled pickups.

The DOT ADA regulation prohibits capacity constraints and states at Section 37.131(f),

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: ... (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practice include, but are not limited to, the following: ... (A) Substantial numbers of significantly untimely pickups for initial or return trips.

The DOT ADA regulation does not quantitatively define the phrase "substantial numbers of trip denials." DART implemented a new automated scheduling software system in November 1997. For the first several months, adjustments had to be made to the system to fit the local conditions encountered in Dallas. DART also stated that there was a "learning curve" for its drivers to become acclimated to the variances of new system. It acknowledges that its riders did experience "disruptions in service" during that time period, which thwarted its ability to consistently meet on-time performance goals.

DART provided the following statistics regarding your trips during October 1997 through January 1998. They are as follows:

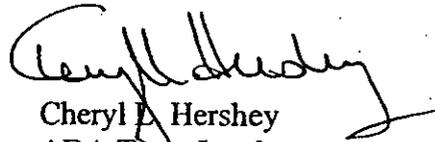
<u>Month</u>	<u>Number of trips completed</u>	<u>Number of late trips</u>
October	23	5
November	40	6
December	12	2
January	<u>11</u>	<u>4</u>
	86	17

These statistics amount to 19.7 percent of your trips that were late during this time period. This appears to be a substantial number of late pickups, and we understand your concern regarding these incidents. However, operational problems outside of the control of the entity are not considered under the pattern or practice provision. The change in DART's software operating system understandably caused temporary difficulties that have since been corrected.

I understand that Roger Peralta, Equal Opportunity Specialist, has called and left several messages for you over the past several months, and apparently he has not heard back from you. We make the assumption that your difficulties have been solved. Based on this, and on DART's assurances that its scheduling problems have been worked out, we will take no further action on this complaint.

We thank you for bringing this matter to our attention, and we regret our delay in responding to your concerns. If you have any questions regarding this letter, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,



Cheryl D. Hershey
ADA Team Leader
Office of Civil Rights

cc: DART

Craig



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 30 1999

[REDACTED]

Re: FTA Complaint No. 98090

Dear [REDACTED]

This letter responds to your complaint against the Regional Transportation Commission (RTC), in Las Vegas, Nevada, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be the following:

1. From November 1997, through May 1998, ATC/Vancom, RTC's ADA Complementary Paratransit provider had a pattern of canceling or arriving late for your scheduled rides.
2. RTC and ATC/Vancom discriminated against you based on your race because it did not apologize or respond appropriately to your complaints.

We informed RTC of your allegations and requested information relating to your complaint; reviewed the information presented by RTC and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations below.

1. From November 1997, through May 1998, ATC/Vancom, RTC's ADA Complementary Paratransit provider had a pattern of canceling or arriving late for your scheduled rides.

In your original complaint you described the following alleged incidents:

- In November 1997, a return trip from the "Nephrology office on Desert Inn" was an hour late.
- On February 3, 1998, a return trip from a drug store was over one hour late.
- On March 31, 1998, your return trip from the market was canceled. You finally got a ride after waiting for more than two hours. You allege that this was done deliberately.

In a follow up letter to us dated May 6, 1998, you cited the following additional incidents:

- On May 4, 1998, your return trip did not come at your scheduled time of 10:30; RTC had mistakenly made your reservation for 10:40.
- On May 6, 1998, you were not picked up within RTC's on-time window of 30 minutes. You did not state how late the vehicle actually was in arriving.

The DOT ADA regulation at 49 CFR 37.131(f)(1)-(3) states that:

- (1) The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:
 1. Restriction on the number of trips an individual will be provided;
 2. Waiting lists for access to the service; or
 3. Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to the following:
 - A. Substantial numbers of significantly untimely pickups for initial or return trips;
 - B. Substantial numbers of trip denials or missed trips;
 - C. Substantial numbers of trips with excessive trip lengths.

This section was interpreted in plain language in Appendix D to part 37. It states in part:

The rule mentions three specific examples of operational patterns or practices that would violate this provision. The first is a pattern or practice of substantial numbers of significantly untimely pickups (either for initial or return trips). To violate this provision, there must be both a substantial number of late arrivals and the late arrivals in question must be significant in length. For example, a DOT Inspector General's (IG) report on one city's paratransit system disclosed that around 30 percent of trips were between one and five hours late. Such a situation would trigger this provision. On the other hand, only a few instances of trips one to five hours late, or many instance of trips a few minutes late, would not trigger this provision.

The second example is substantial numbers of trip denials or missed trips. ... If, on a regular basis, the entity misses a substantial number of trips (e.g., a trip is scheduled, the passenger is waiting, but the vehicle never comes, goes to the wrong address, is extremely late, etc.), it would violate this provision.

RTC states that the cancellation of your return trip on March 31, 1998, was an error, and provided a copy of a letter dated April 3, 1998, to you from ATC/Vancom in which it apologized for the mistake. It also provided the following statistics regarding your ride history from your first trip on November 11, 1997, to May 8, 1998:

Trips scheduled:	168
Trips completed:	120
Trips canceled:	44
No-shows by you:	4

Our analysis of the incidents you described: one no-show (a trip was provided after two hours); two trips that were over an hour late; and two additional trips that we infer from your statements were less than an hour late, does not indicate a pattern or practice of capacity constraints as defined by the DOT ADA regulations. Based on this, we will take no further action on this allegation.

2. RTC and ATC/Vancom discriminated against you based on your race because it did not apologize or respond appropriately to your complaints.

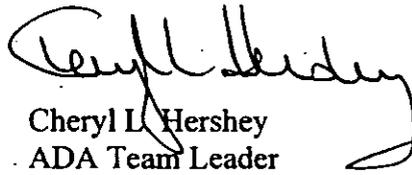
We understand that during and after the March 31, 1998, incident you made numerous abusive and threatening phone calls to RTC and ATC/Vancom employees. RTC provided us a copy of a customer service monitoring tape that documents two conversations between you and ATC/Vancom staff and which documents your abusive language. RTC also alleges that you were verbally abusive to six additional persons. This alleged verbal abuse consisted of curse words and racist epithets.

You allege that RTC and/or ATC/Vancom staff did not take your complaint seriously; laughed at and made fun of you with other staff members when you called; and one person called you a "Nigger." RTC flatly denies your allegations. Additionally, RTC states that there were "no verbal clues to his ethnic identity on the tape." It claims that it was unaware of your race until you stated that you are "Black", and the employee in question did not divulge his race until you asked and then called him a "white racist [expletive deleted.]"

Based on the information disclosed from the investigation and outlined above, the evidence does not support the allegations of race discrimination. As such, we will take no further action regarding this allegation.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: RTC

Craig



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 30 1999

[REDACTED]

Re: FTA Complaint No. 99001

Dear [REDACTED]

This letter responds to your complaint against the Town of Chapel Hill and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Pas 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

You stated in your complaint that you wish to file the complaint on the behalf of [REDACTED] and others who feel that they have been discriminated against by the City of Chapel Hill's ADA Complementary Paratransit system, "E-Z Rider." [REDACTED] has filed a complaint with FTA, and her complaint has been appropriately handled through our complaint processing procedures. If you are familiar with other E-Z Rider passengers who need the assistance of this office, please have them contact us on our toll free FTA ADA Assistance

Line, 1-888-446-4511.

1. We understand your specific allegation to be that on or about October 21, 1998, EZ-Rider failed to pick you up on time, and you arrived late for a medical appointment. The driver refused to drop you off for your medical appointment before transporting the other passengers to their destinations, even though she easily could have done so.

We reviewed the information provided by you and the Town of Chapel Hill and made a determination based on our analysis of that information in relation to the DOT ADA regulations. Our determination on your allegation is stated below.

The DOT ADA regulation at 49 CFR 37.131(f)(1)(2)(3) states that:

- (1) The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:
 1. Restriction on the number of trips an individual will be provided;
 2. Waiting lists for access to the service; or
 3. Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to the following:
 - A. Substantial numbers of significantly untimely pickups for initial or return trips;
 - B. Substantial numbers of trip denials or missed trips;
 - C. Substantial numbers of trips with excessive trip lengths.

Appendix D to 49 CFR part 37 interprets this section as follows:

The rule mentions three specific examples of operational patterns or practices that would violate this provision. The first is a pattern or practice of substantial numbers of significantly untimely pickups (either for initial or return trips.) To violate this provision, there must be both a substantial numbers of late arrivals and the late arrivals in question must be significant in length. For example, a DOT Inspector General's report on one city's paratransit system disclosed that around 30 percent of trips were between one and five hours late. Such a situation would trigger this provision. On the other hand, only a few instances of trips one to five hours late, or many instances of trips a few minutes late, would not trigger this provision.

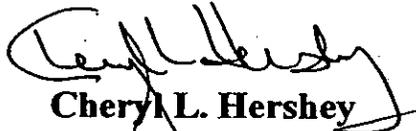
We requested and received a report showing your trips from June through December 1998, from E-Z Rider. E-Z Rider was unable to locate data on all of your trips in August through October 1998, but it did provide records for 109 scheduled trips. Of these you canceled or "no-showed" 33 trips. Of the remaining 76 trips, 18 were considered to be late by E-Z Rider's own internal standards. [We note here for your information that neither the DOT ADA regulations, nor any interpretations of the DOT ADA regulations from this office, define the parameters of an on-time ADA Complementary Paratransit trip.] However, for its own purposes, E-Z Rider considers anything over five minutes past the scheduled time to be late. Of the eighteen late trips that you experienced, only four were greater than 15 minutes late. We do not consider this to be a pattern or practice of late trips that would constitute a capacity constraint as contemplated under the DOT ADA regulations. We will take no further action regarding this issue.

As for your specific complaint about arriving at your doctor's appointment late on October 21, 1998, while we understand your frustration, the DOT ADA regulations do not address the order of delivery of the customer to their location as such; this is not a violation of the DOT ADA regulation. However we note that E-Z Rider agreed with you that the driver should have handled the situation differently; and apologized for your inconvenience.

We note that the Town of Chapel Hill's goal for on-time service is 80 percent. It is FTA's position that a transit operator must strive for 100% on time performance, and we will address this concern separately with Chapel Hill.

If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, eugene.jenkins@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concerns to our attention.

Sincerely,


Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Craig



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 30 1999

[REDACTED]

Re: FTA Complaint No. 99210

Dear [REDACTED]

This letter responds to your complaint on behalf of your granddaughter, [REDACTED] against Access Services Incorporated (ASI), in Los Angeles, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that on August 2, 1999, ASI was late for [REDACTED] ADA Complementary Paratransit ride by 1½ hours, and she was not picked up for her return trip.

We informed ASI of your allegations and requested information relating to your complaint; reviewed the information presented by ASI and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations.

The DOT ADA regulation at 49 CFR 37.131(f)(1)-(3) states that:

(1) The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:

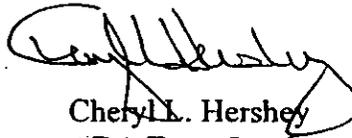
1. Restriction on the number of trips an individual will be provided;
2. Waiting lists for access to the service; or

3. Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to the following:
 - A. Substantial numbers of significantly untimely pickups for initial or return trips;
 - B. Substantial numbers of trip denials or missed trips;
 - C. Substantial numbers of trips with excessive trip lengths.

At our request, ASI investigated your complaint and acknowledged that the incident occurred as you described. ASI stated that it began providing ADA Complementary Paratransit service to your service area on July 1, 1999, with a contract with a new transportation provider, Independent Taxi Owners Association (ITOA). Service problems with this contractor were immediately apparent, and after some attempts to correct the situation, ASI placed ITOA on a schedule to meet specific performance standards or forfeit the contract. We have enclosed a copy of ASI's letter explaining these measures for your information. ASI states that ITOA has improved its performance greatly and that it will continue to monitor and ITOA's progress.

Based on ASI's corrective measures, we will take no further action on your complaint. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll-free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Enclosure

cc: ASI

way



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 3 0

[REDACTED]

Re: FTA Complaint No. 98018

Dear [REDACTED]

This letter responds to your complaint filed on behalf of your daughter against Access Services, Incorporated (ASI) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider.

If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that on November 27, 1997, ASI was very late in sending a ride for your daughter, and when the vehicle arrived, she could not board it because it was a car into which she could not transfer.

We reviewed your allegation along with the documentation submitted by you and ASI, and made a determination based on our analysis of that information in relation to the DOT ADA regulations. Our determination on your allegation is stated below.

The DOT ADA regulation at 49 CFR 37.131(f)(3) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: ...Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons... (i) Such patterns or practices include, but are not limited to, the following:

- (A) Substantial numbers of significantly untimely pickups for initial or return trips;
- (B) Substantial numbers of trip denials or missed trips.

According to ASI, its contractors were not sufficiently prepared for the demand that occurred on Thanksgiving Day. The day began slowly, and drivers were released from duty based on the lack of demand. However, in the early evening hours the number of reservations rapidly increased, and there were not enough drivers to meet the demand. Customers, including your daughter, were left waiting for hours for their rides.

ASI wrote you and others letters of apology and explanation regarding the incident. As a result of this incident, ASI expanded the hours that its Customer Service department is open to better coincide with the hours of service on holidays and weekends. ASI also has made a note to your daughter's file that she is unable to transfer from her wheelchair. This should prevent any future incidents of the wrong type of vehicle being dispatched. Additionally, [REDACTED], ASI Customer Relations Manger, has given you his direct number to contact him in case of any future difficulties with ASI service. We encourage you to try to resolve any complaints locally before contacting us in the future.

The Department's enforcement priority is on failures to comply with basic requirements and "pattern or practice" kinds of problems, rather than on isolated operational errors. It appears that Thanksgiving Day 1997, was a unique day in ASI's service history, and apparently it learned a lesson in operational planning from the incident. While it caused you, your daughter, and many others considerable inconvenience, we do not find that this incident constitutes a "pattern or practice" of noncompliance with the DOT ADA regulations.

Based on the above circumstances, we will take no further action on your complaint. If you have any questions regarding this decision, please contact Mr. Peralta, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Please include your FTA complaint number in any correspondence with this office. Thank you for bringing your concerns to our attention.

Sincerely,


Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: ASI



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 30 1993

[REDACTED]

Re: FTA Complaint No. 98206

Dear [REDACTED]

This letter responds to your complaint filed on behalf of your son, [REDACTED] against the Metropolitan Council Metro Mobility program and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider.

If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that your son's application to obtain a "standing order" to ride Metro Mobility on a regular basis has been repeatedly turned down.

We reviewed the information submitted by you and the Metropolitan Council and made a determination based on our analysis of that information in relation to the DOT ADA regulations. Our determination on your allegation is stated below.

The DOT ADA regulation at 49 CFR 37.133(b) states that:

Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is non-subscription capacity.

According to the Metropolitan Council, before the DOT ADA requirements became effective, Metro Mobility's standing order (subscription service) rate was well over the fifty percent threshold. A moratorium was placed on new standing order requests for several years until 1997 when capacity became available for a limited number of rides. The Metropolitan Council established procedures that were endorsed by the Metropolitan Council's Transportation Accessibility Advisory Committee, allowing riders to apply for available standing orders on a quarterly basis. Information about the process as well as application forms are provided to riders, and completed applications are drawn randomly by a computer.

We find the Metropolitan Council's process to be equitable and in accordance with the DOT ADA regulations and will take no further action on this allegation.

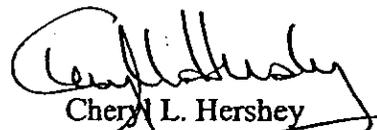
Although you may not be able to obtain subscription service for your son, Metro Mobility has a responsibility to ensure that its ADA Complementary Paratransit service has sufficient capacity to provide [REDACTED] with service if you call a day in advance to request a trip. Section 37.131(b) of the DOT ADA regulation states:

The entity shall schedule and provide paratransit service to any ADA paratransit eligible at any requested time on a particular day in response to a request for service made the previous day.

Metro Mobility's actual reservation policy allows for reservations to be made from one to four days in advance.

Thank you for bringing your concerns to our attention. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. We regret that we are unable to assist you further.

Sincerely,


Cheryl L. Hershey
ADA IHU Team Leader
Office of Civil Rights

cc: Metro Mobility
Metropolitan Council

Wey



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 30 1999

[REDACTED]

Re: FTA Complaint No. 97243

Dear [REDACTED]

This letter responds to your complaint against Santa Clarita Transit (SCT) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that the wheelchair lifts on Santa Clarita Transit fixed-route buses often do not work, and you are often passed by buses, including one occasion when you were passed by six buses in a row. As a result, you are constantly late for school and your return trip home, and arrive late at other destinations.

We reviewed the information presented by you and SCT and made a determination based on our analysis of that information in relation to the DOT ADA regulations. Our determination is stated below.

DOT ADA regulation at 49 CFR 37.163(b)-(c) and (f) states that:

- (b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.

- (c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.
- (f) In any case in which a vehicle is operating in a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

When a wheelchair lift is found to be inoperative, there are requirements regarding the length of time that a bus may be kept in service before the lift is repaired. The DOT ADA regulation at 49 CFR part 37.163(d)-(e) states:

- (d) Except as provided in paragraph (e) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service.
- (e) If there is no spare vehicle available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than five days (if the entity services an area of 50,000 or less population) or three days (if the entity serves an area of 50,000 population) from the day on which the lift is discovered to be inoperative.

SCT provided documentation that it has a system of regular checks and maintenance of its wheelchair lifts. Bus operators are required to perform a pre-trip inspection of the wheelchair lift that includes cycling the lift to ensure that it works. Supervisors perform random checks to ensure that bus operators are performing the inspections as required. When the lift malfunctions while the bus is in service, the operator is supposed to report the inoperative condition to the dispatcher immediately. A maintenance crew is dispatched and the lift is repaired if possible. SCT states that inoperative wheelchair lifts are addressed within 12 hours of being reported. If parts are necessary, they are ordered to be delivered by overnight express delivery.

It appears that the major problem is that most of SCT's lift-equipped buses are 15 years old or older. To remedy the situation, SCT has purchased seven new lift-equipped buses that operate in the SCT system, including the route that you previously used.

In its investigation of your complaint, SCT discovered two other reasons for your difficulties. The first was a bus driver who loaded the bus with other passengers resulting in a bus too full for you to board. Although on the surface, this does not appear to be a violation of the DOT ADA regulations, SCT called it "improper boarding procedures" and corrected the situation as soon as it became aware of it. The second was a scheduling problem that affected all passengers on your route. SCT corrected that problem and states that when your bus was running late, it called the school to notify it so that you and other students would not be marked tardy.

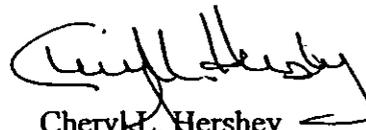
When someone encounters difficulties with public transportation, we recommend that he directly contact the transit provider with specific information regarding the route, time of day, bus number, and sufficient information to isolate the bus and driver in question. Apparently you did contact SCT. In a letter to you dated September 11, 1997, SCT apologized for your experiences; offered you suggestions to help remedy the situation; and the Transportation Manager gave you his personal telephone number so that you could contact him directly when you encountered problems. Although these measures will not protect you from being denied a ride, they show that SCT is willing to work with you to resolve your difficulties. This, along with SCT's ADA compliant policies and procedures, and its purchase of new buses, satisfies us that SCT is aware of and working towards correcting its deficiencies regarding wheelchair lift failures.

One area that we find that SCT may not be thoroughly addressing is 49 CFR part 37.163(f). It provided documentation that during the period of 12/19/97 to 6/5/98, 26 persons were left at bus stops because of lift failures. SCT dispatched alternative transportation to assist the persons who needed the lift to their respective destinations on three occasions because the headway until the next bus was greater than 30 minutes. The remaining persons waited for the next bus. Based on your experiences, in particular the day you passed by six buses, we suspect that all such incidents are not reported as required. We remind SCT by copy of this letter of this requirement and will follow up with it on this issue.

Based on the above, and in addition to the fact that you no longer use SCT fixed-route buses, we will take no further action on your individual complaint. We thank you for bringing this to our attention. Without the input of the public, we would be unaware of the difficulties persons with disabilities occasionally face when traveling on public transportation.

If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, eugene.jenkins@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office

Sincerely,



Cheryl E. Hershey
ADA Team Leader
Office of Civil Rights

Cc: SCT

Craig



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 19 2000

[REDACTED]

Re: FTA Complaint No. 97089

Dear [REDACTED]

This letter responds to your complaint regarding the Santa Clara Valley Transportation Authority (VTA) San Jose, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be the following:

- 1 On several occasions you were passed by a bus that you were waiting to board.
2. On several occasions you waited for scheduled buses that never came.
- 3 When you filed a telephone complaint, the customer service representative was rude.

We informed VTA of your allegations and received its response to your complaint, reviewed the information presented by VTA and you, and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations.

1. On several occasions you were passed by buses that you were waiting to board.

According to your statements, you crossed the street to sit on a bench to await the arrival of the bus. When the bus came, you crossed the street to board the bus, but the driver would not wait even though you had made eye contact.

In response to this allegation, VTA stated that, "It is VTA's general policy that customers wishing to board a bus should be at the bus stop and ready to board." In one incident, VTA claims that the bus driver assumed that you were waiting for another bus since you were on the other side of the street; in another incident, VTA claims that the driver made a correct decision to drive on in order to stay on schedule because you were not at the bus stop when the bus arrived. On other occasions, it appears that you were waiting at the wrong bus stop to board the bus that you wished to board.

The DOT ADA regulation at 37.167(i) requires that a vehicle operator "shall ensure that adequate time is provided to allow individuals with disabilities to complete boarding or disembarking from the vehicle." The example cited in Appendix D of this section explains that very rapidly closing doors (particularly of some rail systems) may make it difficult for persons with disabilities to board. Implicit in the requirement to assist a person to board is that the person would have to be at the boarding location. It appears from the facts that you were not at the boarding location. There is not a requirement to wait until a person reaches a bus if they are not already at the boarding location when the bus arrives. As such, we do not find this to be discriminatory under the DOT ADA regulations.

2. On several occasions you waited for scheduled buses that never came.

While certainly an inconvenience, as this affects all persons who use fixed route buses equally, it does not constitute a deficiency under the DOT ADA regulations.

3. When you filed a telephone complaint, the customer service representative was rude.

In your complaint you did not identify the name of the personnel at VTA who you allege was rude to you. VTA stated it does not have a record of the calls in which you claim that VTA personnel were angry and rude to you and thus is unable to identify the customer service representatives to whom you allege to have spoken. Without further evidence, we are unable to take any correction actions.

If you have any questions regarding this decision, please contact Michael Virts, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, michael.virts@fta.dot.gov Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention. We regret the delay in our response to your complaint.

Sincerely,



Cheryl N. Hershey
ADA Team Leader
Office of Civil Rights

cc: Peter M. Cipolla
General Manager, VTA

Craig



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 12 2000

[REDACTED]

Re: FTA Complaint No. 99292

Dear [REDACTED]

This letter responds to your complaint against the Utah Transit Authority (UTA) of Salt Lake City, Utah, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If we cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider who may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

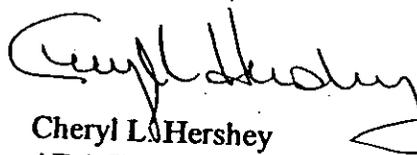
We understand your concerns to be about the changes in your ADA Complementary Paratransit service (provided by Flex Tram through UTA) that were implemented in conjunction with the opening of the new light rail line in Salt Lake City

After reviewing the materials included with your letter, your complaint seems to concern the fact that the Flex Tram van will no longer pick you up at your customary location on Mam Street. Instead, because of new parking restrictions, your pick up point is 1/4 block away. According to UTA, it is concerned that the Flex Tram vehicle would pose a traffic hindrance or a safety hazard. You have spoken to the police who advised you that they would not ticket a Flex Tran vehicle waiting for you at the old pickup point, even though it is now a no parking zone.

This issue appears to be a disagreement between you and UTA over the letter and intent of local parking restrictions, and we do not believe it is an issue for Federal government intervention. In fact, FTA is prohibited by the Federal Transit Laws, as codified under 49 U.S.C., Section 5324(c) "Prohibitions Against Regulating Operations and Charges," from becoming involved in local decisions regarding transit operations. It states in part, "The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under Section 5309 of this title. "

Based on the above, we will take no further action on your complaint. We regret that we are unable to assist you with this matter. If you have any questions regarding this decision, please contact Roberta Wolgast at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Cc: UTA (Identity Withheld)



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 2 2000

[REDACTED]

Re: FTA Complaint No. 99208

Dear [REDACTED]

This letter responds to your complaint of discrimination filed on behalf of your mother, [REDACTED] against the Lehigh and Northampton Transportation Authority (LANTA) of Allentown, Pennsylvania, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that LANTA's ADA Complementary Paratransit service, Metro Plus, will not provide round trip transportation from [REDACTED] residence to adult day care in Allentown, Pennsylvania.

We informed LANTA of your allegation and requested information relating to your complaint; reviewed the information presented by LANTA and you; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determination follows.

The DOT ADA regulation at 49 CFR 37.121 requires that:

each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

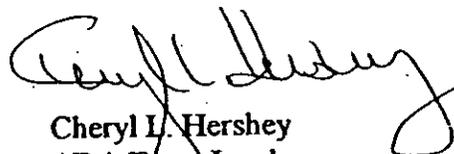
However, this service is only required to be provided within certain areas. The DOT ADA regulation states at Section 37 131(a)(1)(i):

(1) Bus. (i) The entity shall provide complementary paratransit service to origins and destinations within corridors with a width of three-fourths of a mile on each side of each fixed route.

[REDACTED] was granted eligibility for Metro Plus service. However, according to LANTA, there is no fixed route bus service within three-fourths miles of [REDACTED] residence and, as such, ADA Complementary Paratransit service is not required to that area. She may still use Metro Plus if she is able to travel to a pick up location within the LANTA Metro Plus service area.

Based on our determination, we will consider your complaint to be closed. If you have any questions regarding this letter, please contact Linda W King, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov Please include the FTA complaint number on any correspondence with this office. We regret that we are unable to assist you further.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Denis J Meyers
Assistant Executive Director
LANTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 2 2000

[REDACTED]

Re: FTA Complaint No. 99036

Dear [REDACTED]

This letter responds to your complaint against the City and County of Honolulu (the City), in Honolulu, Hawaii, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that you are having difficulty boarding the City's 200 series fixed route buses because the entranceways are too narrow to easily accommodate your electric scooter. The DOT ADA regulation at 49 CFR 37.7(a) states the time requirements for purchasing accessible buses:

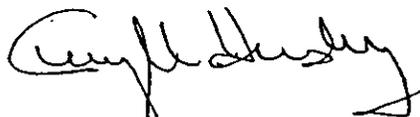
Except as provided elsewhere in this section, each public entity operating a fixed route system making a solicitation after August 25, 1990, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities including individuals who use wheelchairs.

The 200 Series buses were purchased in 1993 and meet the minimum accessibility standards as stated in Section 38.23 of the DOT ADA regulation that require a minimum clear width of 30 inches when measured from two inches above the platform surface of the wheelchair lift.

However, the City acknowledges that the entryway on the 200 Series buses is narrower than its newer buses and this makes it difficult for persons who use scooters to maneuver. For this reason, the City has re-assigned buses that will better accommodate you to the route that you usually ride.

We found no violation of the DOT ADA regulations in our investigation, and therefore will take no further action on your complaint. Thank you for bringing this matter to our attention. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov Please identify the FTA complaint number in any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: City and County of Honolulu

Wobast



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 2 2000

[REDACTED]

Re: FTA Complaint No. 99296

Dear [REDACTED]

This letter responds to your complaint of discrimination, on behalf of [REDACTED] against the Pioneer Valley Transit Authority (PVTA), in Nantucket, Massachusetts, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

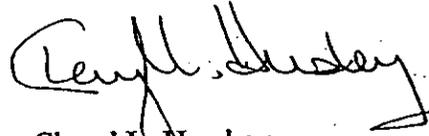
In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand [REDACTED] allegation to be that people with disabilities who do not have the money to pay the fare are not allowed to ride on the PVTA public transportation system.

The transportation section of the ADA provides for equal access to public transportation for people with disabilities. Nothing in the ADA or the DOT ADA regulations requires a transit authority to allow individuals with disabilities to ride free of charge. Therefore, PVTA's policy of requiring a fare from all passengers does not constitute discrimination under the ADA.

If you have any questions regarding this determination, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Please include the FTA complaint number on any correspondence with this office. We regret that we cannot help you further. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: PVTA



U.S. Department
of Transportation
Federal Transit
Administration

FEB 4 2000

400 Seventh St., S.W.
Washington, D.C. 20590

[REDACTED]

FTA Complaint No. 99102

Dear [REDACTED]

This letter responds to your complaint against the Port Authority of Allegheny County (PAT), of Pittsburgh, Pennsylvania, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that on March 27, 1999, you and other students who were posing as wheelchair passengers experienced the following while riding or attempting to ride PAT buses:

- A bus driver was uncooperative and did not attempt to assist you to board the bus; the seatbelt [wheelchair securement device] was broken and the wheelchair slid around the bus.
- The next bus driver tried to lower the wheelchair lift, but it malfunctioned.
- The next bus driver would not stop for you despite your efforts to get his attention.

We informed PAT of your allegation, reviewed the information presented by PAT and you, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. Our determination on your allegation is stated below

Several sections of the DOT ADA regulation apply to the situation that you described. 49 CFR part 37 163(b) states:

The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.

The DOT ADA regulation at parts 37 163(d) and (e) requires that:

(d) Except as provided in paragraph (e) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service.

(e) If there is no spare vehicle available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than three days (if the entity serves an area of over 50,000 population) from the day on which the lift is discovered to be inoperative.

Part 37 163(f) of the DOT ADA regulation requires that:

In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

The DOT ADA regulation at part 37 165(f) states:

If necessary or upon request, the entity's personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts. If it is necessary for the personnel to leave their seats to provide this assistance, they shall do so.

And finally, all PAT personnel who work with the public must have training in working with persons with disabilities. The DOT ADA regulation at 49 CFR Part 37 173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

PAT provided documentation that it has the proper policies in place that conform with the DOT ADA regulation. It has a system of regular and frequent maintenance checks, and wheelchair lifts

-3-

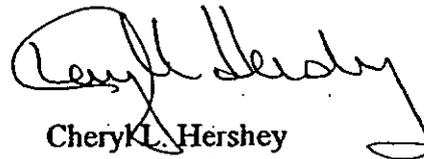
must be cycled during the pre-trip inspection before the buses are put into service each day. On some occasions, if the wheelchair lift is out of order, as per the regulation, the bus may be placed in service for a short period of time until it is repaired.

According to PAT, all of its drivers go through nine weeks of training that includes a disabilities awareness segment. They learn to properly use the wheelchair lift, to secure wheelchairs and wheelchair occupants, and they are also required to complete an extensive customer service training curriculum.

However, we acknowledge that having the proper policies, procedures and training in place does not guarantee that drivers properly implement them. As a result of your complaint and our investigation, PAT Operations staff contacted the two bus operators that you identified. PAT states that both were counseled on the proper procedures and operation of wheelchair lift equipment. In addition, the Director of Service Delivery addressed the maintenance problems that were noted with these vehicles, and conducted random checks of these bus operators in question to ensure that the behavior you described does not reoccur.

Based on PAT's response to your concern, we will take no further action on your individual complaint. However, we will encourage PAT to continue its monitoring process to try to ensure that these types of incidents are not frequent occurrences. If you have any questions regarding this decision, please contact Linda W King, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address, linda.king@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: PAT
Paul P. Skoutelas, Executive Director
Garry R. Antonella
Donald C. Bell

Craig



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 10 2000

Mr. Danny Alvarez
Director
Metro-Dade Transit Authority
111 Northwest First Street, Suite 910
Miami, Florida 33128-1999

Re: FTA Complaint No. 99118

Dear Mr. Alvarez:

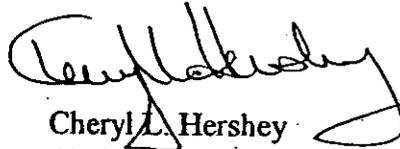
This courtesy letter transmits a copy of the Federal Transit Administration Office of Civil Rights letter of determination in response to a complaint alleging discrimination under the Americans with Disabilities Act of 1990 (ADA). The complainant, [REDACTED] alleged that on numerous occasions, MDTA bus operators falsely claimed that their wheelchair lifts were inoperative and would not allow him to board. These incidents occurred on routes designated as accessible by MDTA.

It appears that MDTA took appropriate and timely action in response to [REDACTED] complaints. Supervisors observed [REDACTED] encounter difficulties such as he alleged on two consecutive days; verbally counseled at least one of the operators involved; and issued stricter guidance to bus operators warning of disciplinary actions in response to ADA infractions. Based on these actions, we will take no further action on [REDACTED] individual complaint; however, we will monitor future complaints for allegations of the same nature. We encourage MDTA to closely monitor incoming complaints to its customer service unit that may indicate a continuing trend of bus operator noncompliance with the ADA wheelchair lift requirements.

We acknowledge that MDTA has the correct policy regarding alternate transportation in lift failure situations where the headway to the next accessible bus is more than 30 minutes. However, there is no documentation that indicates that [REDACTED] was provided such back up service. MDTA needs to ensure that this policy is enforced in accordance with 49 CFR Section 37.163(f).

Thank you for the cooperation and assistance of your staff during our investigation of this complaint. If you have any questions regarding this letter or our letter of determination to Mr Ferguson, please contact Roberta Wolgast, Equal Opportunity Specialist, at 202-366-0802 or at her electronic mail address: *roberta.wolgast@fta.dot.gov*

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Ms. Sylvia Crespo-Tabak

Craig



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 16 2000

[REDACTED]

Re: FTA Complaint No. 99118

Dear [REDACTED]

This letter responds to your complaint against the Metro-Dade Transit Authority (MDTA) in Miami, Florida, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that on numerous occasions in 1999, MDTA bus drivers on the MDTA "Saga Bay Max" route told you that their wheelchair lifts were inoperative. This route is designated as accessible during the part of the day when the incidents occurred.

We informed MDTA of your allegations and requested information relating to your complaint; reviewed the information presented by MDTA and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determination follows.

The DOT ADA regulations require that newly purchased buses are to be accessible and that accessibility features are to be used. It states at 49 CFR part 37.167(e):

The entity shall ensure that vehicle operators and other personnel make use of accessibility-related equipment or features required by Part 38 of this title.

The DOT ADA regulation also contains requirements that govern maintaining lifts in working order. The following cites are appropriate to this issue. Sections 37.161(a)-(c) state:

(a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities.

(b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

(c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

The regulation also has a section that is specific to lift maintenance. Sections 37.163 (b)-(c) state:

(b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.

(c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.

Finally, the DOT ADA regulation requires that back up service be provided if, on an "accessible route", the next accessible bus is scheduled more than 30 minutes from the time you are passed by a bus with an inoperative wheelchair lift. The regulation states at Section 37.163(f):

In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

We have reviewed MDTA's policies and procedures regarding the above requirements and find that they are correct. In addition, MDTA provided documentation that its vehicle operators are trained in accordance with the DOT ADA regulations. However, having the correct policies, procedures and training obviously does not guarantee that proper service is being provided to the customer waiting at the bus stop.

From the information regarding your complaint that MDTA supplied, it appears that the problem was with bus operator noncompliance. On the two days that MDTA supervisors observed you attempting the ride the Saga Bay Max route, they determined that the wheelchair lifts were in operative condition, yet the operators did not deploy the lift to allow you to board. The first operator was "verbally counseled", however, no mention was made of corrective actions taken with the second operator. In addition, MDTA released a strongly worded memorandum warning

that "Violation of any aspect of the requirements in the ADA is unlawful discrimination and will not be tolerated. Failure to comply with the law and our policy will lead to disciplinary action up to and including termination." The memorandum precisely stated each requirement and effectively upped the warning to operators from they "may" be sanctioned to they "will" be sanctioned.

FTA's goal when informed of incidents such as you described is to work with the transit agency to correct the situation. Based on the actions taken by MDTA in response to your complaints, we will take no further action on your individual complaint at this time. However, we will monitor future complaints against MDTA for allegations of this same type of problems. We will also remind MDTA of its responsibility to provide you with back up service should you be stranded for more than 30 minutes in case of lift failure.

Should you encounter additional incidents of lift failures, MDTA asks that you contact its customer service office representatives at (305) 770-3131. Ms. Sylvia Crespo-Tabak, Chief, MDTA Office of Fair Employment and Labor Practices, is responsible for the ADA Compliance Unit. She invites you to contact her directly at (305) 375-1695 should you encounter a pattern of lift failures that you believe constitutes discrimination under the DOT ADA regulations as cited above.

We sincerely hope that your travel difficulties have been alleviated. If you have any questions regarding this decision, please contact Roberta Wolgast, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: MDTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 18 2000



Re: FTA Complaint No. 99153

Dear 

This letter responds to your complaint of discrimination against the East Bay Paratransit Consortium (EBPC), Berkeley, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If the FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

The allegations that we accept for review are as follows:

1. The EBPC recertification process should not have been undertaken.
2. The EBPC incorrectly denied you eligibility for ADA Complementary Paratransit services and EBPC has an improper appeals process.

We informed EBPC of your allegations and requested information relating to your complaint; reviewed the information presented by EBPC and you; and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations below:

1. The EBPC recertification process should not have been undertaken.

You allege that the recertification process is arbitrary and that you were "railroaded" from the program. The DOT ADA regulation at Part 37.125(f) states:

The entity may require recertification of the eligibility of ADA paratransit eligible individuals at reasonable intervals.

Appendix D to this section states:

In the Department's view, a reasonable interval for recertification is probably between one and three years. Less than one year would probably be too burdensome for consumers; over three years would begin to lose the point of doing recertifications.

EBPC's recertification process is allowed under the DOT ADA regulation and its three year timeframe is within the parameters of the guidelines mentioned above.

2. The EBPC incorrectly denied you eligibility for ADA Complementary Paratransit services and EBPC has an improper appeals process.

You stated that EBDC is wrong in saying that a person with a disability is not supposed to use ADA Complementary Paratransit service where they can use fixed route service.

The ADA is a civil rights statute. It clearly emphasizes nondiscriminatory access to fixed route service, with ADA Complementary Paratransit acting as a "safety net" for people who cannot use the fixed route system. Under the ADA, ADA Complementary Paratransit service is not intended to be a comprehensive system of transportation for individuals with disabilities, and simply having a disability or multiple disabilities does not, in and of itself, entitle a person to ride. Rather, the DOT ADA regulation provides for three categories of ADA Complementary Paratransit eligibility. Category 1 is for persons with disabilities who cannot use fixed route without the assistance of another person. Category 2 is for persons who could use the fixed route if the vehicles were accessible. Category 3 is described at DOT ADA regulation at 37.123(e)(3):

Any individual with a disability who has a specific impairment-related condition, which prevents such individual from traveling to a boarding location or from a disembarking location on such system.

The DOT ADA regulation at 49 CFR Part 37.125(g) states:

The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial. (1) The entity may require that an appeal be filed within 60 days of the denial of an individual's application.

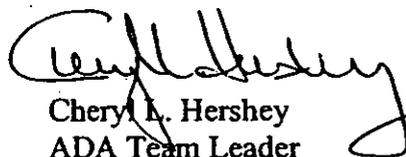
(2) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it.

According to EBPC records, on August 18, 1999, your application for recertification was denied based on a determination that you are able to use fixed route service. You requested an appeal and on October 20, 1999, the ADA Appeals Panel met to consider your appeal. The Panel was not able to make a decision on that date and requested additional information from you. The Panel reconvened on December 9, 1999, and reviewed your appeal and all additional information, including a supplemental questionnaire and your physician's statement. Based on the information, the Appeal Panel upheld the determination denying recertification. In complaints of this nature, unless the facts of the particular circumstance appear to be egregious or substantively violate the regulation, we consider only the appeals process to determine if it meets the requirements of the DOT ADA regulations. In your case, it appears that EBPC followed the appropriate guidelines in making its decision.

We regret that we are unable to assist you further. Should your physical condition deteriorate to the point that you are unable to access fixed route public transportation, you have the right to reapply to EBPC for ADA Complementary Paratransit eligibility

If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Please include the FTA complaint number on any correspondence with this office.

Sincerely,


Cheryl A. Hershey
ADA Team Leader
Office of Civil Rights

cc: EBPC
BART
AC Transit



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 29 2000

[REDACTED]

Re: FTA Complaint No. 99164

Dear [REDACTED]

This letter responds to your complaint of discrimination against the Washington Metropolitan Area Transit Authority (WMATA), and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

- 1 WMATA's ADA Complementary Paratransit service, MetroAccess, has been late on numerous occasions when picking you up for a ride;
2. A MetroAccess vehicle operator did not pick you up from the MCI Center; and
- 3 A MetroAccess vehicle operator failed to strap down your wheelchair.

We informed WMATA of your allegations and requested information relating to your complaint; reviewed the information presented by WMATA and you; and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations below

1. WMATA's ADA Complementary Paratransit service, MetroAccess, has been late on numerous occasions when picking you up for a ride.

You cited numerous occasions in which MetroAccess was late in picking you up or sent an inaccessible vehicle and had to resend an accessible vehicle, thus making your ride late. In particular, you cite an occasion on March 2, 1999, in which MetroAccess was two hours late which caused you to miss much of a concert for which you had tickets.

The DOT ADA regulation at 49 CFR 37.131(f)(3)(i)(A) and (ii) states:

(f) *Capacity constraints.* The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of untimely pickups for initial or return trips.

(ii) Operational problems attributable to causes beyond the control of the entity (including, but not limited to, weather or traffic conditions affecting all vehicular traffic that were not anticipated at the time a trip was scheduled) shall not be a basis for determining that such a pattern or practice exists.

WMATA responded directly to each allegation in addition to providing a copy of your trip history report for the time period of March 1, 1999, to November 4, 1999. The trip report shows that 123 trips out of 185, or about two-thirds of the trips that you scheduled during this time frame were provided by WMATA ADA Complementary Paratransit contractors. The remainder were provided by a contractor to Fairfax County, Virginia. Of the trips about which you complained, all but one were under the authority of WMATA. This letter addresses the complaints for which WMATA is responsible.

Rather than address each of your other allegations separately, we have enclosed a copy of WMATA's letter to us regarding your complaint. In one case, WMATA states that it did not have a reservation from you. In other cases, it is unsure why taxicabs arrived, but claims that your trips were completed on time in accessible vehicles. However, WMATA does acknowledge several late pickups although the dates are not necessarily those about which you complained.

- WMATA closely monitored your trips for a thirty day period;
- WMATA brought your difficulties to the direct attention of the managers of the contract providers;
- WMATA offered you a direct line to Glenn Millis, Director of the Office of ADA Program for WMATA.

Our review has substantiated many of your allegations. However, WMATA's corrective actions appears to have resolved your difficulties. During a telephone conversation on January 19, 2000, you informed Linda Wood King, Equal Opportunity Specialist of this office, that MetroAccess' service to you has greatly improved since you filed this complaint.

2. A MetroAccess vehicle operator did not pick you up from the MCI Center.

You allege that on June 23, 1999, you had a scheduled pick-up time of 10:50 p.m., from the MCI Center. You state that you waited from 10:47 p.m., until 11:45 p.m., and the vehicle did not arrive. WMATA's records show that its MetroAccess driver waited for 33 minutes from 10:35 p.m., until 11:08 p.m., before leaving and declaring you a "no-show" for the ride. This appears to have been a miscommunication regarding the exact pick up location or perhaps a case of the driver not recognizing you as his passenger. When you called to report the driver's no-show, WMATA advises that they immediately diverted a vehicle and you were transported home. This incident appears to be a mistake for which WMATA took immediate corrective action and does not constitute a violation of the DOT ADA regulations.

3. A MetroAccess vehicle operator failed to strap down your wheelchair.

In response to your allegation that the driver did not secure your wheelchair, WMATA states it contacted the driver who could not recall or substantiate your complaint. However, the driver was re-instructed on proper wheelchair securement procedures. You are correct that the DOT ADA regulations require wheelchairs to be secured, except in certain circumstances such as broken securement devices where the rider still has the option to ride. These requirements are outlined below

The DOT ADA regulation at 49 CFR 38.23 (d)(3) and (7) states:

(3) Mobility aids accommodated. The securement system shall secure common wheelchairs and mobility aids and shall either be automatic or easily attached by a person familiar with the system and mobility aid and having average dexterity

(7) Seat belt and shoulder harness. For each wheelchair or mobility aid securement device provided, a passenger seat belt and shoulder harness, complying with all applicable provisions of part 571 of this title, shall also be provided for use by wheelchair or mobility aid users. Such seat belts and shoulder harnesses shall not be used in lieu of a device which secures the wheelchair or mobility aid itself.

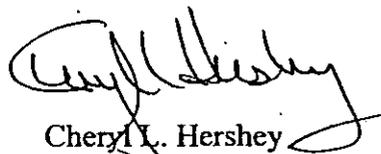
In addition, the operator is required to use the securement system to restrict your wheelchair. The DOT ADA regulation at 49 CFR 37.165(c)(1) states:

For vehicles complying with part 38 of this title, the entity shall use the securement system to secure wheelchairs as provided in that Part.

We are unable to resolve, based on the facts before us, whether or not WMATA failed to secure you. However, in this instance WMATA took appropriate action in re-instructing its employee of the securement procedure. As such, we will take no further action on this allegation.

Based on the apparent resolution of your transportation difficulties, we will consider your complaint to be closed. If you have any questions regarding this letter, please contact Linda W King, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

Enclosure

cc: WMATA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 29 2000

[REDACTED]

Re: FTA Complaint No. 98221

Dear [REDACTED]

This letter responds to your complaint against the City of Lompoc, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that on June 29, 1998, an 81-year old resident of the residential care home which you operate, was injured when her wheelchair fell over while riding on a transit vehicle operated by U-Tech Service Corporation (U-Tech) under contract to the City of Lompoc. The driver did not inform you of the accident and did not complete an incident report at the time it occurred.

We informed the City of Lompoc of your allegation and requested information relating to your complaint; reviewed the information presented by the City and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determination follows.

The City of Lompoc is responsible for ensuring that its contractors that provide public transportation service follow the DOT ADA regulations. 49 CFR part 37.23(a) states:

When a public entity enters into a contractual or other arrangement or relationship with a private entity to operate fixed route or demand responsive service, the public entity shall ensure that the private entity meets the requirements of this part that would apply to the public entity if the public entity itself provided the service.

In its contract with U-Tech, the City of Lompoc included a requirement that the contractor "shall fully and completely comply with all applicable federal, state and local laws. " and specifically named the ADA as one of the laws included in this clause.

One requirement of the DOT ADA regulation is that transit providers must educate personnel to work with persons with disabilities and properly and safely use vehicle accessibility features. The regulation states at Section 37.173

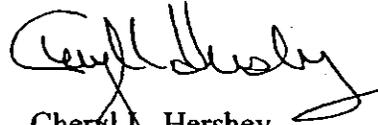
Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

U-Tech provided documentation that its employees, including the bus driver in question, were trained as required. On June 30, 1998, after the incident was brought to its attention, U-Tech interviewed, counseled and reprimanded the driver, and placed a warning letter in his personnel file. In addition, he was re-instructed on the proper procedures for restraining wheelchairs and filing incident reports.

Based on the above, we find that the City of Lompoc properly required U-Tech to follow the DOT ADA regulations, and U-Tech trained its employees in accordance with the DOT ADA requirement. We also find that as a result of the filing of this complaint, and it being brought to the attention of the transit property, U-Tech responded appropriately and interviewed, counseled, reprimanded the driver, and placed a warning letter in his personnel file. In addition, the transit agency retrained the driver. While the facts support an isolated incident, we base our findings of noncompliance on a "pattern or practice" of problems rather than on isolated operational errors. In this case, it appears to have been a problem with one employee rather than widespread noncompliance. Based on this, we will take no further action on your complaint and will consider your file to be closed.

If you have any questions regarding this letter, please contact Roger Peralta, Equal Opportunity Specialist, at our toll-free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: City of Lompoc



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 29 2000

[REDACTED]

Re: FTA Complaint Nos. 96196 & 96197

Dear [REDACTED]

This responds to your complaint against the Worcester Regional Transportation Authority (RTA), of Worcester, Massachusetts, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

On January 14, 2000, both of you engaged in a telephone conversation with Roger Peralta, Equal Opportunity Specialist, and informed him that you no longer wish to pursue your complaint. However, you requested that FTA ensure that RTA provides ongoing ADA sensitivity training to its employees.

According to the DOT ADA regulation at Section 37.173

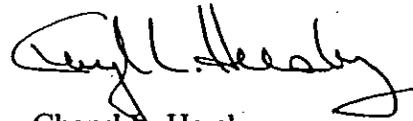
Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

RTA provided information that its ADA training program for its employees is ongoing and meets the requirements of the DOT ADA requirements. We are aware that providing training does not mean that the lessons taught will be properly implemented; therefore, we encourage you to immediately report to RTA any incidents in which its personnel exhibit unprofessional behavior toward persons with disabilities. RTA has a disciplinary process in place to address these problems.

We stand ready to address future problems, and continue to monitor all transit properties for full compliance with the ADA. However, please note that FTA relies upon self-certification and, as such, in part upon complaints filed against transit properties to alert us to problems. Since 1992, FTA has received four complaints against RTA. One was about an issue not covered by the ADA, one was about the availability of ADA Complementary Paratransit; and the last two were the complaints filed by you.

Based on the above, we will consider your complaint files to be closed. If you have any questions regarding this letter, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov Please include your complaint numbers on any correspondence with this office.

Sincerely,



Cheryl E. Hershey
ADA Team Leader
Office of Civil Rights

copy



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 29 2000

Mr. Edward E. Wolfe
Attorney At Law
811 First Avenue
Suite 208
Seattle, Washington 98104

Re: FTA Complaint No. 98247

Dear Mr. Wolfe:

This is a follow-up letter to [REDACTED]'s complaint against Washington State Ferries (WSF), in Seattle, Washington, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

On October 14, 1998, the United States Coast Guard, finding that it did not have jurisdiction over [REDACTED] complaint, transferred it to FTA's Office of Civil Rights. On May 5, 1999, the FTA Office of Civil Rights wrote you explaining that as there was pending litigation the complaint would be held in abeyance pending its outcome. [REDACTED] advised the FTA Office of Civil Rights that he had settled his litigation on August 29, 1999, by way of electronic mail. Subsequently, Roger Peralta, Equal Opportunity Specialist, spoke to [REDACTED] on September 14, 1999. [REDACTED] stated that his remaining concern is about WSF's failure to provide ADA sensitivity training to its employees in dealing with persons with disabilities. As a result the investigation focused on this area.

According to the DOT ADA regulation at 49 CFR part 37 173

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

We found that at the time of the incident, WSF did not have an ADA training program in place. WSF provided documentation that it has now implemented its driver training program, and that all staff will be trained by June 2000. A review of the training program indicates that it meets the DOT ADA requirements. Under the DOT ADA regulations, FTA is to informally work with the transit property towards compliance. At this juncture, WSF has come into compliance with regards to its driver training program. We are aware that providing training does not mean that the lessons taught will be properly implemented, and encourage [REDACTED] to immediately report to WSF personnel who exhibit unprofessional behavior toward persons with disabilities.

If you have any questions regarding this letter, please contact Roger Peralta at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov Please include the FTA Complaint Number in any correspondence to this office regarding this complaint.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: [REDACTED]

WSF



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 29 2000

[REDACTED]

Re: FTA Case No. 00008

Dear [REDACTED]

This letter responds to your correspondence regarding the lack of public transportation in Loveland, Ohio, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973

In your letter, you raise two separate issues that we will address. The first is that the Metro Access bus does not provide service to the area where you live. The second is that the buses on the commuter route from your area are not accessible to persons with disabilities.

The ADA provides for equal access to public transportation for persons with disabilities. The DOT ADA regulations implement this by requiring that ADA Complementary Paratransit be provided for persons who cannot use regular fixed route buses because of disability. The DOT ADA regulation at 49 CFR part 37 121(a) states:

Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

There are certain parameters in which this service is to be provided. For fixed route bus service, the service area is defined in 49 CFR part 37 131(a):

Service Area – (1) Bus. (i) The entity shall provide complementary paratransit service to origins and destinations within corridors with a width of three-fourths of a mile on each side of each fixed route. The corridor shall include an area with a three-fourths of a mile radius at the ends of each fixed route.

-2-

From your description, it appears that there is no fixed route service within three-fourths mile of your home, which means that ADA Complementary Paratransit service by Metro Access is not required to be provided to your home. If, based on your disability, you are deemed eligible by Metro Access to use its service, you would have to travel into its service area in order to get a ride.

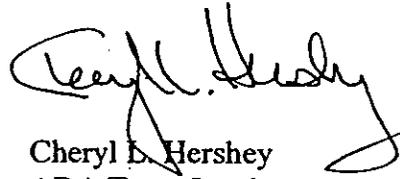
The Loveland Express #3 that you described is considered to be commuter service. The DOT ADA regulation does not require that ADA Complementary Paratransit be provided on commuter routes. The regulation states at 49 CFR part 37 121(c):

Requirements for complementary paratransit do not apply to commuter bus, commuter rail, or intercity rail systems.

Regarding your concern that the buses on the Loveland Express #3 will not be accessible until the year 2003, the DOT ADA regulation requires only that new buses purchased after August 25, 1990, be accessible to persons with disabilities. There is no requirement that older buses be retrofitted or taken out of service if they are not accessible.

If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov Please identify the FTA case number in any correspondence with this office. We regret that we are unable to assist you with your transportation needs.

Sincerely,



Cheryl B. Hershey
ADA Team Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 15 2000

[REDACTED]

Re: FTA Complaint No. 97043

Dear [REDACTED]

This letter responds to your complaint against Access Services Incorporated (ASI) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that ASI's ADA Complementary Paratransit fare policy that took effect on March 1, 1997, is discriminatory to persons with disabilities. We reviewed your allegation and the information presented by ASI and made a determination based on our analysis of that information in relation to the DOT ADA regulations. Our determination on your allegation is stated below.

The DOT ADA regulation at 49 CFR section 37.131(c) states:

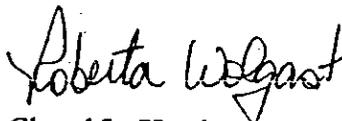
Fare for a trip charged to an ADA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare for a trip of similar length, at similar time of day, on the entity's fixed route system.

According to ASI, in some cases a trip on the fixed route may be more direct than the route taken by ASI vans, and consequently would cost less than half of the ADA Complementary Paratransit fare. However, the more direct route taken on these fixed route trips would take considerably longer. As an example, ASI explained that a trip taken on the fixed route that went from origin to destination on a direct route through town may take four hours, while the same ASI trip via the expressway may take thirty minutes. The ASI trip would be longer in distance but much shorter in time. The regulation requires comparability where the trip is of similar length. Under the ASI fare structure, if the same route was taken by a fixed route bus (e.g., the same number of miles), the fare on the bus would be comparable to the ASI fare, as both fixed route and ASI charge incremental fare increases based on mileage and zones.

ASI's fare policy was developed through the public participation process and was an option recommended by the ASI Advisory Committee, which is primarily composed of ASI riders. ASI has established a system basing the base fare on two times the lowest fare charged on a fixed route bus. This is in accordance with the ADA regulation.

Based on this determination, we will take no further action regarding this complaint, and consider this issue to be resolved. Thank you for bringing your concern to our attention. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov We apologize for the delay in responding to your complaint.

Sincerely,


for Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: Sen. Barbara Boxer
ASI



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 31 2000

[REDACTED]

Re: FTA Complaint No. 98095

Dear [REDACTED]

This letter responds to your complaint of discrimination against the Port Authority of Allegheny County (PAT), Pittsburgh, Pennsylvania, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

- 1 Drivers are not adequately trained in proper wheelchair securement techniques and wheelchair lift operation.
2. You have experienced many incidents of retaliation from drivers, including incidents of intimidation, and a driver filing of false report stating that you intentionally unbuckled your wheelchair to hurt yourself.
- 3 Drivers have disembarked you at an inaccessible stop, that is not a designated stop, where you have slid on gravel into a guardrail.

We informed PAT of your allegations and requested information relating to your complaint, reviewed the information presented by PAT and you, and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations below:

1. Drivers are not adequately trained in proper wheelchair securement techniques and wheelchair lift operation.

You allege that on numerous occasions, drivers have improperly secured your wheelchair which has resulted in you being "thrown around" and at times your wheelchair toppling over. You state that some of those incidents resulted in physical injury. You also allege that your foot was injured when a wheelchair lift was folded down on top of it.

The DOT ADA regulation at 49 CFR section 37.165(c) states:

- (1) For vehicles complying with Part 38 of this title, the entity shall use the securement system to secure wheelchairs as provided in that Part.
- (2) For other vehicles transporting individuals who use wheelchairs, the entity shall provide and use a securement system to ensure that the wheelchair remains within the securement area.

Furthermore, the DOT ADA regulation at 49 CFR section 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

According to PAT's documentation, all PAT drivers go through nine weeks of driver training that includes a disabilities awareness training segment. All drivers are trained to comply with the Americans with Disabilities Act. Current training involves procedures for deployment of a wheelchair lift, requirements for stop calling, and methods to secure wheelchairs and wheelchair occupants. We acknowledge that having training in place does not ensure that the lessons taught are properly implemented.

PAT provided us accounts of the incidents in which you were involved where either you or your wheelchair or other property were allegedly harmed. Neither you nor PAT provided documentation of incidents that didn't involve injury. During the period from August 22, 1993, until March 27, 1998, PAT reported eight incidents. It appears that six of these incidents could have been prevented if your wheelchair was properly secured.

Apparently, according to PAT's training materials, bus drivers do not automatically secure wheelchairs. In the 1994 training materials that we reviewed, there is a note that states, "Although Port Authority is requiring riders using wheelchairs to sit in the securement area, it is not requiring that wheelchairs be secured." Further, in "General Notice #41-01, *Summary of AF Compliance Rules*," dated August 31, 1997, PAT states:

Wheelchairs, scooters and other mobility devices are to be boarded. They must be placed in the designated wheelchair area. If the rider requests that securement belts be attached, the operator must attach them.

This policy is incorrect. The DOT ADA regulation clearly states that the transit authority "shall" use the securement system to the best of its ability to ensure that the wheelchair remains in the vehicle's securement area. We have directed PAT to immediately issue correct guidance to its bus drivers, and to ensure that the new policy is enforced. Although your wheelchair was reportedly secured by at least one strap, we predict that this change will make travel safer for you and other wheelchair users. While the ADA regulations do not require you to use the seatbelt, we recommend, for your safety, that you use a seatbelt around your person in addition to having your wheelchair secured. If you cannot fasten it yourself, it is the bus driver's responsibility under the DOT ADA regulation to fasten it for you upon request.

Regarding the injury to your foot when a lift was folded down upon it, we understand that you and PAT are attempting to settle this case, and we will take no individual action on this allegation. We anticipate that the required change to PAT's policy will alleviate future problems.

2. **You have experienced many incidents of retaliation from drivers, including incidents of intimidation, and a driver filing of false report stating that you intentionally unbuckled your wheelchair to hurt yourself.**

Section 503(a) of the ADA [42 USC 12203] explicitly prohibits retaliation. It states:

Retaliation. -- No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

PAT denies this allegation. It states that an investigation found no evidence of retaliation against you. There were no false reports filed against you, and your name was not posted in any of PAT's facilities. Falsification of records, misrepresentation of information, or the posting of unauthorized notices or literature on PAT's property is sufficient cause for immediate termination of employment with PAT.

There is insufficient evidence to make a determination on this allegation. In this particular instance, you were unable to provide the name of the driver, and as such, we were limited to a general investigation. Should you encounter a situation in the future that you consider to be retaliatory, you should document it with sufficient detail to allow PAT to identify the employee in question and report it immediately and directly to PAT.

3. One of PAT's bus stops that you use is on a highway and has loose gravel and no place to turn around because a guardrail is in the way.

PAT's response to this allegation was as follows:

There is no evidence that either the inbound or outbound stops are located at an inaccessible stop. Both the inbound and outbound stops provide a minimum clearance of 3 feet for the discharging of passengers and there is more than 60 inches for a wheelchair to make a complete turning movement if necessary. Both stops coincide with the route that the general public would take to go to buildings or facilities in this area.

Section 37.41 of the DOT ADA regulations require that new facilities, including bus stops, must meet the ADAAG standards. Section 37.43 requires that any altered portion of a facility including bus stops, be made accessible in accordance with the ADAAG standards. Bus stop access is to be provided through new construction or upgrades when existing facilities are altered. In this instance, there is no evidence that the stop was new or altered. As such, we find no violation of the DOT ADA regulations.

If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,


Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: PAT



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 31 2000

[REDACTED]

Re: FTA Complaint No. 98276

Dear [REDACTED]

This letter responds to your complaint of discrimination against the Metropolitan Tulsa Transit Authority (MTTA), Tulsa, Oklahoma, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If the FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. You have experienced numerous incidents of missed trips, late pickups, and trips of excessive length on the MTTA ADA Complementary Paratransit service, LIFT,
2. LIFT has unfairly counted you as a "no-show",
3. LIFT reservation telephone lines are often busy and you have had to wait for 45 minutes to get through to make a reservation; and
4. LIFT fares are more than twice the amount of MTTA fixed route fares.

We informed MTTA of your allegations and requested information relating to your complaint; reviewed the information presented by MTTA and you; and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations below

MTTA explained that it provides ADA Complementary Paratransit service as well as service to Medicaid clients. It appears that some of the issues about which you complained are related to your Medicaid service; however, this office only has jurisdiction over the trips that are provided by LIFT under the ADA Complementary Paratransit program.

1. You have experienced numerous incidents of missed trips, late pickups, and trips of excessive length on the MTTA ADA Complementary Paratransit service, LIFT.

DOT ADA regulation at 49 CFR section 37 131(f) states:

Capacity constraints. The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:

- (1) Restrictions on the number of trips an individual will be provided;
- (2) Waiting lists for access to the service; or
- (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.
 - (i) Such patterns or practices include, but are not limited to, the following:
 - (A) Substantial numbers of significantly untimely pickups for initial or return trips;
 - (B) Substantial numbers of trip denials or missed trips;
 - (C) Substantial numbers of trips with excessive trip lengths.

We requested MTTA to provide trip records for your ADA Complementary Paratransit trips for the period of March 1999, through June 1999. According to MTTA's records, 90 percent of the 138 trips that were completed during that period were recorded as on time. MTTA's policy is that a trip is on time if it arrives between fifteen minutes before and fifteen minutes after the scheduled pick up time. MTTA stated that it experienced a higher number of mechanical problems than usual last summer because of the extreme heat and aging vehicles. The DOT ADA regulation at section 37 131 states that "operational problems outside the control of the entity do not count as part of a pattern or practice under this provision." Events beyond the control of the transit agency, such as weather and traffic accidents, will always be a factor in on time performance.

MTTA advises that it has taken steps to remedy these problems and is in the process of replacing its older vans. MTTA expects that this will result in improved on time performance. We do not find that the above constitutes a violation of the DOT ADA regulation; however, we have informed MTTA that it should strive for a 100 percent on time performance rate.

2. LIFT has unfairly counted you as a "no-show."

On several occasions LIFT was late in picking you up for your medical appointment. As a result, you were late for your dialysis appointment, and you were not ready to leave at your scheduled pick up time. LIFT in turn then counted you as a no show. This no show counts toward the penalty provisions of the transit property that may result in a suspension of service. In addition, you have to reschedule your return trip as a "will call" trip that costs \$3.00 instead of \$1.50.

The DOT ADA regulation at 49 CFR section 37.125 states that:

(h) The entity may establish an administrative process to suspend, for a reasonable period of time, the provision of complementary paratransit service to ADA eligible individuals who establish a pattern or practice of missing scheduled trips.

(1) Trips missed by the individual for reasons beyond his or her control (including, but not limited to, trips which are missed due to operator error) shall not be a basis for determining that such a pattern or practice exists.

We have informed LIFT that this practice is not in accordance with this requirement.

3. LIFT reservation telephone lines are often busy and you have had to wait for 45 minutes to get through.

Long waits on telephone lines can also be an indicator of problems with capacity constraints in accordance with 49 CFR section 37.131(f). MTTA tracks the length of time that its ADA Complementary Paratransit customers are placed on hold before speaking to a reservation staff person. Its records indicate that the maximum wait time for these calls is seven minutes.

MTTA believes that part of your problem may have occurred if you called the toll-free line to get a paratransit ride under Medicaid. That service, also provided by MTTA, doesn't open for service until 8:00 a.m., while the telephone line for the LIFT ADA service is open at 4:30 a.m. If you called before the Medicaid line was open, your call would have been placed in a queue and you may have had to wait for a long period until the lines were opened. There does not appear to be a capacity constraint regarding the telephone lines for ADA Complementary Paratransit reservations. The evidence does not support a violation of the DOT ADA regulations.

4. LIFT fares are more than twice the amount of MTTA fixed route fares.

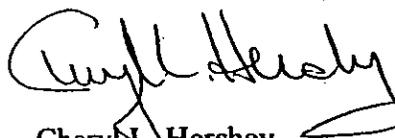
The DOT ADA regulation at 49 CFR section 37.131(c) states:

The fare for a trip charged to an ADA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the entity's fixed route system.

MTTA's LIFT Program charges \$1.50 for next-day ADA Complementary Paratransit service, which is twice the fare charged for fixed route service and within the amount allowed by the regulation. The charge for same-day service is \$3.00, but that service is not required under the DOT ADA regulations, and therefore not subject to the same requirements. As such this is not a violation of the DOT ADA regulations.

If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this to our attention.

Sincerely,



Cheryl L. Hershey
ADA Team Leader
Office of Civil Rights

cc: MTTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 31 2000

[REDACTED]

Re: FTA Complaint No. 99211

Dear [REDACTED]

This letter responds to your complaint of discrimination against the Broward County Division of Mass Transit, in Florida, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be that on several occasions, you experienced late pickups of over one hour by Village Car Service, one of Broward County's ADA Complementary Paratransit providers.

We informed Broward County of your allegations and requested information relating to your complaint; reviewed the information presented by Broward County and you; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determination follows:

The DOT ADA regulation at 49 CFR section 37.131(f)(3)(i)(A) and (ii) states:

(f) *Capacity constraints.* The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of untimely pickups for initial or return trips.

(ii) Operational problems attributable to causes beyond the control of the entity (including, but not limited to, weather or traffic conditions affecting all vehicular traffic that were not anticipated at the time a trip was scheduled) shall not be a basis for determining that such a pattern or practice exists.

You allege that Village Car was late in picking you up on several occasions, but did not know the exact dates. You did cite one particular occasion on August 23, 1999, in which Village Car was over one hour late. Broward County provided a copy of your trip history report for the months of June through August 1999. Broward County's stated policy is that a trip is considered "on time" if it arrives anywhere from 15 minutes before until 15 minutes after a scheduled pick-up time. FTA considers this policy to be reasonable. With that in mind, the report shows that out of the 116 trips that you took during that three-month time period, 98 trips were performed on time, and 8 were more than ten minutes late. The following is a break down of these 8 trips.

<u>Date</u>	<u>Minutes Late</u>
6/23/99	20
7/7/99	15
7/23/99	43
7/26/99	15
8/13/99	30
8/23/99	46
8/24/99	20
8/31/99	40

In order for a transit property to be in violation with this provision of the DOT ADA regulation regarding capacity constraints, there must be a pattern or practice of untimely pickups, trip denials and/or excessive trip lengths. A pattern or practice involves regular, or repeated actions not isolated, accidental, or singular incidents. Based on our investigation, we have not found sufficient evidence that your allegation constitutes a pattern or practice of noncompliance with the DOT ADA regulation.

If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,


Cheryl I. Hershey
ADA Team Leader
Office of Civil Rights

Enclosure

cc: Broward County Transit



U S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 4 2000

[REDACTED]

Re: FTA Complaint No. 00052

Dear [REDACTED]

The Federal Transit Administration (FTA) Office of Civil Rights has received your complaint, on behalf of your son, against New York City Transit, alleging discrimination under Title II of the Americans with Disabilities Act of 1990 (ADA). The complaint was forwarded to the Department of Transportation (DOT) by Congressman Gary L. Ackerman's Office.

You allege that your son, who has a physical disability, is inconvenienced because he cannot get the proper transportation to the train. You allege that the New York City Transit Q16 bus stops running at 1:00 am and that the Q16 bus starts running again at 4:45 am, which is too late for your son to arrive at his employment at 5:00 am.

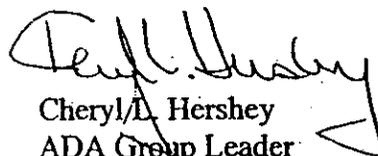
Please be advised that the Federal Transit Laws, as codified under 49 U.S.C., Section 5324 (c) entitled "Prohibitions against Regulating Operations and Charges," states:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under Section 5309 of this title and after a grant is made, may not regulate any charge for the system.

This law prohibits DOT from involving itself in operational matters of local jurisdiction such as the setting of fares or location, elimination, or temporary change of bus routes. This prohibition specifically does not include violations of an individual's civil rights under the ADA. After review of the facts, we find no violation here.

We will consider your complaint to be closed. If you have any questions, please contact Ms. Linda Wood King on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: *linda.king@fta.dot.gov* Please be sure to include your FTA complaint number in any future correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,


Cheryl D. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

[REDACTED]

APR 27 2000

Re: FTA Complaint No. 99018

Dear [REDACTED]

This letter responds to your complaint of discrimination against Suffolk County Transit in New York, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be as follows:

- **Suffolk County Transit bus operators fail to make stop announcements to passengers on board or identify bus routes to passengers who are waiting at a bus stop.**

We informed the Suffolk County government of your allegation and requested information relating to your complaint; reviewed the information presented by Suffolk County and you; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations.

The DOT ADA regulation at 49 CFR part 37.167(b) requires that stop announcements be made to passengers on board the bus as follows:

On fixed route systems, the entity shall announce stops as follows: (1) The entity shall announce stops at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location. (2) The entity shall announce any stop on request of an individual with a disability

The DOT ADA regulation at 49 CFR part 37 167(c) applies to external announcements as follows:

Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

Suffolk County advised us that over the past months, carriers have conducted mandatory driver meetings in which bus stop announcements have been addressed. The information included placing notices in common areas for bus operators, issuing memos with bus operator's paychecks, and monitoring operators for compliance.

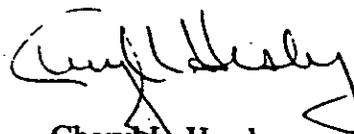
Suffolk County also advised that its private carriers under contract have provided additional driver sensitivity training that was completed in March 2000. The training included bus stop announcements. In addition, Suffolk County has placed complaint forms on all buses (prepaid postage mail-back) for passengers to report any complaints directly to its offices. Signs informing passengers of the availability of complaint forms and a telephone number to report noncompliance are displayed on the buses.

Suffolk County states that 42 new transit buses equipped with prerecorded bus stop announcements have been placed in service. They have also begun to retrofit older buses with PA systems to enhance driver ability to make appropriate announcements for onboard as well as waiting passengers.

We share your concern about the lack of compliance with the DOT ADA regulation regarding stop announcements, and we believe that the actions that Suffolk County has taken demonstrate that it too is aware of the problem. We will consider your individual complaint to be closed; however, we will continue to monitor incoming complaints against Suffolk County regarding stop announcements and, if necessary, will take further action as warranted.

If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl E. Hershey
ADA Group Leader
Office of Civil Rights

cc: Robert W Shinnick
Acting Director, Suffolk County Transportation Operations



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

APR 27 2000

[REDACTED]

Re: FTA Complaint No. 99228

Dear [REDACTED]

This letter responds to your complaint of discrimination against the Metropolitan Bus Authority (MBA), of San Juan, Puerto Rico, alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA). The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. The MBA ADA Complementary Paratransit provider, Dial-a-Ride, will not allow you to take your child to day care and to proceed to your job on the same bus; and
2. You received threats from the MBA Director of the Development and Programming Office; and rude and insensitive treatment from MBA's administrative personnel.

We informed MBA of your allegations and requested information relating to your complaint; reviewed the information presented by MBA and you; and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations below:

- 1. The MBA ADA Complementary Paratransit provider, Dial-a-Ride, will not allow you to take your child to day care and to proceed to your job on the same bus.**

The DOT ADA regulation at 49 CFR 37.129(a) states:

Except as provided for in this section, complementary paratransit service for ADA paratransit eligible persons shall be origin to destination service.

In your case, the origin would be your home and the destination would be the child care center. ADA Complementary Paratransit is meant to be comparable to fixed route service. On the regular fixed route, a bus would not wait for you while you take your child inside. Therefore, there is no requirement under comparability and the DOT ADA regulations that Dial-a-Ride wait for you while you take your child inside. As you pointed out, operationally in terms of cost, it may be more reasonable for Dial-a-Ride to wait for you rather than providing two additional trips per day. I understand that you have told Linda Wood King, Equal Opportunity Specialist, that Dial-a-Ride has agreed to wait for you while you take your child inside to day care and then proceed to your job on the same bus. We recognize and acknowledge that MBA has exceeded the requirements of the ADA in accommodating your travel needs. You have advised that you are satisfied with the service that is now being provided since filing this complaint.

We find no violation of the DOT ADA regulations in the provision of services as described.

- 2. The MBA Director of the Development and Programming Office, treated [REDACTED] in a disrespectful and discourteous, and potentially retaliatory manner.**

The DOT ADA regulation at 49 CFR 37.173 states:

Each public entity or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

In addition Department of Justice regulations 28 CFR Part 35 "Nondiscrimination on the Basis of Disability in State and Local Government Services; Final Rule" at section 35.134 states that:

- (a) No private or public entity shall 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 this part.**

- (b) No private or public entity shall 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 this part.

It is our understanding that during a meeting with the (former) Vice President of Development and Planning, Ms. Nancy Borges, that she threatened to terminate your service. It is also our understanding that MBA denies this allegation.

In the course of investigating this complaint, MBA provided a copy of a letter from Alpidio Rolon Garcia, President, National Federation of the Blind de Puerto Rico, to Ms. Nancy Borges. The letter is dated May 27, 1999, and documents the meeting between you, Mr. Garcia and Ms. Borges, that occurred on May 5, 1999. Mr. Garcia stated:

“ was it necessary for you to threaten and try to intimidate [REDACTED] and I, by saying that you would end the meeting and suspend [REDACTED] bus service? Your attitude was not only one of intolerance, but paternalistic and condescending.”

We note that this letter written shortly after the meeting appears to corroborate this allegation. We cannot conclusively confirm this allegation based upon the conflicting information. However, if this occurred, the behavior would be a violation of the above-cited section, and we ask MBA to remind its staff of their obligations under the ADA regulations. In addition, we understand that Ms. Borges is no longer on MBA staff and we acknowledge that MBA provided documentation that all Dial-a-Ride drivers have been or will soon be trained in accordance with the ADA regulations.

If you have any questions regarding this letter, please contact Ms. King on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Jaime Santana, Technical Resource Director
Jorge Rivera Rodriguez, President & General Manager



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 28 2000

[REDACTED]
Hinsdale South High School
7401 Clarendon Hills Road
Darien, Illinois 60561

Re: FTA Complaint No. 99289

Dear [REDACTED]

This letter responds to your complaint of discrimination, on behalf of your student, [REDACTED], against the Pace Suburban Bus Service, Arlington Heights, Illinois, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulation, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

- 1 On October 21, 1999, you and your students, including [REDACTED], attempted to board Bus #2047 to go on a field trip. [REDACTED] was boarded successfully on the lift, but when the operator tried to retract and stow the lift, it wouldn't operate. Another bus was dispatched, but took over an hour to arrive. As a result, you and your students were unable to go on the field trip originally scheduled and had to completely alter your plans.

2. On your return trip, when you and your students attempted to board Bus #2555 to return to school, the lift would not completely deploy, and you were again faced with an inaccessible bus. A vehicle was dispatched to the scene, but, in the meantime, one of your school buses came and picked you and your students up and took you back to school.

We informed Pace of your allegations and requested information relating to your complaint; reviewed the information presented by Pace and you; and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations below:

1. **You state that the lift on the bus was inoperable and it took the Transit Company over an hour to provide alternative transportation.**

The DOT ADA regulation at 49 CFR 37.163 states:

(a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.

(b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.

(c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.

PACE has a policy that all lifts are cycled every morning. The records PACE submitted to document the daily cycling were for bus #2555, not #2047, and included the day before and after the date of the incident, but not the date of the incident. As such it is not clear to what degree this policy is followed by PACE. PACE did submit records showing that both buses had regular maintenance. This particular bus #2047 had been serviced seven times in a three month period with the last maintenance occurring on October 11, 1999. Despite the fact, it appears they were having some problems with this lift, it does appear that they regularly serviced it. It is less clear that whether PACE ran daily lift cycling checks. We will be requesting PACE to submit verification of their application of this policy system wide.

- 2. On your return trip the lift would not completely deploy, and you were again faced with an inaccessible bus.**

The same provisions of the DOT ADA regulations cited above apply. PACE's investigation showed that the lift was cycled in the morning and was working properly and operating without any problem later that day. With further investigation, PACE concluded that the operator had attempted to deploy the lift on uneven ground. Manufacturing specifications will not allow the lift to deploy on uneven ground. The error in this case was that of the operator. The operator should have moved the bus and tried to deploy the lift again. When this conclusion was reached, PACE ordered dispatchers, in the future, to direct operators to move to another area and test the lift again before calling for a backup vehicle.

We will be obtaining further information from PACE and if a system wide problem is determined to exist, require PACE to promptly come into compliance.

If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, on our toll-free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Pace



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 28 2000

[REDACTED]

Re: FTA Complaint No. 99170

Dear [REDACTED]

This letter responds to your complaint regarding the Central Florida Regional Transportation Authority (LYNX), Orlando, Florida, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

The allegations we have jurisdiction over and therefore investigated in accordance with the DOT ADA regulations are the following:

- 1 You have experienced an excessive number of late pickups on A+ LYNX trips.
2. You have also experienced rude and abusive behavior from ADA Complementary Paratransit drivers.
- 3 The transit provider limits the number of bags you are allowed to bring on the vans.
4. On one occasion a driver was verbally abusive to you.

We informed LYNX of your allegations and requested information relating to your complaint, reviewed the information presented by LYNX and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determinations below

1. You have experienced an excessive number of late pickups on A+ LYNX trips.

The DOT ADA regulation at 49 CFR part 37:123(f) states:

Capacity constraints. The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:

- (1) Restrictions on the number of trips an individual will be provided;
- (2) Waiting lists for access to the service; or
- (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.
 - (i) Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of significantly untimely pickups for initial or return trips;

FTA is aware of LYNX's on time performance record, based on a recently conducted assessment. We will be working with LYNX to improve its on-time performance. We will take no further action with regards to your individual complaint on this matter, but will continue to pursue this issue with LYNX.

2. You have also experienced rude and abusive behavior from ADA Complementary Paratransit drivers.

According to the DOT ADA regulation at 49 CFR part 37 173

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

LYNX's records show that you have made a number of complaints regarding rude drivers. In each incident, the driver was counseled and, if appropriate, disciplined. We find this as evidence that LYNX is working to ensure that their drivers treat passengers in a courteous, appropriate manner.

In addition, LYNX provided documentation showing that drivers have made a number of complaints about your son's and your behavior while riding on A+ Link. The records also show that in November you received a verbal warning that if your ill treatment of drivers continued. Please note the following section of the DOT ADA regulation that provides for suspension of service in certain instances based on the rider's behavior. Suspension of service is allowed under the DOT ADA regulation at 49 CFR 37.5(h):

It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct.

3. The transit provider limits the number of bags you are allowed to bring on the vans.

The DOT ADA regulations do not address this matter. This issue is controlled by local policy and is determined by the transit provider presumably in conjunction with its disability community

5. On one occasion a driver was verbally abusive to you.

You allege that on August 29, 1999, the driver came 15 minutes late and took 15 minutes to secure you. The driver then went to another pickup, even though she had been instructed by the dispatcher to take you to your appointment. You arrived 15 minutes late, and when your son unstrapped the securements, the driver was verbally abusive to you and refused to let you off the van. You asked your son to call the police and then left the van.

LYNX's response to this allegation states that when your son began to unstrap the securements, the driver told him to stop, because LYNX policy is that no one other than the driver is allowed to handle the securements. Your son continued to unstrap the securements, despite the order from the driver. The driver stopped you from leaving the van temporarily, while she told your son repeatedly to stop handling the securements. The driver let you off the van, but was instructed to wait until the police arrived. She came into the office to find out if the police were coming.

The DOT ADA regulation at 49 CFR Part 37.165(c)(1) states:

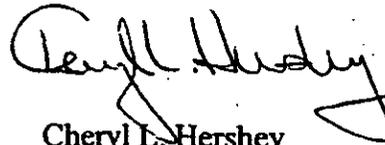
For vehicles complying with part 38 of this title, the entity shall use the securement system to secure wheelchairs as provided in that Part.

All A+ Link drivers are trained in the proper method of securing wheelchairs, and it is LYNX's policy that only drivers are supposed to use the securement system. The driver was within her responsibilities in her attempts to stop your son from unstrapping your wheelchair. In the future, we suggest that you allow the drivers who are transporting you to do their jobs of securing your wheelchair and that you wait until a driver has cleared all the straps before you attempt to exit a vehicle.

As to the allegation that the driver was verbally abusive, we have reminded LYNX that all A+ Link customers are to be treated with courtesy and respect. Based on the above determinations, we will take no further action regarding this complaint.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address mary-elizabeth.peters@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: LYNX
A+ Link



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 28 2000



Re: FTA Complaint No. 99207-TA

Dear [REDACTED]

This letter responds to your letter that voiced your concerns about Monterey-Salinas Transit (MST), of Monterey, California. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the Americans with Disabilities Act of 1990 (the ADA), the Department of Transportation (DOT) ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA technical assistance response process, we review and evaluate the facts as presented and provide guidance based upon the ADA and the DOT ADA regulation. If we identify what may be a violation, we initiate a complaint investigation.

We understand your concerns to be as follows:

- On August 5, 1999, you were disturbed by another passenger on the bus who was "developmentally disabled," and when you attempted to complain about the incident, MST employees were not responsive.

You allege that the passenger "poked his head right in my face several times, staring into my eyes and making guttural sounds, causing me to duck my head and be generally uncomfortable during the course of the ride."

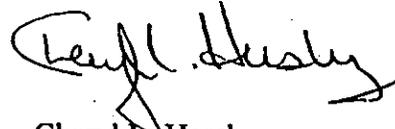
The ADA is a civil rights law that was passed with the intent of protecting the rights of persons with disabilities; however, it was not meant to protect those rights to the exclusion of the rights of others. The DOT ADA regulation provides for sanctions if a person with a disability exhibits violent, illegal or seriously disruptive behavior. It states at 49 CFR section 37.5(h):

It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

Appendix D of the ADA DOT regulation provides guidance in saying that "involuntary conduct related to a disability that may offend or annoy other persons, but which does not pose a direct threat, is not a basis for refusal of transportation." From your description, it appears that while the behavior that you encountered was offensive to you, it did not rise to the level of "seriously disruptive" as contemplated by the DOT ADA regulation. As such, the transit property's response did not constitute a violation of the DOT ADA regulation.

If you have any questions regarding this response, please contact Roberta Wolgast, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: MST

L Craig



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 28 2000

[REDACTED]

Re: FTA Complaint No. 99236

Dear [REDACTED]

This letter responds to your complaint of discrimination filed against the Adams County Senior Services (Handibus), of Hastings, Nebraska, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be as follows:

- **You are not allowed to travel on Handibus vehicles with your electric three-wheel scooter, instead, you are required to use a manual wheelchair supplied by Handibus.**

We informed Adams County of your allegation and requested information relating to your complaint; reviewed the information presented by Adams County and you; and made a determination on your allegation based on the complied information in relation to the DOT ADA regulations. We have restated your allegation followed by our determination below:

- **The ADA Complementary Paratransit provider, Handibus, requires you to transfer out of your three-wheel scooter to a manual wheelchair in order to ride.**

From your correspondence, it is evident that you are aware of the DOT ADA regulations governing the transport of wheelchairs on public transportation vehicles. We will restate the relevant regulation sections below for your reference.

The DOT ADA regulation at section 37.5(a) prohibits discrimination against persons with disabilities by the following section:

No entity shall discriminate against an individual with a disability in connection with the provisions of transportation service.

According to the DOT ADA regulation at section 37.3, the following is the definition of a "common wheelchair"

Wheelchair means a mobility aid belonging to any class of three or four-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered. A "common wheelchair" is such a device, which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied. (NOTE. APPENDIX D of section 37.165 provides guidance stating: "All people using common wheelchairs (an inclusive term for mobility devices that fit on lifts meeting Access Board guideline dimensions-30" by 48" and a maximum of 600 pounds for device and user combined-which includes three-wheeled scooters and other so called non-traditional mobility devices) are to be allowed to ride the entity's vehicles."

The DOT ADA regulation at sections 37.165(b) through (d) apply to lift and securement use:

(b) All common wheelchairs and their users shall be transported in the entity's vehicle or other conveyances. The entity is not required to permit wheelchairs to ride in places other than designated securement locations in the vehicle, where such locations exist.

(c)(1) For other vehicles transporting individuals who use wheelchairs, the entity shall provide and use a securement system to ensure that the wheelchair remains within the securement area. (2) For other vehicles transporting individuals who use wheelchairs, the entity shall provide and use a securement system to ensure that the wheelchair remains within the securement area. (3) The entity may require that an individual permit his or her wheelchair to be secured.

(d) The entity may not deny transportation to a wheelchair or its user on the ground that the device cannot be secured or restrained satisfactorily by the vehicle's securement system.

(e) The entity may recommend to a user of a wheelchair that the individual transfer to a vehicle seat. The entity may not require the individual to transfer.

You have the right to ride if your wheelchair fits the definition of common wheelchair outlined above. If it fits the definition of common wheelchair, the transit provider may ask you to transfer, in order to better secure your wheelchair, but may not require you to transfer. It is unclear from the information before us the weight and dimensions of your scooter.

The transit property has an obligation to secure your wheelchair to the best of their ability. This requirement is to use best efforts to restrain or confine the wheelchair to the securement area. The entity **does the best it can**, given its securement technology and the nature of the wheelchair. However, if the wheelchair cannot be secured, you still have the right to ride. An entity may not deny transportation to a common wheelchair and its user because the wheelchair cannot be secured or restrained by a vehicle's securement system, to the entity's satisfaction. The Department encourages entities with relatively less adequate securement systems on their vehicles, where feasible, to retrofit the vehicles with better securement systems, that can successfully restrain a wide variety of wheelchairs.

You have the right to ride on a Handibus vehicle with your electric scooter if it fits the definition of a common wheelchair. Denying you this right under these circumstances constitutes a violation of the DOT ADA regulation. We have advised Adams County Senior Service (Handibus) of our determination and advised it to immediately change this policy.

If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Ardella Rold
Executive Director, Handibus



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 31 2000

Mr. Michael Godino
President, American Council
of the Blind of New York of Long Island
1064 Alhambra Road
Baldwin, New York 11510-1203

Re: FTA Complaint No. 00060

Dear Mr. Godino:

This letter responds to your complaint of discrimination, filed on behalf of the members of the Long Island Chapter of the American Council of the Blind, against the New York Metropolitan Transportation Authority Long Island Bus. You allege potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that:

- On March 28, 2000, Long Island Bus held a public hearing regarding extensive cuts to fixed route bus service without providing sufficient notice in alternate formats to its blind customers. You state that this was despite your organization's advance warning that the blind community would not be properly notified by Long Island Bus' stated plans for advertising.

Upon receiving the identical complaint regarding the upcoming hearing from another person via a telephone call, we informed Long Island Bus of this allegation and intervened to the best of our ability at that time. The following determination is based on our analysis of the compiled information from the original telephone complaint, your complaint, and our intervention with Long Island Bus, in relation to the DOT ADA regulations. We have restated your allegation followed by our determination below

- **Long Island Bus did not provide adequate notification in alternative formats of a public hearing regarding service cuts to its fixed route bus service.**

The DOT ADA regulation states at 49 CFR part 37 165(f):

The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

According to a telephone conversation with Allen Erenrich, Assistant Vice President for Planning of Long Island Bus, we ascertained that notification of the upcoming hearing was provided by posting notices on fixed route buses and paratransit vehicles, and by publication of legal notices in at least one daily and additional other local newspapers. He stated that Long Island Bus' difficulties and impending cut backs had been widely publicized and that "hundreds" of telephone calls on the subject had been received. He also stated that officers of the American Council of the Blind were advisory committee members and were aware of the hearing.

We informed Mr. Erenrich that the limited advertisement did not meet the requirements of the DOT ADA regulation as stated above. Mr. Erenrich stated that approximately 150 persons were signed up to speak at the hearing and that canceling it was not a viable option. We made suggestions for immediate corrective actions and received his verbal assurance that notice of any future public meetings would be properly disseminated in alternate formats. The following is a list of our suggestions to Mr. Erenrich. It should not be considered a complete list of alternatives.

For Immediate Action

- Place an announcement on the ADA Complementary Paratransit reservation line.
- Place an announcement on the fixed route information telephone line.

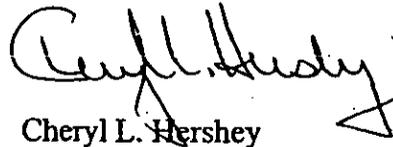
Additional Suggestions For Advertising Future Public Meetings

- Involve advocacy groups. Ask them to notify their members. Provide a direct mailing to their members.
- Make public service announcements on local radio and television stations.
- Enlist bus drivers in notifying visually impaired passengers.

We note that we have been assured by Long Island Bus that future public meetings will be properly advertised in accordance with the DOT ADA regulation. We will, by way of cover of separate letter, follow-up regarding this matter with Long Island Bus.

If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Long Island Bus

Federal Transit Administration

TCR:RWolgast:rw:60802:5/15/00

Electronic copies to: TRO-2; OST(Tochen, Dunham, Ashby), TCC (Wong), All TCR Staff

Hard Copies to: TCR-ADA, (Craig, Wolgast), Chron/Subject

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U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 31 2000

Mr. Stephen F Palevitz
Staff Attorney
Arizona Center for Disability Law
Tucson, Arizona 85716

Re: FTA Complaint No. 97171

Dear Mr. Palevitz:

This letter responds to your complaint of discrimination filed on behalf of [REDACTED] against the City of Tucson, Arizona, and the potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. The vertical handrails adjacent to the lift on Sun Tran's RTS buses are unsafe because when the lift is raised, the bottom end of the handrail can crush the arm of the passenger using the lift; and
2. The securement system on Sun Tran's Neoplan buses failed to limit the movement of [REDACTED] scooter.

We informed the City of your allegations and requested information relating to your complaint; reviewed the information presented by the City and you; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations below

1. **The vertical handrails adjacent to the lift on Sun Tran's RTS buses are unsafe because when the lift is raised, the bottom end of the handrail can crush the arm of a passenger using the lift.**

According to the DOT ADA regulation at Section 38.23(b)(13):

Platforms on lifts shall be equipped with handrails on two sides, which move in tandem with the lift, and which shall be graspable and provide support to standees throughout the entire lift operation. Handrails shall have usable component at least 8 inches long with the lowest portion a minimum 30 inches above the platform and the highest portion a maximum 38 inches above the platform.

In reviewing the information provided, the City of Tucson became aware of the safety problem and requested Lift U, a lift manufacturer, to modify all 55 handrails. On April 3, 1998, Lift-U completed the modification of the handrails to: (1) widen the clearance space from existing grab rail; and, (2) so that a curved return on the bottom of the grab bar to guide any obstacle out from underneath the grab bar. We understand that the measurements of the handrail assembly on the new Flyer buses are as follows:

Height above platform: 36.5"
Rail length: 13"
Knuckle clearance: 2"
Rail diameter: 1.25"

These measurements are in accordance with the DOT ADA regulation. We will take no further action on this issue.

2. **The securement system on Sun Tran's Neoplan buses fails to limit the movement of [REDACTED] scooter.**

The DOT ADA regulation at Section 38.23(d)(3), "*Mobility aids accommodated*," states that:

The securement system shall secure common wheelchairs and mobility aids and shall either be automatic or easily attached by a person familiar with the system and mobility aid and having average dexterity

A "common wheelchair" is defined in the DOT ADA regulation at Section 37.3 as follows:

A mobility aid belonging to any class of three or four wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered. A "common wheelchair" is such a device which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied.

Appendix D at Section 37.163 provides guidance in saying that:

All people using common wheelchairs (an inclusive term for mobility devices that fit on lifts meeting Access Board guideline dimensions-30" by 48" and a maximum of 600 pounds for device and user combined-which includes three-wheeled scooters and other so-called non-traditional mobility devices) are to be allowed to ride the entity's vehicles.

In cases where the bus may not meet Section 38 specifications, the DOT ADA regulation requires at section 37 165 (2) that "the entity shall provide and use a securement system to ensure that the wheelchair remains within the securement area."

The Appendix offers as guidance section 37 165 (2) which states:

The entity is required, on a vehicle meeting part 38 standards, to use the securement system to secure wheelchairs as provided in that part. On other vehicles (e.g. existing vehicles with securement systems which do not comply with Part 38 standards), the entity must provide and use a securement system to ensure that the mobility device remains within the securement area. This latter requirement is a mandate to use best efforts to restrain or confine the wheelchair. The Department encourages entities with relatively less adequate securement systems on their vehicles, where feasible, to retrofit the vehicles with better securement systems, that can successfully restrain a wide variety of wheelchairs. It is our understanding that the cost of doing so is not enormous.

The City of Tucson states that it operates 1991 Neoplan buses that were solicited by bid before the publication of the DOT ADA regulations and consequently before the Section 38 specifications were in effect. The City of Tucson has established operational and safety standards that require two tie-downs in order to limit the movement of wheelchairs while in the securement area. The City also advised FTA that it has a training program in place for all drivers, which includes training on scooter and wheelchair securement procedures, wheelchair lift operation/requirements and lift deployment.

The City of Tucson's efforts are in accordance with the DOT ADA regulation. However, in accordance with the guidance provided by the Appendix at Section 37 165 (2) quoted above, we encourage the City of Tucson to retrofit their vehicles with better securement systems allowing for better restraint of a wide variety of wheelchairs.

In the course of this investigation, we learned that the City has the following policy

If, under unusual circumstances, these safety standards cannot be met, operators are instructed to call Dispatch for notification and direction on how to proceed. If it is determined that a safety concern could arise, in most cases, drivers are instructed not to transport the passenger.

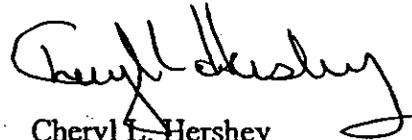
The DOT ADA regulation at 49 CFR part 37.165(d):

The entity may not deny transportation to a wheelchair or its user on the ground that the device cannot be secured or restrained satisfactorily by the vehicle's securement system.

Although, this issue may not directly affect [REDACTED] complaint, we will address it separately with the City as the City's stated policy is in conflict with the DOT ADA requirements.

Based on the above determination, we will take no further action regarding this matter. If you have any questions regarding this letter, please contact Roger Peralta, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. Thank you for bringing this matter to our attention. We regret the delay in our response.

Sincerely,



Cheryl E. Hershey
ADA Group Leader
Office of Civil Rights

cc: City of Tucson



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 31 2000



Re: FTA Complaint No. 00040

Dear 

This letter responds to your complaint that you sent via electronic mail to Mrs. Hillary Clinton on November 22, 1998, and which the Federal Transit Administration (FTA) Office of Civil Rights received on March 2, 2000. We regret the delay you have experienced in obtaining a response to your concerns. In your letter you allege that the Tulsa Transit Authority (TTA) is in potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand that your allegations pertain to the Tulsa ADA Complementary Paratransit service that is provided by TTA, and are as follows:

- 1 You were told by a representative at TTA that "same day" trips and "will call" trips are not required by the DOT ADA regulations.
2. You were told by a representative at TTA that ten-minute stops while on a trip are not required by the DOT ADA regulations.
- 3 TTA charges two times the fixed route fare for ADA Complementary Paratransit service.

We reviewed the information you presented and made a determination on your allegations based on our analysis of your allegations in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations below:

1. **You were told by a representative at TTA that "same day" trips and "will call" trips are not required by the DOT ADA regulations.**

You also state that TTA requires reservations to be made at least a day in advance. The DOT ADA regulation states at 49 CFR part 37 131(b):

Response Time. The entity shall schedule and provide paratransit service to any ADA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day

TTA is correct in its implementation of this rule. Although "same day" and "will call" service may be provided at the option of the transit agency, it is not required by the DOT ADA regulations. If TTA does provide this type of service, it may charge more than its normal fare.

2. **You were told by a representative at TTA that ten minute stops while on a trip are not required by the DOT ADA regulations.**

You state that "Going to a dry cleaners or an ATM machine is just as important as going to a doctor's office." We do not disagree with your premise; however, ADA Complementary Paratransit was created to provide comparable service to fixed route [bus] service for persons with disabilities who cannot use the regular fixed route transit. The DOT ADA regulation at 49 CFR part 37 129(a) states:

Except as provided in this section, complementary paratransit service for ADA paratransit eligible persons shall be origin-to-destination service.

This means that in order to visit the doctor, the dry cleaner, and the ATM machine, TTA can insist that you schedule three separate trips. Just as a bus would not wait while you conducted business, ADA Complementary Paratransit vans are under no obligation to stop and wait for ten minutes for your convenience.

3. **TTA charges two times the fixed route fare for ADA Complementary Paratransit service.**

The DOT ADA regulation addresses fares for ADA Complementary Paratransit service as follows at 49 CFR part 37 131(c):

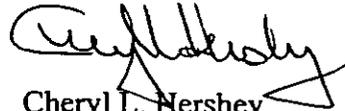
(c) *Fares.* The fare for a trip charged to an ADA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the entity's fixed route system.

(1) In calculating the full fare that would be paid by an individual using the fixed route system, the entity may include transfer and premium charges applicable to a trip of similar length, at a similar time of day, on the fixed route system.

You state that the fixed route bus fare costs \$ 75, and the same trip on the TTA ADA Complementary Paratransit service costs \$1.50. This is acceptable under the DOT ADA regulation.

We hope that we have adequately responded to your concerns. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: TTA (Identity of Complainant Withheld)

Federal Transit Administration

TCR:RWolgast:rw:60802: 4/14/00

Electronic copies to: TRO-6, OST(Tochen, Dunham, Ashby), TCC (Wong), All TCR Staff

Hard Copies to: TCR-ADA, (Craig-3, Wolgast), Chron/Subject

0\Craig\ [REDACTED]



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 31 2000

[REDACTED]

Re: FTA Complaint No. 00012

Dear [REDACTED]

This letter responds to your complaint against the Niagara Frontier Transportation Authority (NFTA), in Buffalo, New York, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

- 1 NFTA improperly suspended you for thirty days from ADA Complementary Paratransit service in August 1999;
2. You were unable to keep two doctor appointments because NFTA did not process your recertification application on time;
- 3 NFTA reservation clerks are routinely abusive and refused to take your reservation; and
4. NFTA retaliated against you after you filed a complaint by charging you a fare when you accompanied a friend with disability

We informed NFTA of your allegations and requested information relating to your complaint; reviewed the information presented by NFTA and you; and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations below

1. NFTA improperly suspended you for thirty days from ADA Complementary Paratransit service in August 1999.

The DOT ADA regulation 49 CFR 37.125(h) states:

The entity may establish an administrative process to suspend, for a reasonable period of time, the provision of complementary paratransit service to ADA eligible individuals who establish a pattern or practice of missing scheduled trips. (2) Before suspending service, the entity shall take the following steps: (i) Notify the individual in writing that the entity proposes to suspend service, citing with specificity the basis of the proposed suspension and setting forth the proposed sanction. (ii) Provide the individual an opportunity to be heard and to present information and arguments, (iii) Provide the individual with written notification of the decision and the reasons for it.

By letters dated February 18, 19, and June 7 and 17, 1999, NFTA informed you of its "Missed Trip" policy that if the individual has six missed trips, or six late cancellations, or six combination of missed trips and/or late cancellations during a 6-month period, the individual's eligibility will be suspended for 30 calendar days. We find these letters sufficient to confirm that you had prior knowledge of NFTA's policy

According to documentation we have received, you have eight missed trips between February 2 and May 28, 1999. You received a warning notice dated February 19, 1999, that stated, "Should you continue to make reservations, then miss the trip, or cancel late, the terms listed within the Metro PAL Missed Trips Policy will be enforced." According to NFTA, you missed another trip on June 8, 1999, which resulted in suspension letter dated June 7, 1999, suspending your eligibility for 30 days; however, the 30th day was lifted in order for you to use the service for your medical appointment. You were notified of your right to appeal and you requested an appeal; your appeal was heard by the NFTA Paratransit Administrative Appeals Board and on June 17, 1999, you were notified that your appeal was denied. You then again appealed the decision and the Board, chaired by representative of the disabled community, upheld the decision to suspend your eligibility

We find that NFTA met its obligations under this section by providing due process and your right to appeal. Even though you were not satisfied with the outcome NFTA afforded you the right to two appeals.

2. You were unable to keep two doctor appointments because NFTA failed to process your eligibility recertification on time.

The DOT ADA regulation at 49 CFR 37.125(f) states that, "The entity may require recertification of the eligibility of ADA paratransit eligible individuals at reasonable intervals." The DOT ADA regulation allows an entity to re-certify eligibility at

reasonable intervals to make sure that changed circumstances have not invalidated or changed the individual's eligibility. Often, there are persons who were, at one time, eligible for paratransit service, but because circumstances have changed (such as fixed route buses have become accessible or the person's ability to travel on fixed route has improved), these passengers are no longer considered to require ADA complementary paratransit service.

We have reviewed the information you presented and NFTA and found that NFTA, in its January 21, 1999, letter to you, has given you a one-year "conditional" eligibility to use the ADA. You were also informed that you may re-apply for service at any time if your functional ability to use the regular bus has changed or request a recertification application by mail; however, you waited until your eligibility almost expired. In speaking with NFTA May 22, 2000 they advise that they have not yet received from you verification from your health care provider. Until this information is received your application is not complete and it will not be processed. We recommend that you submit the additional documentation to NFTA for evaluation. Beyond this, we are unable to take any further action on this issue.

3. NFTA reservation clerks are routinely abusive and refused to take your reservation.

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

You stated that NFTA reservation staff (no name mentioned) routinely are very rude and arrogant when you make your reservation by cutting you off in the middle of your sentence. Upon receipt of your complaint we asked NFAT to respond. They advised that they located the dates you made your reservations and listened to the tape of that time period and messages and found no evidence of verbal abuse on the part of NFTA personnel. In addition Ruth Keating, attorney for NFTA, advised that when she has received your complaints regarding reservationists being rude she has offered for you to come in and listen to the tape recording. She states, that to date you have not availed yourself of this opportunity. We also received documentation that NFTA has trained its staff in serving persons with disabilities, as required by the ADA.

We recognize that training does not always ensure that proper implementation occurs. We recommend in the future that you immediately report any incidents with rude employees directly to NFTA with enough information for NFTA to identify the offending person, such as the name, time of day, and circumstances surrounding the incident. NFTA has a disciplinary process in place to address these problems and NFTA assured us that every effort will be made to be courteous to all its riders. Based on the above we find no violation of the DOT ADA regulation:

4. NFTA retaliated against you by charging you a fare when you accompanied your eligible rider friend on the ADA Complementary Paratransit, after you filed a complaint against them.

The DOT ADA regulation at Section 37.131(c) allows for paratransit fares to be twice the fare for a fixed route trip similar in length, at a similar time of day, and without regard to discounts.

The DOT ADA regulation at Section 37.131(c) (2) allows that for fares for individuals accompanying ADA paratransit eligible individuals, shall be the same as for the ADA paratransit eligible individuals that they are accompanying.

The ADA DOT regulation at 37.131 (c) (3) provides that if the person with disability is accompanied by a personal care attendant, they ride free.

Section 503(a) of the ADA (42 USC 12203) states:

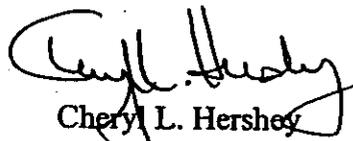
Retaliation. – No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, or participated in any manner in an investigation, proceeding, or hearing under this Act.

In your complaint you state that prior to filing the complaint you accompanied your eligible rider friend free of charge. However, after the filing of the complaint NFTA charged you when you accompanied your eligible rider friend. In speaking to NFTA they advise that at no time were you permitted to ride free, that the eligible rider you accompanied did not have a designated personal care attendant, and that you were charged the same fare as your eligible rider friend that you were accompanying as a companion. NFTA also provided their written fare policy that we reviewed and found satisfactory

Based on the investigation and the above analysis we find that there is no violation of the DOT ADA regulation regarding fares, and the facts do not support the claim of retaliation..

Based on the determination, we will take no further action regarding this complaint. Thank you for bringing this matter to our attention. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Niagara Frontier Transportation Authority



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 30 2000

Paul Hunt, Esq.
9717 Capitol View Avenue
Silver Spring, Maryland 20910

Re: FTA Complaint No. 99040

Dear Mr Hunt:

This letter responds to the complaint you filed on behalf of your client, [REDACTED] against the Washington Metropolitan Area Transit Authority (WMATA). You allege noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand [REDACTED]'s allegations to be as follows:

- 1 On December 17, 1998, the platform to street elevator at the WMATA Smithsonian Station was out of order, yet the information was not available to [REDACTED] who uses an electric wheelchair, before he reached the station and tried to exit.
2. The elevators at this station are frequently out of service.
- 3 The WMATA Station Manger denied [REDACTED] access by preventing him from traveling up the escalator in his electric wheelchair to exit the station.

We informed WMATA of [REDACTED]'s allegations and requested information relating to the complaint, reviewed the information presented by you and WMATA, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. We have restated the allegations below followed by our determination on each.

1. On December 17, 1998, the platform to street elevator at the WMATA Smithsonian Station was out of order, yet the information was not available to [REDACTED] who uses an electric wheelchair, before he reached the station and tried to exit.

The DOT ADA regulation states at 49 CFR part 37 167(f) that:

The entity shall make available to individuals with disabilities adequate information concerning transportation services.

[REDACTED] states that before leaving for work, he tried to call WMATA's Metro Mobility Link telephone line to ascertain the status of the Smithsonian Station elevator, but "no staff was available" to assist him. According to the documentation that WMATA provided, the elevator at Smithsonian Station was determined to be out of service at 5:56 a.m. The Metro Mobility Link information line opens at 6:00 a.m. daily and is answered by WMATA's Office of Customer Services. Although it is unclear at exactly what time the information about the elevator became available through this format, WMATA's policy is to immediately notify the Office of Customer Services of elevator outages. [REDACTED] stated that "no staff was available", but did not indicate if he was placed on "hold" or if the line was busy or not answered.

WMATA's stated policy when an elevator is out of service is to disseminate the information in several ways. These are as follows:

- Information is available through the above noted Metro Mobility Link telephone line which is updated by 6:00 a.m. on weekdays and upon occurrence of a malfunction throughout the day;
- Information is posted at the Station Manager's kiosk; and
- Information is announced within the stations and on board trains.

Because FTA staff live in this area and ride the WMATA system, we are aware through observation that WMATA does implement its stated policy regarding notification of elevator outages. We can confirm that the information is posted at kiosks. We have heard the announcements regarding elevator outages made both in the stations and on rail cars, and we made a test call to the Metro Mobility Link line and were able to ascertain elevator outage information for a specific station. Based on our direct observation and on the information provided, WMATA's policy on providing notification of elevator outages meets the requirements of the DOT ADA regulation regarding the provision of adequate information.

2. The elevators at this station are frequently out of service.

The DOT ADA regulation at 49 CFR part 37 161(a)-(c) addresses the requirements to keep accessibility features in working condition. It states the following:

- (a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and

systems to facilitate communications with persons with impaired vision or hearing.

(b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

(c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

WMATA provided documentation regarding the service history of the malfunctioning elevator for the past six months. During that period it showed that the elevator had failed 14 times and was out of order for 76.98 hours out of 3,232 operating hours. It was in service for 3,155.02 hours for an in service rate of 97.62%. The documentation also showed that this elevator was promptly repaired when it malfunctioned. The longest period that it was out of service was 22.5 hours. The facts do not support [REDACTED] claim that the elevators at the Smithsonian station are frequently out of service.

When an elevator is out of service at WMATA stations, a "bus bridge" is activated to accommodate individuals with disabilities who would be affected by the closure. On December 17, 1998, the bus bridge was available from the Federal Triangle Station to the Smithsonian station beginning at 6.30 a.m. [REDACTED] was offered this service, but refused. WMATA records indicate the incident occurred at approximately 7:00 a.m.

Based on our analysis of the documentation provided, WMATA's actions meet the requirements of the DOT ADA regulation.

3. The WMATA Station Manager denied [REDACTED] access by preventing him from traveling up the escalator in his electric wheelchair to exit the station.

The DOT ADA regulation does not specifically address this issue. However, the Department of Justice ADA regulation at 28 CFR part 36.208(a) states that:

This part does not require a public accommodation to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of that public accommodation when that individual poses a direct threat to the health or safety of others.

This incident was brought to the attention of the station manager by a patron who informed him that he had witnessed a person using a wheelchair lose his balance and almost fall backwards while attempting to ride up the escalator. A contemporaneous report written by WMATA employees involved in the incident stated that [REDACTED] was unable to ride the escalator independently in his electric wheelchair and requested assistance from WMATA employees. It was also noted that [REDACTED] was still at the bottom of the escalator when the station manager arrived to address the situation.

██████████ efforts to ride the escalator using his electric wheelchair, under these particular facts, provide a reasonable basis for legitimate safety concerns on behalf of WMATA. As such, the direct threat section cited above is applicable. We do not consider WMATA's failure to allow a person to ride an escalator while using an electric wheelchair to constitute a violation of the ADA.

Based on the above stated determinations, we will take no further action regarding this complaint. If you have any questions regarding this decision, please contact Roberta Wolgast, Equal Opportunity Specialist, at 202-366-0802, or at her electronic mail address: roberta.wolgast@fta.dot.gov We apologize for the delay in responding to your complaint.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: WMATA

Federal Transit Administration
TCR:RWolgast:rw:60802: 4/26/00
Electronic copies to: TPM (Kerr), TCC (Wong, Levy, Lisemann), OST (Ashby, Techen, Dunham), All TCR Staff
Hard copies: TCR-ADA Chron/Subject/wolgast/craig (3)
0-wolgast/██████████



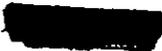
U.S. Department
of Transportation
Federal Transit
Administration

JUN 30 2000

400 Seventh St., S.W.
Washington, D.C. 20590



Re: FTA Complaint No 00-0215

Dear 

This letter responds to your complaint of discrimination against the Port Authority of Allegheny County (PAT), of Pittsburgh, Pennsylvania, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations against ACCESS Services, the ADA Complementary Paratransit service provider for PAT, to be as follows:

1. You obtained a new wheelchair. You were told that your weight plus the weight of your chair exceeds the maximum weight capacity on ACCESS Services' older lift vans. However, the newer vans have a lift capacity of 800 pounds that you believe would allow you to ride safely
2. A representative from ACCESS Services measured the width of your wheelchair and said that it was 48 inches. According to the vendor from which you purchased the wheelchair, Assistive Technologies, Inc., the width of your chair is 36 inches. You believe the ACCESS Services staff person measured your wheelchair inaccurately
3. You feel that you have been denied due process, because there is no appeal process for this issue.

We reviewed the information presented by you in your letter of November 23, 1999, and in a telephone interview with the investigator, Mary-Elizabeth Peters, and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations below:

- 1. You believe that your new wheelchair is under the weight capacity of ACCESS Services' newer lift vans and therefore you should be allowed to ride.**

The DOT ADA regulation at 49 CFR section 37.3 defines the measurements and weight for a "common" wheelchair:

Wheelchair means a mobility aid belonging to any class of three or four-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered. A "common wheelchair" is such a device which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied.

In addition, the Appendix for the regulation states:

A lift conforming to ACCESS Board requirements is 30" x 48" and capable of lifting a wheelchair/occupant combination of up to 600 pounds. Consequently, a common wheelchair is one that fits these size and weight dimensions. Devices used by individuals with disabilities that do not fit this envelope (e.g., many "gurneys") do not have to be carried.

In the telephone interview with the investigator on June 12, 2000, you said your weight combined with the wheelchair's weight is over 600 pounds. Therefore, ACCESS Services has not committed a violation of DOT ADA regulations. Any policy or practice that goes beyond the minimum standard set by the DOT ADA regulations is a matter of local jurisdiction of PAT and ACCESS Services.

- 2. A representative from ACCESS Services measured the width of your chair and said that it was 48 inches. According to the vendor, Assistive Technologies, Inc., the width of your chair is 36 inches. You feel the staff person was inaccurate.**

In your letter of November 23, 1999, you stated that your chair, according to the vendor, is 36 inches wide. As stated in 49 CFR section 37.3, cited above, the maximum width for a common wheelchair is 30 inches. Even if the vendor is correct, the width of your wheelchair still exceeds the maximum. Therefore, ACCESS Services has not violated the DOT ADA regulation.

- 3. You feel that you have been denied due process, because there is no appeal process for this issue.**

The DOT ADA regulation provides for two administrative appeals processes for ADA Complementary Paratransit Service, as provided in 49 CFR section 37.125

(g) The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial.

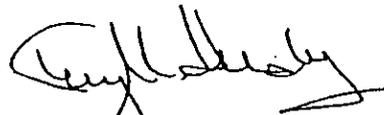
This process applies to ADA Complementary Paratransit eligibility only. The second process is with regard to appeal of a suspension of service due to a pattern or practice of missing scheduled trips. 49 CFR section 37.125(h)(3) states:

The appeals process of paragraph (g) of this section is available to an individual on whom sanctions have been imposed under this paragraph. The sanction is stayed pending the outcome of the appeal.

While the Administrative Appeal processes in this instance are not applicable to your situation, the ADA provides for a complaint process and the option of filing a lawsuit without the necessity of first exhausting administrative appeals. Since ACCESS Services has not violated and DOT ADA requirements, we will take no further action regarding this complaint.

If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, on our toll-free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention. We regret that we are unable to assist you further.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Paul Skoutelas, General Manager
Port Authority of Allegheny County

Karen Hoesch, ADA Coordinator
ACCESS Services

Federal Transit Administration

TCR.MEPeters:mep:60792:6/20/00

Electronic Copies to: TRO-3 (Kinbar); C-50 (Ashby); OST (Dunham, Tochen); TCC (Wong); All TCR Staff

Hard Copies to: TCR-IHU Chron/Subject/Peters/Wolgast/Craig

O:\craig\ [redacted]



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 30 2000

[REDACTED]

Re: FTA Complaint No. 98274

Dear [REDACTED]

This letter responds to your complaint of discrimination against King County Metro Transit (Metro), of Seattle, Washington, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If the FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your concern to be as follows:

- Metro has a policy in place that requires bus drivers to load ambulatory riders before deploying the lift to board riders who use wheelchairs.

We informed Metro of your allegation and requested information relating to your complaint; reviewed the information presented by Metro and you; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations.

- **Is it a violation of the ADA and the DOT ADA regulations to require persons with disabilities needing the assistance of a lift to load after all other passengers?**

There is no specific language in the DOT ADA regulations governing the issue of who is boarded first—ambulatory passengers or passengers who use wheelchairs. However, there is a general prohibition against discriminating against persons with disabilities. Section 37.5(a) of the DOT ADA regulation states the following:

No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

We have verified that Metro's former policy was to automatically board ambulatory passengers first. The former policy states that this was a safety precaution in response to injuries that had occurred to "non-lift-users" when the lift was deployed. This policy sometimes caused passengers who use wheelchairs, who may have been at the stop before others, to be left behind at the bus stop because the bus was fully loaded.

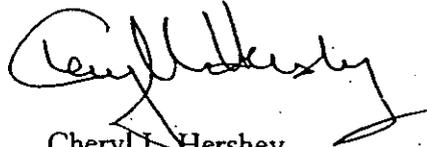
Metro has revised its policy in response to a complaint that it received. The following is taken from Metro's current policy contained in the February 5, 2000, edition of Metro's Transit Operating Instructions:

Boarding Deployment of the lift platform requires a clear space the width of the front door and five feet in length from the side of the coach. To reduce the chance of injury to intending passengers or pedestrians during the lift cycling, you may need to board non-disabled customers first.

The ADA and the ADA DOT regulations do not specifically address this matter. However, the general provision against discrimination would act to prevent any person with a disability from being treated differently because of that disability. Thus, if the new policy's net effect is to deny ridership to persons with disabilities by loading them last and precluding them from a seat on the bus, then its application would violate the ADA and the DOT ADA regulation, section 37.5 (a) as cited above.

If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Metro



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 30 2000

[REDACTED]

Re: FTA Complaint No. 00003

Dear [REDACTED]

This letter responds to your complaint against the Santa Barbara Metropolitan Transit District (MTD), in Santa Barbara, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

- 1 You find it difficult to make a reservation for ADA complementary paratransit service; and
2. MTD is not in compliance with the ADA because it has no "standing rides" for subscription service.

We reviewed the information submitted by you and Easy Lift Transportation, a local paratransit provider for MTD, and made a determination based on our analysis of that information in relation to the DOT ADA regulations. We have restated your allegations followed by our determination below

1 Does MTD have capacity constraints:

(a.) Insufficient phone capacity

Section 37 131 (b) (1) states that:

The entity shall make reservation service available during at least all normal business hours of the entity's administrative offices, as well as during times, comparable to normal business hours, on a day when the entities offices are not open before a service day

Easy Lift replied that their reservation policy allows for callers to place a reservation up to a maximum of 14 days in advance and its lines are open seven days a week from Monday through Friday between the hours of 9:00 a.m. and 4:00 p.m. and from 9:00 a.m. until noon on Saturday and Sunday Easy Lift is the ADA Complementary Paratransit provider for MTD and MTD's administrative office hours of operation are from 8:00 a.m. until 5:00 p.m.

Specifically, we note that the above regulation requires the reservation service be available during "all normal business hours of the entity's administrative offices." We note that the "the entity's administrative office's" refer to the transit property-MTD As MTD's hours 8:00 a.m. until 5:00 p.m. exceed Easy Lift's hours of 9:00 a.m. to 4:00 p.m., the current hours are not in accordance with the requirements of the DOT ADA regulation outlined above. In addition, the regulation requires that Sunday (as the day before a normal service day) have coverage for the full business hours. We will address this under cover of separate letter with Easy Lift.

(b.) trip denials

Section 37 131(b) of the DOT ADA regulation states:

The entity shall schedule and provide paratransit service to any ADA paratransit eligible at any requested time on a particular day in response to a request for service made the previous day

Section 49 CFR part 37 131 (f)(3)(b) states:

Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. Such patterns or practices include, but are not limited to, substantial number of trip denials or missed trips,

We reviewed the information provided by MTD and found that between January 3, 2000, and March 9, 2000, you requested 92 one way ride reservations, and of this total, you were unable to get a ride only twice. We find that this, in and of itself, does not constitute a capacity constraint as it applies to availability of service to you. By way of separate letter to Santa Barbara Metropolitan Transit, we will be conducting further inquiry to assure that there also is no system wide capacity issue both as to availability of phone capacity and as to availability of rides.

2. MTD is not in compliance with the ADA because it has no "standing rides" for subscription service.

The DOT ADA regulation at 49 CFR 37 133 (a) &(b) states that:

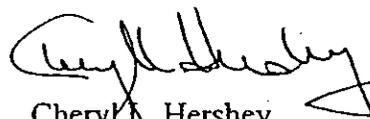
This part does not prohibit the use of subscription service by public entities as part of a complementary paratransit system, subject to the limitations in this section.

Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is non-subscription capacity

According to Easy Lift, its subscription service was discontinued in 1988. The ADA DOT regulations permit but do not require subscription service. As such the cessation of subscription service is not a violation of the ADA DOT regulations.

We thank you for bringing these matters to our attention. We will be working with MTD regarding their hours of operation and, as well as, assuring that there are no existing system wide capacity issues. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Senator Barbara Boxer

Santa Barbara Metropolitan Transit District



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 31 2000

[REDACTED]

Re: FTA Complaint No. 99151

Dear [REDACTED]

This letter responds to your complaint of discrimination filed against the City of Greensboro Transit Authority (GTA), SCAT, Greensboro, North Carolina, and the potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If the FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations against the Greensboro Transportation Authority to be as follows:

1. Your personal care attendant (PCA) was charged double fare and denied service by GTA,
2. You have experienced late pickups, no shows, and have been taken to the wrong address;
3. Bus operators have been abusive to disabled passengers and you have experienced retaliation by GTA bus operators for reporting subordinates to supervisors; and
4. You have been falsely accused and charged with assault by a bus operator.

We informed the GTA of your allegation and requested information relating to your complaint; reviewed the information presented by GTA and you; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determination below:

1. Your personal care attendant (PCA) was charged double fare and denied service by GTA.

The DOT ADA regulation at 49 CFR Part 37 123(f)(1)(ii) states:

Individuals accompanying an ADA paratransit eligible individual shall be provided service as follows: (1) One other individual accompanying the ADA paratransit eligible individual shall be provided service (ii) A family member or friend is regarded as a person accompanying the eligible individual, and not as a personal care attendant, unless the family member or friend registered is acting in the capacity of a personal care attendant.

In addition, the DOT ADA regulation at 49 CFR Part 37.131(c)(2)&(3) states:

(2) The fare for individuals accompanying ADA paratransit eligible individuals, who are provided service under 37.123(f) of this part, shall be the same as for the ADA paratransit eligible individuals they are accompanying. (3) A personal care attendant shall not be charged for complementary paratransit service.

The GTA establishes all policies and fares for ADA clients for the City of Greensboro, and their fare structure. In addition, the GTA policy states that PCAs ride for free when accompanying an ADA client and are not charged a fare. They have provided information taken from GTA's Driver's Manifest, indicating your use of the transportation service during the months of July and August of 1999. That information indicates that your PCA used the bus service seven times and was not charged a fare. We are unable to confirm your allegation that your PCA was charged a fare and denied transportation. Because your allegation is unsubstantiated, we will take no further action on this issue.

2. You have experienced late pickups, no shows, and have been taken to the wrong address.

The DOT ADA regulation at 49 CFR 37 131(f)(3)(i)(A) through (C) and (3) (ii) states:

(f) *Capacity Constraints.* The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:
(3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of untimely pickups for initial or return trips; (B) Substantial numbers of trip denials or missed trips; (C) Substantial numbers of trips with excessive trip lengths. (ii) Operational problems attributable to causes beyond the control of the entity (including, but not limited to, weather or traffic conditions affecting all vehicular traffic that were not anticipated at the time a trip was scheduled) shall not be a basis for determining that such a pattern or practice exists.

GTA admits that due to traffic congestion and vehicle breakdown(s), there were occasions when your trips were late. Information taken from GTA's Driver's Manifest for the period from July through August 1999 indicates that of the 88 standing order trips, of which 42% of the trips were on time; 14% of the trips were late; and 43% of the trips were cancelled; and 1% of the trips were no-shows.

On Time	Late Pickups	No-Shows	Cancelled
37	12	1	38

GTA indicates that in order to minimize your inconvenience when the van driver was late, a road supervisor or office personnel was dispatched during these times to pick you up.

In response to your specific allegation related to trips of no-shows, GTA confirmed that the one no-show trip resulted from a return trip on July 16, 1999. According to GTA's no-show policy, cancellations are required to be called in at least two hours prior to the scheduled trip. GTA states that your trip was counted as a no-show because you called to cancel the trip less than two hours prior to the pick-up time.

GTA admits that you were taken to the wrong address and this caused you to be late on March 30, 1999, due to the van operator's confusion in trying to locate your new workplace building. The records indicate that this is the only incident that resulted in the service taking you to the wrong address. Although in this instance GTA's actions caused you inconvenience, it appears to be limited to this one incident where a new location was involved.

While Section 37.131 does not establish standards for timely pick-ups, a fourteen percent level for late pick ups raises some concerns that GTA is experiencing capacity constraints. This will be addressed with GTA under cover of separate letter. We also encourage you to continue to work with GTA and report all incidents to ensure that GTA comply with this provision of the DOT ADA regulation.

3. Bus operators have been abusive to you and you have experienced retaliation by GTA bus operators for reporting subordinates to supervisors.

The DOT ADA regulation at 49 CFR 37.173 states:

Each operator of a public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

GTA advised that it provides to its personnel various training courses as outlined in its Employee Training Manual of which includes a course in Understanding Customers with Disabilities. We recognize that providing training does not always ensure the operators will provide service in an appropriate manner. The Appendix at Section 37 173 at paragraph 3, provides guidance in this area and states that:

However, every employee of a transportation provider who is involved with service to persons with disabilities must have been trained so that he or she knows what needs to be done to provide the service in the right way. When it comes to providing service to individuals with disabilities, ignorance is no excuse for failure.

The DOT ADA regulation at 49 CFR 27.123(e) states:

No employee or contractor of a recipient shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Section 504 of the ACT or this part or because the individual has made a complaint, testified, assisted, or participated in any manner in an investigation, hearing, or proceeding, under this part.

GTA denies the allegation regarding retaliation. GTA states that a SCAT dispatcher did corroborate the bus operator's report of loud and abusive language you used toward the bus operator during the March 31, 1999, altercation.

We have reviewed the State of North Carolina, Criminal Summons Misdemeanor Assault filed on March 31, 1999, by the bus operator. We note that you were found not guilty of the assault charges. GTA advises that during this time period they reassigned your trips to another operator. Following the conclusion of the criminal matter, GTA assigned a road supervisor to your trips for a period of time to ensure that you received proper service.

Based on the review of accounts related to this allegation, we are unable to substantiate your allegation that a GTA bus operator retaliated by intentionally falsely accusing and charging you of assault on March 31, 1999. We have informed GTA that under no circumstances will any form of retaliation be condoned or permitted by any of their drivers.

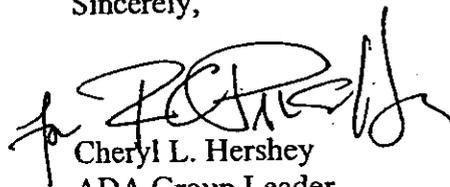
We understand that in an effort to clarify your transportation concerns, the Mayor of Greensboro personally visited you at your residence. We encourage you to continue to work with GTA and your local government officials to ensure that they comply with the provisions of the DOT ADA regulations.

4. You have been falsely accused and charged with assault by a bus operator.

The ADA does not have jurisdiction over criminal matters. To the extent your allegation involves the issue of retaliation we have addressed this in the preceding section.

If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 31 2000

Re: FTA Complaint No. 00045

Dear [REDACTED]

This letter responds to your complaint of discrimination, filed on behalf of your son [REDACTED], against the Southeastern Pennsylvania Transit Authority (SEPTA), Philadelphia, Pennsylvania, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If the FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. On November 26, 1999, at approximately 1:00 p.m., you and your son [REDACTED] traveled to the Langhorne Station enroute to Philadelphia for the day. When you purchased round-trip tickets you asked if the station was wheelchair accessible. You were told that it was. Three stops before your destination in Philadelphia, the conductor came and told you that you would not be able to get off at Langhorne Station on your return trip, because there was no wheelchair ramp on that side of the station.
2. The conductor told you that you would have to disembark at the Neshaminy Falls Station, which left you stranded and unable to get to your van parked at the Langhorne Station. You had to contact friends to pick up your van and drive it to the Neshaminy Falls Station to get back.

- 3 Neshaminy Falls Station was not well lighted and there was no one to assist us at the ticket office as it was closed.

We informed SEPTA of your allegations, requested information relating to your complaint and reviewed the information presented by SEPTA and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determinations below:

1. **You were told that the Langhorne Station was accessible to wheelchairs when you purchased roundtrip tickets for you and your son, who uses a wheelchair. The Langhorne Station is only wheelchair-accessible on one side of the station. You believe that is a violation of the ADA and/or DOT ADA regulations.**

The ADA and DOT ADA regulations require all new stations built after January 25, 1992, and key stations to be accessible. The DOT ADA regulation at 49 CFR Section 37.47(a) states:

Each public entity that provides designated public transportation by means of a light or rapid rail system shall make key stations on its system readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. This requirement is separate from and in addition to requirements set forth in Section 37.43 of this part.

The definition of key stations is stated in 49 CFR Section 37.47(b):

- (1) Stations where passenger boardings exceed average station passenger boardings on the rail system by at least fifteen percent, unless such a station is close to another accessible station;
- (2) Transfer stations on a rail line or between rail lines;
- (3) Major interchange points with other transportation modes, including stations connecting with major parking facilities, bus terminals, intercity or commuter rail stations, passenger vessel terminals, or airports;
- (4) End stations, unless an end station is close to another accessible station; and
- (5) Stations serving major activity centers, such as employment or government centers, institutions of higher education, hospitals or other major health care facilities, or other facilities that are major trip generators for individuals with disabilities.

According to SEPTA, the Langhorne Station was built in 1887 and is not a key station. The partial high-level platform on the side where you boarded the train was built in the mid-1980s, before the ADA went into effect. As a result, the ADA does not require the Langhorne Station to be accessible.

2. **The ticket agent at the Langhorne Station told you that the station was wheelchair - accessible and gave you wrong information. While you were enroute to Philadelphia, the conductor told you that you would not be able to disembark at the Langhorne**

Station on your return trip, because there is no wheelchair ramp on that side of the station.

The DOT ADA regulations at 49 CFR Section 37.173 state:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

SEPTA's response indicates no ticket agent recalls seeing a male passenger using a wheelchair accompanied by a female companion on November 26, 1999. As such we are unable to confirm their version of the facts surrounding this incident. However, we recognize that being provided incomplete information can, and in this instance certainly did, cause you extreme inconvenience and aggravation.

All SEPTA employees are required to treat persons with disabilities in a respectful and courteous manner with attention to the difference among persons with disabilities. Certainly providing you full information was necessary to you completing your trip and an integral part of your journey. We will address this with SEPTA by cover of separate letter.

We recognize the deficiency in the information you were provided. At the same time, SEPTA had no record of a complaint directly from you. SEPTA's first knowledge of this incident was when they received a copy of the complaint written to the U.S. Department of Transportation's Office of Civil Rights in February 2000, transferred to FTA. This made it difficult for SEPTA to accurately respond to the incident.

In the future, should you or [REDACTED] encounter a problem with a public transportation entity, your first recourse should be to lodge an immediate complaint with that entity. As time increases between an incident and the filing of a complaint, it becomes more difficult for the public transportation entity to trace the source of the problem, particularly for an agency as large as SEPTA.

We recognize that SEPTA has taken a number of steps to prevent a reoccurrence of your experience. The steps include the following:

- (A) A new station list was issued to all ticket agents to ensure they knew exactly which stations are accessible. The Langhorne Station is NOT included in this list.
- (B) When SEPTA was notified of your complaint, it developed an immediate plan of action with the contractor supplying ticket agents to reinstruct ticket agents. Within two days, each agent was instructed by his/her supervisor regarding the following:

- Is the station where ticket agent works wheelchair-accessible?
 - If not, where is the closest accessible station?
 - Each ticket agent was shown the symbol indicating a wheelchair-accessible station on the timetables.
 - The ticket agents were reminded of what Center City Philadelphia stations are wheelchair-accessible.
 - All of the agents were advised of the complaint at the Langhorne Station and the absolute necessity of advising any disabled customers that they cannot make return trips to the station, because only one side of the station is wheelchair-accessible.
- (C) With respect to conductors who work on SEPTA trains, SEPTA requires that conductors attend recertification training on an annual basis. Newly hired conductors are also required to attend the training. That training includes instructions on how to assist passengers with disabilities. However, SEPTA did not indicate in its response whether conductors were issued any reminders about the Langhorne Station not being wheelchair-accessible in both directions. Therefore, FTA's formal response to SEPTA states that if some notice has not been provided already to conductors reminding them that the Langhorne Station is not fully accessible, SEPTA should provide such notice.

SEPTA also noted in its response that a wheelchair user wishing to use the Langhorne station when returning from Center City Philadelphia can stay on the train to the end of the line at West Trenton and "ride around" in the opposite direction and return at Langhorne Station on its accessible side. SEPTA stated that this method would require that wheelchair users ride a little longer, but would provide a way to use the Langhorne station. However, since the conductor did not give you this information as an alternative, we are suggesting that in its notification, SEPTA discuss this alternative for emergency cases such as yours.

- (D) Another step taken by SEPTA has been that a large bright yellow sign has been posted at the Langhorne Station directly across from the wheelchair ramp. It states: "The Langhorne Station is ADA accessible to Center City only. Please use the Neshaminy Station located at Bristol Road and Linden Avenue for travel in both directions." We consider that to be a significant step against confusion by passengers with disabilities. However, in FTA's formal response, we suggested that a similar sign posted on or near the ticket agents' booth might be an additional aid.
- 3. On your return trip from Philadelphia, you were forced to disembark at the Neshaminy Falls Station and you stated it was not well lighted.**

DOT ADA regulation states at Appendix 37.61

This provision is intended to cover activities and programs of an entity that do not rise to the level of alteration. Even if an entity is not making alterations to a facility, it has a

DOT ADA regulation states at Appendix 37.61

This provision is intended to cover activities and programs of an entity that do not rise to the level of alteration. Even if an entity is not making alterations to a facility, it has a responsibility to conduct its program in an accessible manner. Examples of possible activities include user friendly farecards, schedules, of edge detection on rail platforms, adequate lighting, telecommunication display devices (TDDs) or text telephones, and other accommodations for use by persons with speech and hearing impairments, signage for people with visual impairments, continuous pathways for persons with visual and ambulatory impairments, and public address systems and clocks.

There is nothing specifically in the DOT ADA regulation that addresses lighting, however, general program access requirements as cited above would be construed to require that a path of travel be adequately lit.

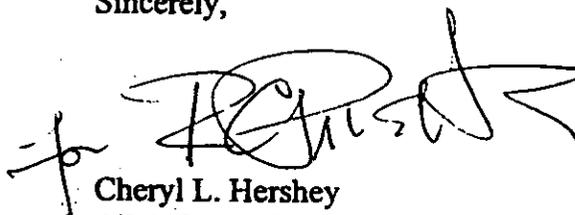
SEPTA provided us photographs of this station that show a variety of light fixtures both by the ramp and the platform. In addition SEPTA stated in their response that this station is well lighted and that they were unable to find evidence that there were lighting problems at the station on this date. We recognize that having fixtures does not necessarily mean they are working, be that light bulbs or repair.

A ticket office is not an ADA requirement, and SEPTA stated in its response that there is no ticket office at the Neshaminy Falls Station.

We believe the steps taken by SEPTA should help prevent a reoccurrence of the problem that you and Eric experienced. In addition, the FTA Office of Civil Rights recently consolidated incoming complaints so that large transportation agencies such as SEPTA have one investigator. As a result, if that investigator receives similar complaints against SEPTA, further action may be taken.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concern to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: John K. Leary, Jr.
General Manager, SEPTA



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 31 2000

Re: FTA Complaint No. 96047

Dear [REDACTED]:

This letter responds to your complaint against the City of Detroit (the City) Department of Transportation, in Detroit, Michigan, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

On February 3, 2000, you informed Mr. Roger Peralta, Equal Opportunity Specialist, that your major concern is the inoperable lifts on the City's lift-equipped buses. Based upon that representation, we will investigate that particular issue.

We understand your allegation to be as follows:

- That the City's lift-equipped buses are inoperable and in violation of the ADA.

We reviewed the information you presented and the City's and made a determination based on our analysis of that information in relation to the DOT ADA regulations. Our determination on your allegation is stated below

• **Are the City's buses in violation of the ADA due to inoperable lifts?**

DOT ADA regulation at 49 CFR 37.163(b), (c) and (f) states that:

- (b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.
- (c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.
- (f) In any case in which a vehicle is operating in a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

When a wheelchair lift is found to be inoperative, there are requirements regarding the length of time that a bus may be kept in service before the lift is repaired. The DOT ADA regulation at 49 CFR Part 37.163(d)-(e) states:

- (d) Except as provided in paragraph (e) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service.
- (e) If there is no spare vehicle available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than five days (if the entity services an area of 50,000 or less population) or three days (if the entity serves an area of 50,000 population) from the day on which the lift is discovered to be inoperative.

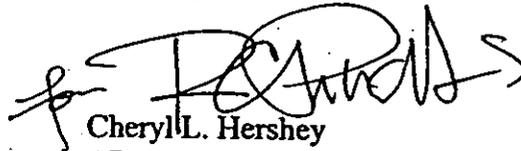
The City provided documentation showing that of the 540 transit vehicles in operation, 85 percent are lift-equipped and 83 buses, which are of the 1986 model year, are not lift-equipped. It appears that one difficulty is the City's 1986 model vehicles that are not lift-equipped. However, the regulation at Section 37.71(a) does not require vehicles acquired before August 25, 1990, to be lift equipped. However, the City, in correspondence dated March 10, 2000, advises that since the original complaint they have purchased and taken delivery of 190 new transit vehicles, 161 large buses and 29 small buses. The City also purchased 100 large lift-equipped buses to replace the 1986 vehicles. All 290 vehicles purchased since the filing of this complaint have been lift equipped in accordance with the ADA requirement of Section 37.71

The City confirmed that on several occasions the lifts on its lift-equipped buses were inoperable, however, based on its maintenance records these buses were pulled from service and repaired promptly. The City's training materials also cited that its drivers are required that the wheelchair lifts on each bus are cycled before they are put on the road and at the end of each run each day

Given the current policy on cycling and its implementation, as well as the proper and prompt maintenance of lifts, we find that there is no violation of Section 37.163 (d) and (e). Given the replacement of the older vehicles with new lift-equipped buses, we conclude that the issue has been resolved. The City advises that you are a member in good standing of their DDOT Elderly and Disabled Local Advisory Council (LAC) and the chair of the Suburban Mobility Authority for Regional Transportation (SMART) Local Advisory Council. When possible, we encourage the public to work with the public transportation provider to solve their issues locally, and we are encouraged to find this level of involvement between you and the City. The input of the public is vital to our knowledge and resolution of problems facing the disability community with regards to transit.

We thank you for bringing this to our attention. If you have any questions regarding this decision, please contact Mr. Peralta, on FTA's toll free ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: City of Detroit Department of Transportation

Federal Transit Administration

TCR-20:PERALTA/03/23/00:x66745

Electronic copies to: TRO-5, OST (Tochen) Dunham), C-50 (Ashby), TCC (Wong), All TCR Staff

Hard Copies to: TCR-ADA Chron/Subject/Peralta/Craig(1)

O-Peralta\ [redacted] /doc

O-Craig: [redacted] (f)



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 31 2000

[REDACTED]

Re: FTA Complaint No. 99043

Dear [REDACTED]

This letter responds to your complaint filed on behalf of your mother, [REDACTED], against the Milwaukee County Paratransit Services, Transit Plus, of Milwaukee, Wisconsin, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If the FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Transit Plus ADA Complementary Paratransit drivers do not provide door-to-door service;
2. Transit Plus drivers do not assist disabled passengers when boarding the vehicle; and
3. Ms. Eva Thurin, your mother, experienced repeated late pickups for her dialysis appointments.

We informed Transit Plus of your allegations and requested information relating to your complaint; reviewed the information presented by Transit Plus and you; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations below

1. Transit Plus ADA Complementary Paratransit drivers do not provide door-to-door service

The DOT ADA regulation at 49 CFR part 37.129 states that:

Except as provided for in this section, complementary paratransit service for ADA paratransit eligible persons shall be origin to destination service.

The minimum requirement for ADA Complementary Paratransit service is for it to be provided curb to curb. The decision to provide either door-to-door service or curb-to-curb service is decided by the transit provider through the local planning process. Transit Plus' policy is to provide door-through-door service. This means that drivers will help riders through the first set of doors at both the pick-up and destinations points as long as the driver maintains line of sight with the vehicle.

As this exceeds the requirements of the DOT ADA regulation, this is not a violation of your rights under the ADA. However, it may be a violation of the contractual agreement between Transit Plus and Laidlaw. We will forward this to Milwaukee County for appropriate attention to this matter. We note, for your information, that Transit Plus' policy as to Taxi service is that it only provides curb-to-curb service.

2. Transit Plus drivers do not assist disabled passengers when boarding the vehicle.

The DOT ADA regulation at 49 CFR part 37.165(g) allows for persons with disabilities to use the wheelchair lift or ramp upon request. It states:

The entity shall permit individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle.

The following information may prove helpful to you in your attempts to help your mother. If your mother does request to use the wheelchair lift or ramp, the DOT ADA regulation further states at 49 CFR part 37.165(f):

Where necessary or upon request, the entity's personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts. If it is necessary for the personnel to leave their seats to provide this assistance, they shall do so.

Laidlaw, the contractor that provides van service on behalf of Transit Plus, claims that when appropriate it counseled and retrained the drivers who were not giving assistance to [REDACTED]. Although we cannot require Laidlaw drivers to assist passengers from the door of their pick-up locations, we can require the drivers to follow the above stated regulations. We have informed Transit Plus of this determination.

3. [REDACTED] your mother, experienced repeated late pickups for her dialysis appointments.

The DOT ADA regulation at CFR 37.131(f) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: (1) Restrictions on the number of trips an individual will be provided; (2) Waiting lists for access to the service; or (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of significantly untimely pickups for initial or return trips.

Based on the documentation provided by Transit Plus, during the period from November 1, 1998, to February 1, 1999, [REDACTED] experienced approximately four untimely pickups that were 15 minutes beyond the negotiated scheduled time. For your information, Transit Plus considers an on-time pick-up to be a ride that is within a window of 15 minutes prior to or 15 minutes after the negotiated scheduled time.

The documentation provided for the three specific dates about which you complained to us, February 6, February 11, and February 16, 1999, shows that on February 6, 1999, you requested a pick up time for 8:45 a.m. and were in fact scheduled to be picked up at 1:00 p.m. with an actual pick up time of 1:00 p.m. On that same date you called and requested a return ride for 1:30 p.m. and were given a scheduled return time of 5:00 p.m. and actually picked up for your return trip at 5:11 p.m. While the actual pick up time is not late the scheduled pick up time is outside of the one hour window required for scheduling a requested ride. This would count as a denial for Transit Plus purposes of tracking their capacity.

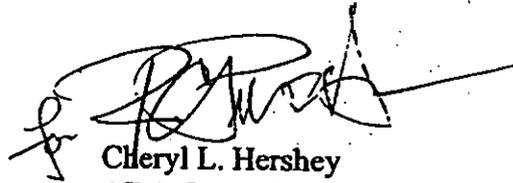
On February 11, 1999, your requested pick up time was 8:45 a.m. with a negotiated pick up time of 9:00 a.m. and actual pick up of 9:14 a.m. The return trip requested for that day was for 1:30 p.m. with a scheduled return pick up of 1:30 p.m. and an actual return pick up of 1:30 p.m. There is no violation on this date.

On February 16, 1999, records show you requested a pick up of 8:45 a.m. and were scheduled to be picked up at 9:15 a.m., while the records do not reflect the actual pick up time. The return trip you requested to be picked up at 1:30 p.m. and the return trip as scheduled for 1:30 p.m. while the records do not show the actual pickup time. As this information is incomplete, we are unable on this date to make a determination.

During our conversation with you on October 14, 1999, we understand that [REDACTED] is no longer using Laidlaw Transit Plus service, but is now using the taxi service that is also available through Transit Plus. We will address by separate cover the issue with Transit Plus regarding scheduling of rides within the one-hour window and tracking of demials.

If you have any questions regarding this decision, please contact Linda W. King, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address, at linda.king.fta@dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concern to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Transit Plus



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 31 2000

[REDACTED]

Re: FTA Complaint No. 98261

Dear [REDACTED]

This letter responds to your complaint against Access Services, Incorporated (ASI) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If the FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

- 1 On several occasions, ASI reservation staff were unable to confirm your reservation for paratransit service. For this reason, you were two hours late for work on two occasions in that same week;
- 2 Drivers on ASI paratransit service are late on scheduled pickups; and
- 3 Drivers and reservation staff are abusive.

We informed ASI of your allegations and requested information relating to your complaint; reviewed the information presented by ASI and you; and made a determination on each of your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations below:

1 ASI reservation staff did not confirm to you when the driver was assigned the run to pick you up for a scheduled ADA Complementary Paratransit ride.

The crux of your concern appears to be that ASI is not telling you when the driver is assigned the call so that you can reduce your time waiting outside on the curb for their arrival. Access Services advised in response to your complaint that the Access Service Advisory Committee, consisting of "end users, and persons with disabilities" changed the policy recently to eliminate "call outs." This is a management question for the transit property and while this causes you inconveniences, it is not an ADA issue.

ASI has through the local participation process elected to do curb-to-curb service.

The DOT ADA regulation at 49 CFR part 37 129 states that:

Except as provided for in this section, complementary paratransit service for ADA paratransit eligible persons shall be origin to destination service.

The minimum requirement for ADA Complementary Paratransit service is for it to be provided from an origin to a destination. The decision to provide either door-to-door service or curb-to-curb service is decided by the transit provider through the local planning process. As such, ASI is not in violation of the ADA in limiting their service to curb-to-curb.

2. Drivers on ASI paratransit service are late on scheduled pickups.

The DOT ADA regulation at 49 CFR 37 131(f) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: (1) Restrictions on the number of trips an individual will be provided; (2) Waiting lists for access to the service; or (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of significantly untimely pickups for initial or return trips.

ASI provided documentation of your ADA Complementary Paratransit trip history showing trips requested and scheduled between October and November 1999. It reflects that of the 87 of your scheduled rides; 24 were cancelled trips and 3 no-shows. Nineteen were late pickups (outside of the pick up window): 3 were five minutes or less outside of the pick up window; 3 were 6-10 minutes outside of the pick up window; 6 were 11-20 minutes outside the pickup window; 3 were 21-30 minutes outside the pickup window; and, 4 were 30-40 minutes outside the pickup window. This represents a thirty percent (30%) late pick up rate for this sixty-day period, excluding cancellations.

For your information and use, ASI implemented an Operations Monitoring Center in July 1999 and riders can contact the center any time the vehicle is late and its staff has access to Emergency Response vehicles that can be dispatched quickly to pickup passengers. Also, a taxicab will be sent to wait for the passenger until the emergency vehicle has arrived.

The DOT ADA regulation does not quantitatively define the phrase "substantial numbers of significantly untimely pickups." However, the incidences of late pickups above causes concern that ASI may be experiencing capacity constraints. We will address with ASI by way of separate letter.

3. Drivers and reservation staff are abusive.

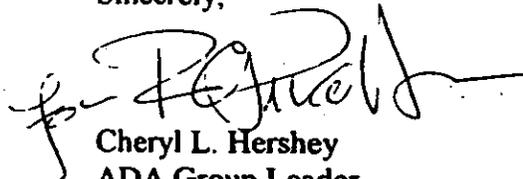
The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

ASI provided documentation that it has a training program that meets the requirements of the DOT ADA regulation. ASI has a policy that any employee, whether internal or contracted, displaying a continued pattern or poor behavior will be terminated. ASI stated, that passengers are encouraged to ask for the individual's name and file a complaint with the Customer Service Center for resolution.

Thank you for bringing your concern to our attention. If you have any questions regarding this decision, please contact Mr Peralta, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Richard DeRock
Executive Director
Access Services, Incorporated



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 25 2000

[REDACTED]

Re: FTA Complaint No. 99264

Dear [REDACTED]

This letter responds to your complaint against the Mountain Area Regional Transit Authority (MARTA), Big Bear City, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be as follows:

- You must wait from 1 to 1 1/2 hours for MARTA's Dial-A-Ride service to pick you up from the time you call for a ride, and you feel that MARTA's Dial-A-Ride service is discriminating against you due to your disability and age.

We reviewed the information you presented, contacted MARTA, and made a determination on your allegation based on our analysis of this information in relation to the DOT ADA regulation. We have restated your allegation followed by our determination below

Is MARTA's Dial-A-Ride ADA Complementary Paratransit violating the next day service requirement or the capacity constraint requirement when it takes from 1 to 1 1/2 hours to pick you up from the time you call for a ride when the request for service is made the same day?

The DOT ADA regulation at 49 CFR part 37.131(b) states:

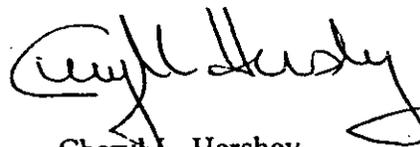
Response Time. The entity shall schedule and provide paratransit service to any ADA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day

Although "same day" and "will call" service may be provided at the option of the transit agency, it is not required by the DOT ADA regulations. The DOT ADA regulations only require next day service.

As same day service is not required by the ADA DOT regulation, the capacity constraint section is not applicable. Based on the facts you presented, this would not constitute a violation of the ADA DOT regulation. We note that any allegation regarding age discrimination is not covered by the ADA.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters on FTA's toll free ADA Assistance Line at 1-888-446-4511 or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concern to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: MARTA (Identity of Complainant Withheld)



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 28 2000

[REDACTED]

Re: FTA Complaint No. 99267

Dear [REDACTED]

This letter responds to your complaint of discrimination against the Toledo Area Regional Transit Authority (TARTA), Toledo Area Regional Paratransit (TARPS), of Toledo, Ohio, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If the FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. Passengers experience trip denials, are frequently asked to standby for rides, and are scheduled for unwanted one-way trips;
2. TARTA ADA Complementary Paratransit service provides inoperative lift equipment;
3. TARTA bus operators need sensitivity training; and
4. TARTA ADA Complementary Paratransit service arrives for pickup after the passenger has cancelled the ride.

We have elected to investigate items 1, 2, & 3 and decline item 4 as it is not an ADA issue based on the facts alleged. We informed TARTA of your allegations and requested information relating to your complaint; reviewed the information presented by TARTA and you; and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determinations below

1. [REDACTED] experienced trip denials, and is frequently asked to standby for rides, and is scheduled unwanted one-way trips.

The DOT ADA regulation at 49 CFR 37 131(f)(3)(i)(A) and (ii) states:

(f) *Capacity constraints.* The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:

- (1) Restrictions on the number of trips an individual will be provided;
- (2) Waiting lists for access to the service; or
- (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.

(i) Such patterns or practices include, but are not limited to, the following:

(A.) Substantial numbers of significantly untimely pickups for initial or return trips

(ii) Operational problems attributable to causes beyond the control of the entity (including, but not limited to, weather or traffic conditions affecting all vehicular traffic that were not anticipated at the time a trip was scheduled) shall not be a basis for determining that such a pattern or practice exists.

TARTA acknowledges that prior to February 7, standby status for passengers was exercised when TARTA was unable to give the consumer an exact time for their requested trip or if they were unable to meet their request. TARTA advised that standbys were continuously contacted if there was a cancellation that would meet their need. In addition, they state that riders were offered one-way trips on occasion. While there were riders opposed to these trips others were able to utilize them.

TARTA advised that the level of service has greatly increased for the Toledo disability community due to a budget increase of approximately twenty-five percent and the hiring of additional bus operators. TARTA's increase of service, effective February 7, 2000, according to correspondence submitted by TARTA, has resolved the issue of denials; TARTA advises they have had no denial since that date of service. The investigator, Linda Wood King, called you on May 9, 2000, and established that your services received had greatly improved and that you had not experienced any denials since February 7, 2000. In speaking with a number of the co-complainants, they advise that they attended the Special Transportation Coordinating Committee meetings to address their needs in an on-going manner, and all riders who spoke said they had not experienced any denials since February 7, 2000.

In summary, our investigation revealed that TARTA has greatly improved its services. TARTA's budget for ADA Complementary Paratransit was recently increased by more than 25 percent; and they also credit their awareness and improvements they have made, to their participation in the quarterly meetings of the Special Transportation Coordinating Committee, which includes members representing all facets of the disability community. TARTA staff members, including TARTA's General Manager, have met numerous times with consumers at the Ability Center of Greater Toledo, in an attempt to better serve the citizens with disabilities utilizing the fixed route lines of TARTA and services of TARPS.

2. TARTA ADA Complementary Paratransit provided inoperative lift equipment on May 22, July 22, August 2, 3, and 10, 1999.

The DOT ADA regulation at 49 CFR 37 163(b)(c) & (e) states:

(b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.

(c) The entity shall ensure that vehicle operator's report to the entity, by the most immediate means available, any failure of a lift to operate in service.

(e) If there is no spare vehicle available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than five days (if the entity serves an area of 50,000 or less population) or three days (if the entity serves an area of over 50,000 population) from the day on which the lift is discovered to be inoperative.

According to TARTA, Laidlaw is required to perform pre-trip assignments, which includes, but is not limited to, cycling the lift. TARTA submitted operational bulletins informing operators to regularly and frequently check lifts. Operators were advised of the ADA regulation to deploy lifts in order to be certain lifts are operational before pulling out of the bus garage. Laidlaw has a preventative maintenance program on the lifts, which are maintained each day, and are followed up with reports.

TARTA states that periodically a bus lift will malfunction, however, no client is ever denied a ride for that reason; there may perhaps be a delay in their schedule. We have contacted TARTA and they have provided us information and records regarding their reporting of lift failure, lift maintenance and cycling of lifts. Our review of the daily vehicle inspection that includes lift cycling and driver trip reports for the above dates reveals the following:

On May 22, 1999- The information you provided does not identify the particular bus. We have checked the maintenance records and found no evidence of lift failure for that date. We note that several lifts were repaired in May, but none occurred on May 22, 1999. On the instances where there were failures, the lifts were shown to be promptly repaired.

On July 22, 1999- Our review of TARTA's "driver trip report" indicates that you received your scheduled ride, both pick up and drop off without obstacles.

On August 2, 1999- The service call records indicate that a lift was broken on this date. It shows that the repair was called in at 3:00 p.m. fixed at the site at 3:55 p.m. As you have not identified the bus number, we do not know if this was the bus you were indicating. The TARTA ADA Director, Ms. Laura Swigart, in a letter dated July 6, 2000, advised that their policy is for the maintenance employees to take another bus to the location of the failure and repair on site, if possible, or return to the garage to determine if there is a mechanical failure.

On August 3 & 10, 1999: There is no evidence of lift failure on August 3, 1999, however, there is for August 10, 1999. On August 10, 1999, the lift service call records show that the failure was called in at 2:48 p.m. and repair was completed on vehicle 579 on site at 3:25 p.m. There were several other lifts failures in August, but the records indicate they were fixed promptly.

Our review of the records indicates that TARTA's actions were in accordance with Section 37.163 and does not indicate a violation of the DOT ADA regulation.

3 TARTA bus operators need sensitivity training.

The DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Your complaint did not identify the driver in question, however, in a memo dated July 6, 2000, ADA Director, Laura Swigart advises that sensitivity/diversity training was provided on March 21, 2000, to all fixed route and paratransit operators. Prior to this, the last full training was in November 1994. Between 1994 and 2000, various operational bulletins were sent to operators regarding ADA requirements and instructions, i.e., Use of Lift-Equipped Buses On Non-Lift-Equipped Routes, Wheelchair Tie Downs, and Dealing with Individuals with Disabilities. All new operators received training during pre-employment classes.

Section 37.173 requires that "personnel are trained to proficiency." To quote the Appendix:

"While there is no specific requirement for recurrent or refresher training, there is an obligation to ensure that, at any given time, the employees are trained to proficiency. An employee who has forgotten what he was told in past training sessions, so that he or she does not know what needs to be done to serve individuals with disabilities, does not meet the standard of being trained to proficiency."

After a lengthy gap on providing training, we acknowledge that TARTA recently completed training given in March 2000 and encourage more frequent hands on training for the operator.

Our review indicates TARTA's actions are in accordance with the requirements of Section 37.173 of the DOT ADA regulation.

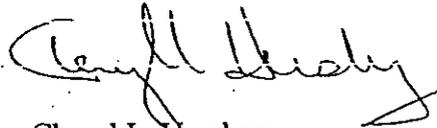
You had expressed concern that TARTA ADA Complementary Paratransit service arrives for pickup after she has cancelled the ride. This is not an ADA issue but rather an internal management issue. However, in response to your allegation, TARTA states that when a client calls in for a same day cancellation, every attempt is made to contact the operator to whom that

person has been delegated. If the operator does not receive the notice and arrives at a location that has been cancelled, the client is not charged with a cancellation violation.

We recognize your involvement in working with TARTA to resolve your transportation needs. We encourage you to continue to work with TARTA and the Special Transportation Coordinating Committee to assist in resolving your transportation issues. Based on TARTA's response to your concerns, we do not find TARTA to be in violation with the provisions of the ADA regulation. Therefore, we will take no further action on your individual complaint and will consider your complaint closed.

If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Mr. Richard L. Ruddell, General Manager
Ms. Laura J Swigart, ADA Director

Federal Transit Administration
TCR. LKing:lk:06/19/00 x60805
Electronic copies to: TRO-5, OST(Ashby, Tochen, Dunham), TCC (Wong), All TCR Staff
Copies to: TCR-ADA, (King, Craig, Chron/Subject)
0\King,McCallum, Frances TARTA lof.doc
Linda Wood King, Complants Investigator
Final version: O\CRAIG - [REDACTED] LOF-(F)



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 28 2000



Re: FTA Complaint No. 97246

Dear 

This letter responds to your complaint against Los Angeles County Metropolitan Transportation Authority (MTA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be the following:

- 1 MTA fixed route buses have repeatedly passed you by as you wanted to be boarded in your wheelchair
2. On September 22, 1997, a bus driver did not secure you properly and refused to disembark you at your requested stop.

We informed MTA of your allegations and requested information relating to your complaint; reviewed the information presented by you and MTA, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determination below

1. MTA fixed route buses have repeatedly passed you by as you wanted to be boarded in your wheelchair.

The DOT ADA regulation at 49 CFR 37.5(b) states that:

Notwithstanding the provision of any special transportation service to individuals with disabilities, an entity shall not, on the basis of disability, deny to any individual with a disability the opportunity to use the entity's transportation service for the general public, if the individual is capable of using that service.

Section 37.71 of the DOT ADA regulation requires that new buses purchased after August 25, 1990, must be "readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs." However, buses that are purchased before that date are not required to be retrofitted with wheelchair lifts.

Section 37.167(e) of the DOT ADA regulation requires that "The entity shall ensure that vehicle operators and other personnel make use of accessibility-related equipment or features," and Section 37.161, "*Maintenance of accessible features*", requires that accessible features must be kept in working order. It states:

- (a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.
- (b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.
- (c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

A safety measure is built into the regulation for persons who are passed by buses with inoperative lifts. The DOT ADA regulation at Section 37.163(f) states:

In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

We understand that these alleged incidents occurred prior to November 1997, when you stopped riding fixed route buses altogether. Although you did not provide the dates, times, bus numbers or routes of the buses that you allege passed you by, you claim that the problem was systemic enough to cause you to drop out of college courses in which you were enrolled. What is not clear is whether the wheelchair lifts on the buses were not in working order, or whether the bus drivers simply passed you by because they chose not to stop. Without specific information about each incident when you were passed by, we are unable to investigate the specific allegations.

However, it is unquestioned that MTA has experienced severe difficulties with aged, overcrowded buses that have been poorly maintained. As a result of the lawsuit arising subsequent to the filing of your complaint, *Beauchamp vs. Los Angeles County Metropolitan Transportation Authority*, 99-55041, substantial progress has been made in requiring improved conditions on MTA buses. In addition, MTA is aware of these problems and is addressing them from a number of different perspectives. Please see MTA's response to our inquiry which we have enclosed for your reference.

Based upon lack of specific information we are unable to make a determination on MTA's level of compliance at the time of these particular incidents. Thank you for bringing these matters to our attention.

- 2. On September 22, 1997, a bus driver did not secure you properly and refused to disembark you at your requested stop.**

DOT ADA regulation at 49 CFR 37 165(c)(1) states that,

"For vehicles complying with part 38 of this title, the entity shall use the securement system to secure wheelchairs as provided in that Part." MTA lift equipped buses have a securement area for wheelchairs, and the driver is required to assist passengers in using the securement system. The DOT ADA regulation at 49 CFR 37 165(f) states:

Where necessary or upon request, the entity's personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts. If it is necessary for the personnel to leave their seats to provide this assistance, they shall do so.

The DOT ADA regulation states at 49 CFR part 37 167(g) that:

The entity shall not refuse to permit a passenger who uses a lift to disembark from a vehicle at any designated stop, unless the lift cannot be deployed, the lift will be damaged if it is deployed, or temporary conditions at the stop, not under the control of the entity preclude the safe use of the stop by passengers.

According to your allegations the bus driver pulled off before your wheelchair was properly secured which caused your wheelchair to roll down the aisle. The driver should have ensured that you were properly secured before moving the bus, and MTA is clearly in violation of the DOT

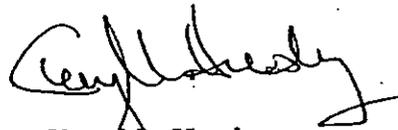
ADA regulation if it permits this to occur. MTA provided documentation of its policy and that its drivers are trained in accordance with the DOT ADA regulation. In particular, the driver in question had attended yearly training classes, and in his 19 years of service had had no other passenger complaints lodged against him. Nonetheless, we have reminded MTA, by copy of this letter, of its responsibility under the regulation to ensure that its passengers are properly secured.

Regarding your allegation that the driver did not let you off at your requested stop, we understand your allegation to be that you told the driver your stop when you boarded the bus, but he intentionally transported you three or four blocks beyond your intended destination. The driver stated that upon boarding the bus you requested to disembark at 68th street, and that he called all stops and stopped at 68th street as there are railroad tracks there in addition to a bus stop, but you did not get off. He further stated that he thought you had changed your mind after talking to other passengers about the location of a bank. After you complained that you missed your stop (near 76th Street per the driver), the driver let you off at the 78th Street bus stop, the next designated bus stop.

Once again, MTA is in violation of the DOT ADA regulation if this kind of occurrence happens on a regular basis, or if it is part of a retaliatory action. However, the discrepancy in the statement of facts between you and the driver indicates a probable miscommunication and as such, does not appear to constitute a violation of Section 37 167(g) of the DOT ADA regulation.

We thank you for bringing this complaint to our attention. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address, roberta.wolgast@fta.dot.gov Please identify the FTA complaint number in any correspondence with this office. We regret our delay in responding to your complaint.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

Cc: MTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 30 2000

[REDACTED]

Re: FTA Complaint No. 96087

Dear [REDACTED]

This letter responds to your complaint against the Washington Metropolitan Area Transit Authority (WMATA), alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We have received a number of complaints, including yours, from various persons with disabilities alleging that the vertical and/or horizontal gaps between WMATA rail cars and platform edges are not in compliance with the DOT ADA regulations and cause difficulties in boarding and disembarking. The ADA Accessibility Guidelines for Buildings and Facilities (ADAAG) at Appendix A to 49 CFR part 37, Section 10.3.2(4) requires the following:

In light rail, rapid rail and commuter rail key stations, the platform or a portion thereof and the vehicle floor shall be coordinated so that the vertical difference, measured when the vehicle is at rest, within plus or minus 1-1/2 inches under all normal passenger load conditions, and the horizontal gap, measured when the vehicle is at rest, is no greater than 3 inches for at least one door of each vehicle or car required to be accessible by 49 CFR part 37

We informed WMATA of these allegations and requested information relating to the complaints; reviewed the information presented by the complainants and WMATA, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations as well as the corrective actions that WMATA has already undertaken.

WMATA has acknowledged that the allegations regarding vertical and horizontal gaps are accurate on some of its railcars and has addressed the situation with various solutions. In 1997, WMATA discovered that the leveling valves on 366 rail cars were identified as "failing to meet/maintain the proper platform-to-car tolerance." By the end of 1997, new leveling valves were installed in these rail cars. However, as you are probably aware, this did not completely rectify the problem. WMATA also discovered that the height of some of its platforms "may preclude compliance with the coordination requirements.. *for the full length of the platform.*" [Emphasis added.]

In an effort to resolve this problem, WMATA met with the Director of the FTA Office of Civil Rights and team members on numerous occasions regarding the issue of the gap. WMATA and the Director discussed the idea of installing bridgeplates on the doors of the rail cars, a solution that had been successful in Atlanta, Georgia. This idea was proposed and several cars were fitted for demonstration purposes. WMATA held several demonstrations, inviting members of the disability community as well as those who had filed complaints with this Office, to review and test the prototype and make observations regarding the effectiveness of the proposed solution. Staff from the FTA Office of Civil Rights also attended these demonstrations.

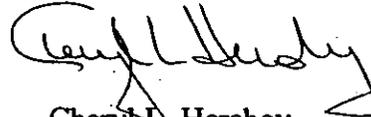
The use of the gap filler was favorably received, and, as a result, rather than attempt to alter the platforms, WMATA decided to install the "gap reducers" on each of its rail cars. To date, 410 cars have been modified, and the remaining 350+ cars should be completed by the end of this year. Any new rail cars that WMATA receives will have the gap reducers already in place.

In conclusion, WMATA acknowledged that some of its stations did not comply with the DOT ADA regulations regarding gaps between platforms and trains; however, its efforts have apparently resolved the issue. By modifying each door of each rail car, WMATA has gone beyond the minimum requirement stated above in addition to the following minimum requirement at 49 CFR section 37.93(c) which states that:

Each public entity providing light or rapid rail service shall ensure that each train, consisting of two or more vehicles, includes at least one car that is readily accessible to and usable by individuals with disabilities, including individuals with disabilities, including individuals who use wheelchairs.

Thank you for bringing this problem to our attention and for your patience during the period pending its resolution. We also want to thank WMATA for exploring new options and taking the steps needed to help ensure accessible transportation for the passengers riding its system. If you have any questions regarding this decision, please contact Roberta Wolgast, Equal Opportunity Specialist, at 202-366-0802, or at her electronic mail address: roberta.wolgast@fta.dot.gov

Sincerely,



Cheryl B. Hershey
ADA Group Leader
Office of Civil Rights

Cc: WMATA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 30 2000

[REDACTED]

Re: FTA Complaint No. 97157

Dear [REDACTED]

This letter responds to your complaint against the Washington Metropolitan Area Transit Authority (WMATA), alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We have received a number of complaints, including yours, from various persons with disabilities alleging that the vertical and/or horizontal gaps between WMATA rail cars and platform edges are not in compliance with the DOT ADA regulations and cause difficulties in boarding and disembarking. The ADA Accessibility Guidelines for Buildings and Facilities (ADAAG) at Appendix A to 49 CFR part 37, Section 10.3.2(4) requires the following:

In light rail, rapid rail and commuter rail key stations, the platform or a portion thereof and the vehicle floor shall be coordinated so that the vertical difference, measured when the vehicle is at rest, within plus or minus 1-1/2 inches under all normal passenger load conditions, and the horizontal gap, measured when the vehicle is at rest, is no greater than 3 inches for at least one door of each vehicle or car required to be accessible by 49 CFR part 37

We informed WMATA of these allegations and requested information relating to the complaints; reviewed the information presented by the complainants and WMATA, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations as well as the corrective actions that WMATA has already undertaken.

WMATA has acknowledged that the allegations regarding vertical and horizontal gaps are accurate on some of its railcars and has addressed the situation with various solutions. In 1997, WMATA discovered that the leveling valves on 366 rail cars were identified as "failing to meet/maintain the proper platform-to-car tolerance." By the end of 1997, new leveling valves were installed in these rail cars. However, as you are probably aware, this did not completely rectify the problem. WMATA also discovered that the height of some of its platforms "may preclude compliance with the coordination requirements. *for the full length of the platform.*" [Emphasis added.]

In an effort to resolve this problem, WMATA met with the Director of the FTA Office of Civil Rights and team members on numerous occasions regarding the issue of the gap. WMATA and the Director discussed the idea of installing bridgeplates on the doors of the rail cars, a solution that had been successful in Atlanta, Georgia. This idea was proposed and several cars were fitted for demonstration purposes. WMATA held several demonstrations, inviting members of the disability community as well as those who had filed complaints with this Office, to review and test the prototype and make observations regarding the effectiveness of the proposed solution. Staff from the FTA Office of Civil Rights also attended these demonstrations.

The use of the gap filler was favorably received, and, as a result, rather than attempt to alter the platforms, WMATA decided to install the "gap reducers" on each of its rail cars. To date, 410 cars have been modified, and the remaining 350+ cars should be completed by the end of this year. Any new rail cars that WMATA receives will have the gap reducers already in place.

In conclusion, WMATA acknowledged that some of its stations did not comply with the DOT ADA regulations regarding gaps between platforms and trains; however, its efforts have apparently resolved the issue. By modifying each door of each rail car, WMATA has gone beyond the minimum requirement stated above in addition to the following minimum requirement at 49 CFR section 37.93(c) which states that:

Each public entity providing light or rapid rail service shall ensure that each train, consisting of two or more vehicles, includes at least one car that is readily accessible to and usable by individuals with disabilities, including individuals with disabilities, including individuals who use wheelchairs.

Thank you for bringing this problem to our attention and for your patience during the period pending its resolution. We also want to thank WMATA for exploring new options and taking the steps needed to help ensure accessible transportation for the passengers riding its system. If you have any questions regarding this decision, please contact Roberta Wolgast, Equal Opportunity Specialist, at 202-366-0802, or at her electronic mail address: roberta.wolgast@fta.dot.gov

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: WMATA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 30 2000

[REDACTED]

Re: FTA Complaint No. 98105

Dear [REDACTED]

This letter responds to your complaint against the Washington Metropolitan Area Transit Authority (WMATA), alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We have received a number of complaints, including yours, from various persons with disabilities alleging that the vertical and/or horizontal gaps between WMATA rail cars and platform edges are not in compliance with the DOT ADA regulations and cause difficulties in boarding and disembarking. The ADA Accessibility Guidelines for Buildings and Facilities (ADAAG) at Appendix A to 49 CFR part 37, Section 10.3.2(4) requires the following:

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We informed WMATA of these allegations and requested information relating to the complaints; reviewed the information presented by the complainants and WMATA, and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations as well as the corrective actions that WMATA has already undertaken.

WMATA has acknowledged that the allegations regarding vertical and horizontal gaps are accurate on some of its railcars and has addressed the situation with various solutions. In 1997, WMATA discovered that the leveling valves on 366 rail cars were identified as "failing to meet/maintain the proper platform-to-car tolerance." By the end of 1997, new leveling valves were installed in these rail cars. However, as you are probably aware, this did not completely rectify the problem. WMATA also discovered that the height of some of its platforms "may preclude compliance with the coordination requirements. *for the full length of the platform.*" [Emphasis added.]

In an effort to resolve this problem, WMATA met with the Director of the FTA Office of Civil Rights and team members on numerous occasions regarding the issue of the gap. WMATA and the Director discussed the idea of installing bridgeplates on the doors of the rail cars, a solution that had been successful in Atlanta, Georgia. This idea was proposed and several cars were fitted for demonstration purposes. WMATA held several demonstrations, inviting members of the disability community as well as those who had filed complaints with this Office, to review and test the prototype and make observations regarding the effectiveness of the proposed solution. Staff from the FTA Office of Civil Rights also attended these demonstrations.

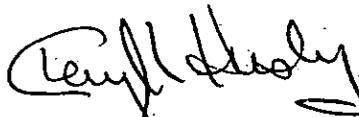
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In conclusion, WMATA acknowledged that some of its stations did not comply with the DOT ADA regulations regarding gaps between platforms and trains; however, its efforts have apparently resolved the issue. By modifying each door of each rail car, WMATA has gone beyond the minimum requirement stated above in addition to the following minimum requirement at 49 CFR section 37.93(c) which states that:

Each public entity providing light or rapid rail service shall ensure that each train, consisting of two or more vehicles, includes at least one car that is readily accessible to and usable by individuals with disabilities, including individuals with disabilities, including individuals who use wheelchairs.

Thank you for bringing this problem to our attention and for your patience during the period pending its resolution. We also want to thank WMATA for exploring new options and taking the steps needed to help ensure accessible transportation for the passengers riding its system. If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 202-366-0792, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov

Sincerely,



Cheryl D. Hershey
ADA Group Leader
Office of Civil Rights

Cc: WMATA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 30 2000

Ms. Eve Hill
Executive Director
Western Law Center for Disability Rights
919 South Albany Street
Los Angeles, California 90015

Re: FTA Complaint No. 00030

Dear Ms. Hill:

This letter responds to your complaint filed on behalf of individuals with disabilities against Access Services, Incorporated (ASI), of Los Angeles, California and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your general allegations that relate to poor quality of ADA Complementary Paratransit service to persons with disabilities, include the following:

1. Significantly untimely pickups of initial and/or return trips;
2. Substantial number of missed trips; and
3. Inappropriate treatment by ASI ADA Complementary Paratransit drivers to persons with disabilities.

We informed ASI of your allegations and requested information relating to your complaint; reviewed the information presented by you and ASI; and made a determination on each of your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations below

1. ASI's ADA Complementary Paratransit Service has a significant rate of late untimely pickups for initial and/or return trips;

The DOT ADA regulation at 49 CFR 37 131(f) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: (1) Restrictions on the number of trips an individual will be provided; (2) Waiting lists for access to the service; or (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of significantly untimely pickups for initial or return trips.

Based on the information received, we found that of the 24 complainants you identified, 17 are ADA Complementary Paratransit eligible riders; and seven (7) are ineligible riders, either they are contact persons for disabilities or their eligibilities have expired or were denied and did not appeal the decision.

Western Law Center for Disability Rights records reflected that four (4) of the complainants were not contacted by the Western Law Center for Disability Rights prior to the filing of the complaint and did not want to be involved. As such this letter only addresses the experience of the 17 eligible riders.

ASI's ADA Complementary Paratransit total ridership increased from 133,000 trips in 1993 compared to 1,582,229 in 1999. Likewise, ASI's on time performance also improved from 73% to 91% during the same period.

We reviewed the 9-month ride history of the 13 ADA eligible riders (from July 1999 through March 2000). The ride history for four eligible riders was unavailable due to corrupted computer error. We determined that the riders' on time pickup rate using the 30-minute on time performance window (15 minutes prior to and 15 minutes after scheduled pick up time) was 93%.

On-Time Performance for 9-month period of 13 ADA Complementary Paratransit Eligible Riders

<u>Trips Total</u>	<u>Trips On-Time</u>	<u>% On-Time (within 20-min window)</u>	<u>% On-Time (within 30-min window)</u>	<u>% 45+ Min Late Trips</u>
4376	3744	86%	93%	3%

ASI advised us that four (4) riders who received significantly poor service of more than 10 minutes late pickup outside the pick up window, will be contacted individually to determine the extent of their service problems and to provide resolution to them. We have determined based on our review of the materials submitted that cancellations of scheduled trips caused some

problems in providing timely service. For example, one complainant, [REDACTED] scheduled 1,264 trips and she cancelled 7 trips on one day or a total of over 1000 trip cancellations in the last nine months.

ASI elected to provide in-service training for [REDACTED] rather than suspending her eligibility to avoid multiple reservations and cancellations. ASI will meet with [REDACTED] and her advocate to provide in-service training on appropriate scheduling and cancellation procedures.

The documentation verifying an on time pick up rate of 93% does not support a finding of a violation of the DOT ADA regulation at 49 CFR 131(f), however, we encourage ASI to continue to improve the timeliness of its service. We are continuing to monitor this situation with ASI as to late pick ups.

ASI informed us that they instituted a procedure in July 1999 to implement an Operations Monitoring Center by contacting at random at least 30 riders a day who had ridden the previous day to verify the trip performance. This procedure also allows riders to contact the center any time the vehicle is late and its staff has access to emergency response vehicles that can be dispatched quickly to pickup passengers. The emergency response system operates 24 hours a day – 7 days per week. According to ASI, a taxicab will be sent to wait for the passenger until the emergency vehicle has arrived. ASI had contracts with various Centers for Independent Living to randomly select ADA Complementary Paratransit passengers to report anonymously the service quality of their trips.

2. Substantial number of missed trips.

The DOT ADA regulation at 49 CFR 37 131(f)(3)(i)(B) states:

Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. Such patterns or practices include, but are not limited to, substantial numbers of trip denials or missed trips;.

The DOT ADA regulation does not quantitatively define the phrase “substantial numbers of significantly missed trips.” However, ASI provided documentation showing that from 1998 through 1999, the rate of missed trips is less than 1% of all rides; and presently the rate dropped to 0.4%. ASI’s Board of Directors adopted performance standards to address issues specifically on missed trips (trips one or more hours late). ASI finds it difficult to discover any isolated repeated service problems from among the 39,000 eligible riders or 1.2 million trips provided per year. ASI encourages riders to cooperate by either contacting or filing a complaint with ASI or any of its service providers to determine the nature and root cause of the riders’ problems.

ASI’s monitoring efforts show the following results:

	<u>1997-1998</u>	<u>1998-1999</u>	<u>1999-March 2000</u>
Missed Trips	6%	0.9%	0.4%
Rides Provided	1,193,000	1,582,229	1,187,975

The documentation does not support a finding of a violation of the DOT ADA regulation at 49 CFR 131(f) at this time.

3. Inappropriate treatment by ASI complementary paratransit drivers to persons with disabilities.

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173

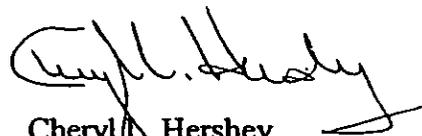
Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

ASI provided documentation that it has a training program that meets the requirements of the DOT ADA regulation. ASI has a policy that any employee, whether internal or contracted, displaying a continued pattern or poor behavior will be terminated. ASI stated that passengers are encouraged to ask for the individual's name and file a complaint with the Customer Service Center for resolution. ASI stated that allegations of mistreatment by Access Paratransit drivers are taken very seriously

Information provided by ASI indicates that, this fiscal year, based on passengers' complaints and road observations 196 drivers were required to be retrained; 53 drivers were suspended from service for various period of time and were required to complete re-training before they are put back on the road; and, two drivers and two dispatchers were permanently removed from service. Also, ASI's paratransit providers, independent of ASI's direction, regularly remove and re-train drivers based on their own observations.

Thank you for bringing this matter to our attention. If you have any questions regarding this decision, please contact Mr. Peralta, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov

Sincerely,



Cheryl D. Hershey
ADA Group Leader
Office of Civil Rights

cc: Richard DeRock
Executive Director
Access Services, Incorporated



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 30 2000

[REDACTED]

Re: FTA Complaint No. 99304

Dear [REDACTED]

This letter responds to the complaint submitted by the [REDACTED] on behalf of [REDACTED] against the Washington Metropolitan Area Transit Authority (WMATA) and Metro Access. The family alleges noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If we cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

- 1 Metro Access, the ADA Complementary Paratransit service provider for WMATA, became so unreliable that your family had to find alternative transportation for your mother, [REDACTED] to attend dialysis treatments. You allege that taxis were consistently very late or did not come at all.
2. On at least one occasion, a taxi driver "expressed hostility" toward your mother.

We informed WMATA of your allegations and requested information relating to your complaint; reviewed the information presented by WMATA and you; and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below

1. **Metro Access service was so unreliable that her family had to find other transportation for [REDACTED] to attend dialysis.**

The DOT ADA regulation at 49 CFR part 37 131(f) prohibits any actions that would "limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:"

- (1) Restrictions on the number of trips an individual will be provided;
- (2) Waiting lists for access to the service; or
- (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of significantly untimely pickups for initial or return trips; (B) Substantial numbers of trip denials or missed trips; (C) Substantial numbers of trips with excessive trip lengths.

From the descriptive log that you provided with your complaint, it appears that the service provided [REDACTED] by MetroAccess meets the description of capacity constraints as described by the DOT ADA regulation.

WMATA acknowledged that your allegations regarding poor ADA Complementary Paratransit service are correct. With the receipt of the family's letter of complaint in November 1999, WMATA became aware of the severity of the difficulties that [REDACTED] had experienced. It discovered that most of her rides were provided by Barwood Taxi Cab Company, a provider contracted by Montgomery County Paratransit. To remedy the situation, WMATA offered to send one of its own contract carriers to provide [REDACTED] rides, and directed its "paratransit system manager contractor to monitor her trips for 60 days following her next trip." This offer of corrective action was made to the family by a letter addressed to [REDACTED], dated December 8, 1999. However, WMATA states that it did not receive a response from the family regarding this offer.

It appears that in the specific case of your mother, WMATA took immediate and appropriate action without our intervention when it became aware of her difficulties.

During the period of time that [REDACTED] was using the service, WMATA made reservations under the MetroAccess umbrella for the suburban areas, but the service was provided under contracts between the county governments (Montgomery County in your mother's case) and their own contractors. Although WMATA was involved at the front end of the process with taking reservations, it was not involved in the actual provision of intracounty trips.

We recognize that there were some problems with the delivery of services of cross-jurisdictional rides. As a result, WMATA has taken action to improve the quality of ADA Complementary Paratransit service to the suburban metropolitan areas. WMATA reorganized to provide direct ADA Complementary Paratransit service to the majority of the surrounding counties, including Montgomery County, where service began on July 1, 2000. Based on WMATA's reorganization

of local ADA Complementary Paratransit service, we will take no further action on this complaint. However, we will monitor the effectiveness of WMATA's new system for similar deficiencies.

2. On October 29, 1999, a Barwood taxi driver "expressed hostility" toward your mother. The nursing home staff called Barwood to complain and to request that that particular driver not be sent again to transport her.

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at 49 CFR part 37.173

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

We requested information regarding this particular incident from Montgomery County Department of Public Works and Transportation, who in turn contacted Barwood Taxi. Barwood states that it was unable to find a record of a complaint regarding [REDACTED] service on October 29, 1999. Consequently, it appears that no disciplinary actions were taken against the driver as a result of the complaint.

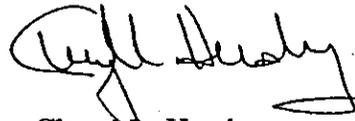
We also learned from our investigation that while Barwood taxi drivers are required to sign a document entitled *Acknowledgment for ADA Compliance*, they are not necessarily trained in accordance with the DOT ADA regulation as cited above. We have informed the Montgomery County Department of Public Works of its obligation under the DOT ADA regulation that its contractors are under the same requirements as it would be if it provided the service itself. The DOT ADA regulation states at 49 CFR part 37.23(a):

When a public entity enters into a contractual or other arrangement or relationship with a private entity to operate fixed route or demand responsive service, the public entity shall ensure that the private entity meets the requirements of this part that would apply to public entity if the public entity itself provided the service.

We have addressed this matter with Montgomery County by cover of separate letter.

If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov Please accept our condolences on the loss of your mother.

Sincerely,



Cheryl B. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Senator Barbara Mikulski
WMATA
Montgomery County Department
Of Public Works



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 30 2000

[REDACTED]

Re: FTA Complaint No. 00011

Dear [REDACTED]

This letter responds to your complaint against Access Services Incorporated (ASI) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be as follows:

- ASI denied you eligibility for ADA Complementary Paratransit and that the decision was upheld on appeal.

We informed ASI of your allegation, requested information relating to your complaint and reviewed the information presented by ASI and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

The ADA is a civil rights statute. It clearly emphasizes nondiscriminatory access to fixed route service, with ADA Complementary Paratransit acting as a "safety net" for people who cannot use the fixed route system. Under the ADA, ADA Complementary Paratransit is not intended to be a comprehensive system of transportation for individuals with disabilities and simply having a disability or multiple disabilities does not, in and of itself, entitle a person to ride. The DOT ADA regulation requires that persons who are denied eligibility be granted an objective appeal.

Section 37 125(g) states the following:

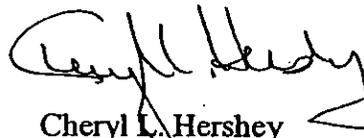
The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial. (a) The entity may require that an appeal be filed within 60 days of the denial of an individual's application. (b) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it.

The administrative appeal process is intended to give appellants the opportunity to have their cases heard by some official other than the one who turned them down in the first place. In order to have appropriate separation – a key element of administrative due process – not only must the same person not decide the case on appeal, but also the person, to the extent practicable, should not have been involved in the first decision.

We have reviewed ASI's appeal process and have found that ASI's appeal process meets the requirements of the ADA. Further, in complaints of this nature, we normally do not reevaluate the transit property's decision made on appeal. Our review is to ensure the transit property meets the DOT ADA requirements outlined in the regulation. As such, we would not normally take any actions as to the specific decision unless the decision appeared to be an egregious error. Based on the information provided we do not reach that determination.

If you have any questions regarding this decision, please contact Roger Peralta, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Access Services, Incorporated



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 30 2000

[REDACTED]

Re: FTA Complaint No. 98249

Dear [REDACTED]:

This letter responds to your complaint against the Chicago Transit Authority (CTA), in Chicago, Illinois, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. CTA has a systemic problem with malfunctioning lifts on buses and does not repair them as required by the DOT ADA regulations; and
2. CTA has requested an extension to its existing time extension to make the Fullerton key station accessible; but has shown no good faith efforts heretofore to ensure that renovations (e.g., new turnstiles) are in compliance with the DOT ADA regulations.

We informed CTA of your allegations, requested information relating to your complaint and reviewed the information presented by CTA and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determination below

CTA has a systemic problem with malfunctioning lifts on buses and does not repair them as required by the DOT ADA regulations.

It has come to our attention that a class action lawsuit was filed against CTA on February 8, 2000, in U.S. District Court on the same type of issues that gave rise to this allegation. Among the allegations in the pending lawsuit are: 1) the frequent malfunctioning of wheelchair lifts on buses; 2) inadequate training of CTA bus drivers in the operation of wheelchair lifts; 3) the frequent failure of bus drivers to pick up passengers with disabilities at bus stops; and 4) the routine failure of CTA bus drivers to make stop announcements.

In light of the pending lawsuit and the similarity of issues, we plan to hold your complaint in abeyance until such time that this class action suit is concluded. Once this lawsuit has been concluded, we will determine what actions, if any, are necessary to the effective resolution of your complaint.

2. What is the status of the time extension request? Is CTA entitled to FTA granting this request under the regulation especially in light of CTA's past performance and their failure to ensure compliance with the DOT ADA regulation?

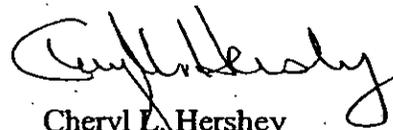
The DOT ADA regulation, implementing the American with Disabilities Act (ADA), requires that all key stations be accessible by July 26, 1993. However, the FTA Administrator may grant an extension of this completion date in accordance with 49 CFR part 37.47(e):

Extensions may be granted only with respect to key stations which need extraordinarily expensive structural changes to, or replacement of, existing facilities (e.g., installations of elevators, raising the entire passenger platform, or alterations of similar magnitude and cost).

FTA is currently reviewing documentation submitted by CTA and the disability community regarding CTA's request for a time extension. We will be glad to advise you of the outcome when a decision has been made.

Thank you for bringing this matter to our attention. If you have any questions regarding this decision, please contact Roger Peralta, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: CTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 30 2000

[REDACTED]

Re: FTA Complaint No. 99280

Dear [REDACTED]

This letter responds to your complaint of discrimination against Access Services, Incorporated (ASI), in Los Angeles, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that ASI denied you ADA complementary paratransit service because you have an oversized wheelchair.

We informed ASI of your allegation and requested information relating to your complaint; reviewed the information presented by ASI and you; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations.

A "common wheelchair" is defined in the DOT ADA regulation at Section 37.3 as follows:

A mobility aid belonging to any class of three or four wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered. A "common wheelchair" is such a device which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied.

Appendix D at Section 37.163 provides guidance in saying that:

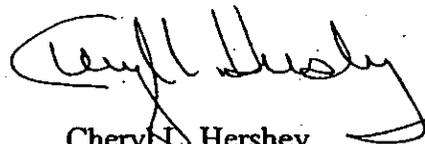
All people using common wheelchairs (an inclusive term for mobility devices that fit on lifts meeting Access Board guideline dimensions-30" by 48" and a maximum of 600 pounds for device and user combined-which includes three-wheeled scooters and other so-called non-traditional mobility devices) are to be allowed to ride the entity's vehicles.

In our review of the provided information, we found that you are eligible for "unconditional" use of ASI's complementary paratransit service effective July 19, 1999. However, ASI states that, as part of its ADA certification assessment, your wheelchair that measures- 25" by 52" is not ADA compliant and you were advised of this finding. Fortunately, your primary service provider has a policy that allows the boarding of chairs that are larger than required by the DOT/ADA regulations. In addition, your primary provider operates a bus that accommodates your oversized wheelchair as evidence when you used the service in February 11, 2000. We understand that the difficulty arises when you travel outside your primary service area the provider may not be able to accommodate your oversized wheelchair.

ASI provided us documentation showing that its vehicles are fully accessible and its lifts meet the requirements of the DOT ADA regulation. However, since your wheelchair does not comply with the 30" x 48" requirement, ASI is not required by the DOT ADA regulation to provide you service while using that wheelchair.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Roger Peralta, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov. We regret the delay in our response.

Sincerely,



Cheryl Hershey
ADA Group Leader
Office of Civil Rights

cc: ASI



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 30 2000

[REDACTED]

Re: FTA Complaint No. 00-0302

Dear [REDACTED]

This letter responds to your complaint against the Central Florida Regional Transportation Authority, (LYNX), Orlando, Florida, and LYNX's alleged noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that:

- A LYNX bus operator would not allow you to board the bus via the bus lift with your Badsey "Zip" model scooter.

We informed LYNX of your allegation and requested information relating to your complaint; reviewed the information presented by LYNX and you; and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations.

The DOT's ADA regulations at section 37.3, defines a "common wheelchair" as follows:

Wheelchair means a mobility aid belonging to any class of three or four-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered. A "common wheelchair" is such a device, which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied. (NOTE. APPENDIX D of section 37 165 provides guidance stating: "All people using common wheelchairs (an inclusive term for mobility devices that fit on lifts meeting Access Board guideline dimensions-30" by 48" and a maximum of 600 pounds for device and user combined-which includes three-wheeled scooters and other so called non-traditional mobility devices) are to be allowed to ride the entity's vehicles."

Your chosen mobility device, however, does not fit within this definition. The photograph of your scooter you submitted with your complaint, and as described by the bus operator as being an "electric scooter with two small wheels, one front and one back", verifies the description of the device.

We should note that the DOT's ADA regulations at 37 165(g) states:

The entity shall permit individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle.

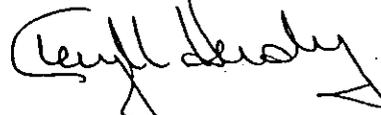
You describe yourself as an individual with a disability. As a qualified person with a disability, this provision allows you to use the vehicle's lift or ramp, whether travelling with your scooter or a common wheelchair.

While you have the right to use the lift per Section 37 165(g), your chosen mobility device does not meet the DOT ADA's definition of a "common wheelchair" and under the ADA DOT regulation is not required to be transported in the same manner or location as a common wheelchair. Based on the information we reviewed, LYNX's actions were not a violation of the DOT ADA regulation.

We note while transportation of your two-wheeled electric scooter is not required under the ADA regulation, it should be handled consistent with LYNX's policies regarding other wheeled devices, such as bicycles, strollers, and grocery carts.

If you have any questions regarding this decision, please contact Linda Wood King, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address, linda.king@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Mr Dennis Dee, Manager Transportation
Mr. Robert Blue, Customer Relations Representative

Cian



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 28 1999

[REDACTED]

Re: FTA Complaint No. 00047

Dear [REDACTED]

This letter responds to your complaint against the Utah Transit Authority (UTA) of Salt Lake City, Utah, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property

We understand your general allegations to be as follows:

- 1 UTA bus operators often do not make proper stop announcements.
2. You have experienced rude and insensitive behavior by bus operators.
- 3 Audio equipment on buses sometimes malfunction.

We informed UTA of your allegations and requested information relating to your complaint, reviewed the information presented by UTA and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determinations below

1. You allege that bus drivers often do not announce stops to onboard passengers or to customers waiting at a bus stop.

The DOT ADA regulations at 49 CFR sections 37.167(b) and (c) require that stop announcements must be made on fixed route systems as follows:

(b) On fixed route systems, the entity shall announce stops as follows:

- (1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location.
- (2) The entity shall announce any stop on request of an individual with a disability

(c) Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

In 1998, FTA conducted a compliance assessment of UTA in response to allegations of ADA violations cited in a newspaper article printed in a local Salt Lake City newspaper. The FTA Office of Civil Rights discovered, among other concerns, that UTA did not enforce the DOT ADA stop announcement requirements stated above. Since then, UTA has implemented an aggressive training and enforcement program that includes the following elements:

- development of "Block Sheets" to identify required stop announcements;
- a monitoring system using "mystery riders" in which each driver is evaluated three times a year;
- a follow up conference between the driver and supervisor to discuss the mystery rider's survey results;
- individualized training and re-training as necessary; and
- a sliding scale of disciplinary measures as necessary

With this program in place, UTA reports that it has raised its driver compliance rate with required stop announcements from 32% to 82%. We acknowledge the substantial efforts taken by Utah to make these strides in performance, and we recognize the importance of calling stops to you and others in the disability community as necessary to the right to accessible transportation. In that vein we continue to ensure that UTA fulfills its ongoing obligation.

UTA has investigated the numerous complaints you have filed regarding this issue. We have attached UTA's detailed response to each incident and observe that in some cases, such as the incident cited on March 18, 2000, the driver was disciplined. The names of the drivers and supervisors have been expunged for privacy purposes. The detailed response provided by UTA and its attention to each complaint demonstrates UTA's willingness to continue to fulfill its obligations under the ADA DOT regulations. This requirement has proven to be difficult for transit providers across the country to implement. It appears that in this respect, UTA has taken a leadership position in the transportation community. We encourage you to contact UTA's ADA Compliance Officer, Sherry Repscher, directly with any future complaints regarding this issue.

2. **You allege numerous accounts of rude and insensitive behavior by bus drivers that include: a driver who tried to force you to sit in the priority seating area for persons with disabilities, and who pushed you when you refused; a bus driver who began driving while you were holding onto the door of the bus; and a bus driver who pushed you when you walked to the front of the bus to ask a question.**

According to the DOT ADA regulations at 49 CFR section 37.173

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

According to UTA, bus drivers attend mandatory training that includes a module specific to ADA compliance requirements and a sensitivity session that encourages empathy toward, and understanding of, individuals with various types of disabilities. When appropriate, drivers are required to attend retraining sessions.

UTA investigated every complaint that you filed regarding bus driver behavior as well as each stop announcement complaint referenced in the previous section. The following paragraphs summarize UTA's response to your complaints about incidents involving drivers.

UTA addressed the first complaint, regarding the driver who tried to force you to sit in priority seating, by meeting with the driver and discussing this situation with him. The driver explained that he thought the seats at the front were mandatory for your use. After this interview, the driver assured UTA that he would not try to require you to sit in the set aside seating area again. UTA stated that it called you to explain the action taken and that you indicated that you had not encountered any more problems of this nature.

UTA attempted to address the second complaint regarding a bus driver who began driving while you were holding onto the door of the bus, but despite efforts to identify the driver, it states that it could not positively identify the driver based on the information you provided.

UTA also attempted to investigate the third complaint regarding a bus driver who pushed you when you walked to the front of the bus to ask a question. However, it had no record of a

complaint called in by you for the date, December 31, 1999, and no particulars as to the incident, such as bus route, bus number, time, or driver identification. UTA was unable to investigate this matter

Training drivers does not always ensure that their behavior is commensurate with their training; however, based on the documentation provided in response to this investigation UTA meets the ADA training requirements, and takes appropriate action in response to complaints about its employees.

3. You allege that at times the audio equipment on buses malfunction that makes hearing stop announcements difficult or impossible.

The DOT ADA regulation at 49 CFR sections 37.161(a) - (c) require the following:

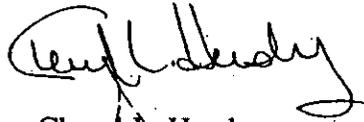
- (a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.
- (b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.
- (c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

The DOT ADA regulations do not require the use of audio equipment. The requirement is for stop announcements to be made in such a manner that they can be heard by every person riding the bus. If the stop announcements are not audible, regardless of whether or not audio equipment is used, the requirement is not being met.

We have discussed in section #1, UTA's practice as to training, monitoring and follow-up regarding stop announcements. UTA requires bus drivers to announce stops regardless of equipment failures. UTA states that both operators and service line employees check for defective equipment on a daily basis that when failures do occur, the equipment is repaired promptly. UTA provided documentation showing that for its fleet of approximately 125 buses, there were 10 audio equipment failures during the week of June 21, 2000. In addition, UTA states that it "has made available to all operators the option of using a lapel microphone which plugs directly into the bus and which broadcasts a clear announcement." UTA meets the ADA requirements stated above with regards to bus audio equipment.

If you have any questions regarding this decision, please contact Roberta Wolgast, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov You have brought several issues to our attention regarding UTA's ADA performance. Without this type of consumer involvement, we would be largely unaware of the issues facing the public as they ride public transit. We thank you for your input.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: UTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 28 2001



Re: FTA Complaint No. 99169

Dear 

This letter responds to your complaint against the Washington Metropolitan Area Transit Authority (WMATA) and Metro Access alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If we cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegations to be as follows:

- **MetroAccess, the ADA Complementary Paratransit service provider for WMATA and other area transit agencies, provided you very unreliable service by coming late for your appointments or not coming at all, and by sending sedans when you needed vans to use your scooter. This occurred in 10 of your first 12 trips with MetroAccess.**

We informed WMATA of your allegations and requested information relating to your complaint; reviewed the information presented by WMATA and you; and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. Some of the information is based on data previously gathered for another complaint regarding the same type of issues. Our determination follows.

The DOT ADA regulations at 49 CFR section 37.131(f) prohibit any actions that would "limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following"

- (1) Restrictions on the number of trips an individual will be provided;
- (2) Waiting lists for access to the service; or
- (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of significantly untimely pickups for initial or return trips; (B) Substantial numbers of trip denials or missed trips; (C) Substantial numbers of trips with excessive trip lengths.

WMATA previously acknowledged to FTA that MetroAccess has had difficulties in providing intracounty trips and has taken measures to improve the quality of ADA Complementary Paratransit service to the suburban metropolitan areas. WMATA noted that the "service failures" you cited were the responsibility of the Barwood Taxi Cab Company, an ADA Complementary Paratransit provider contracted by Montgomery County to supply intracounty trips within Montgomery County. During the period of time that you were using the service, WMATA made reservations under the MetroAccess umbrella for the suburban areas, but the service was provided under contracts between the county governments (Montgomery County in your case) and their own contractors. Although WMATA was involved at the front end of the process with taking reservations, it was not involved in the actual provision of intracounty trips. We recognize that there were some problems with the delivery of services of cross-jurisdictional rides.

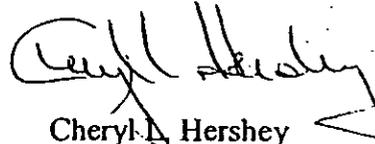
As a result, WMATA has taken action to improve the quality of ADA Complementary Paratransit service to the suburban metropolitan areas. WMATA, in agreement with most of the surrounding counties, now has the direct responsibility of providing ADA Complementary Paratransit trips for the counties. WMATA reorganized to provide direct ADA Complementary Paratransit service to the majority of the surrounding counties, including Montgomery County, where service began on July 1, 2000.

We acknowledge WMATA's actions taken to address the problem through the reorganization of the MetroAccess ADA Complementary Paratransit service. While we will take no further action on this individual complaint, we will monitor the effectiveness of WMATA's new system for similar deficiencies through our complaint system.

We understand that, because of the difficulties you encountered, you no longer use the MetroAccess service. Should you decide to try it again, we hope that the changes that WMATA has made will result in a much better experience for you.

If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov

Sincerely,



Cheryl D. Hershey
ADA Group Leader
Office of Civil Rights

Cc: WMATA

Craig



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 28 2007

[REDACTED]

Re: FTA Complaint Number 99285

Dear [REDACTED]

This letter responds to your complaint against the City of Las Vegas, Nevada, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U S. Department of Justice for enforcement.

Because of the limitation in resources, complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property

We understand your allegation to be as follows

- **You and your husband were denied service on the fixed route trolley service operated by the City of Las Vegas trolleys, because either they were not lift-equipped when you wanted to ride or the lifts were not maintained.**

We informed the City of Las Vegas of your allegation, requested information relating to your complaint, reviewed the information presented by the City of Las Vegas and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

The DOT ADA regulations at 49 CFR section 37 71(a) state:

Except as provided elsewhere in this section, each public entity operating a fixed route system making a solicitation after August 25, 1990, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

We received information from Robert Hasegawa of the City of Las Vegas that the trolleys were purchased in 1987, and therefore are not required to be accessible under the Americans with Disabilities Act. In addition, Mr. Hasegawa reported that you and your husband were offered alternate transportation, either paratransit service on an emergency basis or transportation in a City vehicle other than a trolley [REDACTED] is also eligible for ADA Complementary Paratransit service, and according to 49 CFR section 37 123(f)(1):

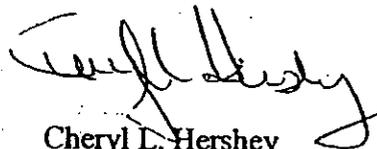
One other individual accompanying the ADA paratransit eligible individual shall be provided service.

This means that you can accompany your husband on ADA Complementary Paratransit trips.

Based on the aforementioned information received, we do not see any violations of the DOT ADA regulations by the City of Las Vegas.

If you have any questions regarding this decision, please contact Ms. Mary-Elizabeth Peters, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Please identify the FTA complaint number in any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Robert Hasegawa, City of Las Vegas

Craig



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 28 2000

[Redacted]

Re: FTA Complaint No. 00-0258

Dear [Redacted]

This letter responds to your complaint against Access Services, Incorporated (ASI), of Los Angeles, California and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be as follows:

- **You alleged discrimination based on disability when ASI denied you ADA Complementary Paratransit eligibility even though you were found eligible for social security benefits by the Social Security Administration's Administrative Law Judge.**

We informed ASI of your allegation and requested information relating to your complaint; reviewed the information presented by you and ASI; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations. Our

determination on your allegation is stated below

The DOT ADA regulations at 49 CFR section 37 121(a) states:

each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

The ADA is a civil rights statute. It clearly emphasizes nondiscriminatory access to fixed route service, with ADA Complementary Paratransit acting as a "safety net" for people who cannot use the fixed route system. Under the ADA, Complementary Paratransit service is **not** intended to be a comprehensive system of transportation for individuals with disabilities, and **simply having a disability or multiple disabilities does not, in and of its self entitle a person to ride.** Rather, the DOT ADA regulation provides for three categories of ADA Complementary Paratransit eligibility. Category 1 is for persons with disabilities who cannot use fixed route without the assistance of another person. Category 2 is for persons who could use the fixed route if the vehicles were accessible. Category 3 is described at DOT ADA regulation at 37 123(e)(3):

Any individual with a disability who has a specific impairment-related condition, which prevents such individual from traveling to a boarding location or from a disembarking location on such system.

The determining factor in deciding whether you qualify for supplemental social security income (SSI), as stated in the SSI Administrative Law Judge's Findings of April 10, 1999 includes whether in light of your disability you can perform "sustained work activities in an ordinary work setting on a regular and continuing basis." The determining factor in deciding whether you qualify for *ADA Complementary Paratransit* is whether you can functionally ride or access the bus. It is not a medical determination; it is a functional ability analysis.

The DOT ADA regulation requires that persons who are denied eligibility are granted an objective appeal. DOT ADA regulations at 49 CFR section 37 125(g) state the following:

The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial. (1) The entity may require that an appeal be filed within 60 days of the denial of an individual's application. (2) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it. (3) The entity is not required to provide paratransit service to the individual pending determination on appeal. However, if the entity has not made a decision within 30 days of the completion of the appeal process, the entity shall provide paratransit service from that time until and unless a decision to deny the appeal is issued.

The DOT ADA regulations further explain in Appendix D to section 37 125

The administrative appeal process is intended to give appellants the opportunity to have their cases heard by some official other than the one who turned them down in the first

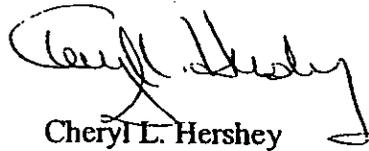
place. In order to have appropriate separation of functions, a key element of administrative due process, not only must the same person not decide the case on appeal but that person, to the extent practicable, should not have been involved in the first decision.

In complaints of this nature, unless the facts of the particular circumstance appear to be egregious or substantively violate the regulation, we consider only the appeals process to determine if it meets the requirements of the DOT ADA regulations. In your case, it appears that ASI followed the appropriate guidelines in making its decision.

We reviewed the documents presented and found that based on your in-person interview on September 3, 1999, ASI had determined that you were ineligible to use its ADA Complementary Paratransit service. ASI, in its September 11, 1999, letter informed you of this decision and likewise told you of your right to appeal the decision. You elected to appeal the decision and submitted a documentation from the Social Security Administration which entitled you for social security benefits. On November 15, 1999, a medical doctor at Olympic Medical, met with you and explained that the documentation you provided from the Social Security Administration will be considered, however was not despositive of this issue and that you needed to participate in the entire appeal process. However, you decided to terminate the appeal. ASI has agreed to give you another opportunity to continue the appeal process that you began a year ago. Should you decide to pursue your appeal, please call ASI at (213) 270-6081, for an appointment.

Thank you for bringing this matter to our attention. If you have any questions regarding this decision, please contact Mr. Peralta, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Richard DeRock
Executive Director
Access Services, Incorporated

Craig



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 28 2000

[Redacted]

Re: FTA Complaint No. 00-0405

Dear [Redacted]:

This letter responds to your complaint regarding the Regional Transportation Commission, Citizens' Area Transit (CAT) Paratransit Service, of Las Vegas, Nevada, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

Because of the limitation in resources, complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be that:

- **You were denied eligibility for ADA Complementary Paratransit service, and upon re-evaluation, the denial was upheld after an appeal hearing.**

As to the actual determination of eligibility, in complaints of this nature, unless the facts of the particular circumstance appear to be egregious or substantively violate the regulation, we consider only the appeals process to determine if it comes within the requirements of the DOT ADA regulations. Our review the facts do not warrant accepting this allegation of eligibility denial as egregious or substantively violative. We accept for investigation the allegation regarding the propriety of the appeal process.

We informed RTC of this allegation and discussed the allegations with them relating to the complaint; reviewed the information presented by both RTC and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations.

The DOT ADA regulations at 49 CFR section 37.125(g) state that:

The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial. (1) The entity may require that an appeal be filed within 60 days of the denial of an individual's application. (2) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it. (3) The entity is required to provide paratransit service to the individual pending the determination on appeal. However, if the entity has not made a decision within 30 days of the completion of the appeal process, the entity shall provide paratransit service from that time until and unless a decision to deny the appeal is issued.

A review of the information and documentation from RTC indicates that its current policy is more expansive than that required under this section of the ADA DOT regulations, allowing an appeal to be filed within 65 calendar days from the date of the denial notification letter. The letter from RTC dated July 17, 2000, clearly outlines the date and location of the appeal hearing, and your right to be heard.

- We note that you were initially evaluated for ADA Complementary Paratransit service on April 23, 1997, and granted unconditional eligibility on May 12, 1997, with an expiration date of May 30, 2000.
- Your eligibility for ADA Complementary Paratransit Service was re-evaluated on May 12, 2000. A determination was made that the condition of your health did not prevent you from using the fixed route system.
- You were notified on June 5, 2000, that your eligibility for ADA Complementary Paratransit Service was denied and your eligibility would expire on July 5, 2000.
- On June 22, 2000, you submitted a written request for an Appeal Hearing.
- On July 17, 2000, you were notified that an Appeal Hearing was scheduled for July 26, 2000.

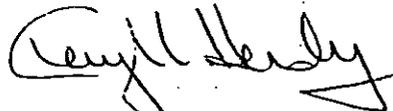
An Independent ADA Paratransit Eligibility Hearing Officer conducted the actual appeal hearing, and determined, after reviewing all relative documents, that you were able to negotiate the fixed route system. As the appeal hearing was set outside the thirty day time period and RTC, in accordance with subsection (3) of 49 CFR section 37 125(g), provided you eligibility through the course of the appeal. Appropriate guidelines were followed in handling the appeal and its actions were in accord with the requirements of the DOT ADA regulations at 49 CFR section 37 125(g).

We also note that FTA conducted an assessment of RTC's ADA Complementary Paratransit Operations in July 1999. Included in this assessment was a review of RTC's eligibility determination procedure and appeal process. That review found that RTC has "incorporated state-of-the-art functional assessment tools into its certification program, including physical, cognitive, visual, and psychiatric tests modeled after nationally recognized programs." In addition, "RTC has taken steps to improve their appeal process by hiring paid professional hearing examiners who have the skills to judge whether the certification process has been properly handled on a case-by-case basis."

The Assistant Customer Service Supervisor of CAT Paratransit Services, has assured us that it will re-evaluate your eligibility if you obtain definitive documentation that you cannot use the fixed route bus system and wish to reapply.

If you have any questions regarding this decision, please contact Eugene Jenkins, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address: eugene.jenkins@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: RTC

Craig



U S Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W
Washington, D.C 20590

DEC 28 2002

J Page Garrett, Esquire
Staff Attorney, Tennessee Protection
and Advocacy, Inc.
2416 21st Avenue, South
Suite 100
Nashville, Tennessee 37212

Re: FTA Complaint No 97255

Dear Mr Garrett:

This letter responds to the complaint you filed on behalf of [REDACTED], et al. against the Memphis Area Transit Authority (MATA) of Memphis, Tennessee. Please note that for administrative purposes, all of your clients' complaints have been combined under the FTA Complaint Number 97255

You have alleged that MATA is in noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, the majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property

The following are the allegations in your complaint that we have accepted for investigation:

- 1 MATA's ADA Complementary Paratransit service, MATAPlus, experiences capacity constraints.
- 2 MATAPlus fails to provide next day service and frequently fails to schedule trips within the one-hour window before or after the requested travel time.
- 3 MATAPlus vehicles have inoperable lifts and securement devices.
- 4 MATA's fixed route service is not fully accessible.
- 5 MATAPlus employees, including drivers, dispatchers, and reservation clerks are improperly trained, rude and insensitive, and provide misinformation and disinformation.
- 6 MATAPlus incorrectly records "missed rides" or "no-shows" against riders even after they have made cancellations.
- 7 MATA has neglected to take substantive corrective actions in response to consumer complaints about chronic problems with MATAPlus service.

We did not investigate the following allegations: MATA vehicles have inoperable heating systems in cold weather and inoperable air conditioning systems in warm weather; vehicles are not properly cleaned; and exhaust fumes nauseate riders, as there are no requirements in the DOT ADA regulation that govern these issues.

You have alleged that MATA. (1) failed to "create and promulgate the self evaluations, responsible employee policies, grievance procedures, and notices of non-discrimination as required by the Rehabilitation Act regulations appearing at 34 CFR parts 104.6 through 104.8", and (2) failed to "establish and promulgate self-evaluation, responsible employee policies, grievance procedures, and notice of non-discrimination as required by ADA regulations appearing at 28 CFR parts 35 105 through 35 107" Please note that under 28 CFR section 35 102(b), the Department of Justice's regulation specifically excludes public transportation from 28 CFR part 35, and 34 CFR is applicable to entities receiving federal assistance from the Department of Education. As such, we will not take any action regarding these two allegations. However, we have affirmed that MATA's Equal Employment Opportunity program was recently approved by FTA through March 2003

In response to additional ADA complaints raised by your clients, the Memphis Center for Independent Living, other individuals, and other information that has come to our attention, FTA recently conducted a compliance assessment of MATA's ADA Complementary Paratransit service. Many of the issues in your complaint were addressed by this assessment, and you have been provided a copy of the final report that summarizes our findings. Where we made findings of deficiencies, FTA will continue its follow-up with MATA until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

In addition, FTA conducted an investigation of the specific complaints you submitted. We informed MATA of your allegations and requested information relating to the complaints; reviewed the information presented by MATA and you; and made a determination on your allegations based on our analysis of the compiled information, including the assessment report, in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations below

- 1 You allege that MATA is deficient in the following individual components of the capacity constraints requirement: trip denials, on-time performance, missed trips, and excessively long trips.**

The DOT ADA regulations at 49 CFR section 37.131(f)(1)(2)(3) state that:

- (1) The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:
- 1 Restriction on the number of trips an individual will be provided;
 2. Waiting lists for access to the service; or
 - 3 Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to the following:
 - A. Substantial numbers of significantly untimely pickups for initial or return trips;
 - B Substantial numbers of trip denials or missed trips;
 - C Substantial numbers of trips with excessive trip lengths.

Capacity constraints were the main focus of the FTA assessment of MATAPlus. The following information is based on data gathered from the assessment.

Trip Denials

MATA claims that it has a zero percent denial rate for ADA Complementary Paratransit trips. Direct observation of 100 calls over a three day period in February 2000, confirmed that during the observation period, no trips were denied, and no trips were negotiated for more than one hour before or after the requested time. However, a review of previously recorded reservation call tapes for several days in January 2000, showed that requests for next-day service were often denied or negotiated for times outside of peak hours.

Anecdotally, the ten riders/advocates who were interviewed during the assessment seemed to agree that service had improved over the past two years and that they had no difficulty in reserving a ride if they call more than one day in advance.

In its response to the compliance assessment, MATA stated that it has ordered 13 new vehicles and hired two new drivers which should increase capacity at peak hours. In addition, the scheduler has been relieved of reservation duties to allow more attention to creating schedules.

A memorandum dated March 7, 2000, was sent to MATA staff stating the following:

All reservationists will inform passengers they can make reservations the day before travel is required and up to three days in advance. Under no conditions will passengers be denied a reservation the day before travel.

We believe that the actions MATA has taken to alleviate trip denials are steps in the right direction. Through quarterly reports, we will continue to monitor MATA's trip denial rate and next day service statistics until we determine that the deficiencies in these areas are corrected.

On-time Performance

MATA's stated goal for on-time performance is 98%. Our assessment validated MATA's on-time performance rate of an average of 92.5% for the six months preceding the assessment. MATA defines on-time performance as arriving up to 15 minutes before the scheduled pick-up time and no more than 30 minutes past the scheduled pick-up time.

Scheduled time is not necessarily the same time that is negotiated with riders, and this appears to be a source of miscommunication and a perception of a low on-time performance rate for many riders. Because MATA's method of recording reservations can involve several steps, not all reservations are entered into the computer as they are received. When they do get logged into the computer, the exact time may not be available, and changes are made to adjust the negotiated time to the scheduled time. In addition, the original requested time is not recorded for comparison to the scheduled time. Although MATA's policy is to call riders if their ride has been adjusted by more than 15 minutes, in reality, this does not consistently happen. This can result in a ride being on-time using MATA's criteria, but late according to the rider. For instance, if the rider requests a ride for 2:00 p.m. and the negotiated time is 3:00 p.m., MATA may adjust the time to 3:30 p.m. If the vehicle arrives at 4:00 p.m., it is on-time according to MATA, but the rider may consider it to be at least a half-hour late and two hours later than they originally requested. This habit of changing scheduled times without notifying riders appears to be a common complaint about MATA.

MATA's policy for changing scheduled times contributes not only to poor customer relations, but also to an inaccurate denial rate for several reasons. In general, we believe that reservations should be input at the same time they are received to allow for a "first come, first serve" basis. In many cases, riders are unaware of the adjusted scheduled times and are left waiting for a longer period of time than necessary. If the "negotiated" time is outside of the one-hour allowable window before or after the desired travel time, it should be counted as a trip denial.

MATA intends to address on-time performance through different avenues. It has increased a part time reservation clerk to a full time position so that more reservations can be input at the time of the call. A new telephone system has been set up that will allow persons on hold to be queued in order of their calls. Additional vehicles have been purchased to allow for increased capacity at peak hours. It plans to change its scheduling software to reflect the rider's original scheduled pick-up time, the appointment time, and to monitor early pick-ups as well as late pick-ups. A memorandum was issued on March 7, 2000, to "MATA Staff" that states the following:

Passengers must be called back if their pick-up time is changed 15 minutes or more. All staff members must make every effort to contact passengers to advise them of change and give them the chance to accept or decline.

We believe that MATA's implementation of this memorandum will resolve many of the on-time performance complaints, but we will continue to monitor this issue until we are satisfied that MATA's implementation of the above actions correct the deficiencies.

Missed Trips

There appear to be a couple of causes that contribute to the number of "missed trips" by MATA. First, as addressed in the assessment report, MATA did not have the tools in place to efficiently record reservations. Staffing had been inadequate; the telephone system was outdated; voice mail was not answered promptly; and the reservation takers did not routinely read back the information to confirm the trip request. The second cause may be due to MATA's rescheduling rides without notifying riders as discussed in the above paragraph. Although the issue of missed trips was not specifically addressed by the assessment, we have included a reporting requirement to address it in our follow-up with MATA.

Excessively Long Trips

MATA's standard for an ADA Complementary Paratransit trip length is two times the time it would take to travel the same trip on the fixed route, given the fact that ADA Complementary Paratransit is a multiple passenger, shared ride service. The assessment showed an improvement from September 1999 to January 2000, in the incidence of excessively long trips from 8.2% to 1.2%. Although the report makes recommendations for improvements in this area, we do not consider it to be a deficiency or a violation of the DOT ADA regulations at 49 CFR section 37.131(f).

2. **MATAPlus violates 49 CFR section 37.131(b) by its failure to provide next day service, and by frequently failing to schedule trips within the one-hour window before or after the desired travel time.**

The DOT ADA regulation at 49 CFR section 37.131(b) and (b)(2) states:

(b) Response Time The entity shall schedule and provide paratransit service to any ADA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day . . .

(2) The entity may negotiate pickup times with the individual, but the entity shall not require an ADA paratransit eligible individual to schedule a trip to begin more than one hour before or after the individual's desired departure time.

Next Day Service

During the assessment, direct observation of the telephone reservation process was conducted over three days. Of the one hundred calls observed, none were denied or negotiated outside of the one-hour window. However, the team also reviewed tapes that were made of reservation telephone calls in January 2000, and found that requests for next-day service were often denied or negotiated for times outside of peak hours. Conversations from these tapes indicated that the reservation clerks were aware of a capacity constraint in this area.

MATA admits to having peak hour capacity constraints. It was scheduled to receive 14 new paratransit vehicles this summer to meet this demand. Reservation clerks were instructed by memorandum dated March 7, 2000, that:

All reservationists will inform passengers they can make reservations the day before travel is required and up to three days in advance. Under no conditions will passengers be denied a reservation the day before travel.

We will continue to monitor MATA's progress, through quarterly reporting, in providing next day service until we are satisfied that it is meeting demand.

Negotiation Outside of the One Hour Window

The taped conversations confirmed that some trips have been negotiated outside of the one-hour window. Any trips scheduled outside of the one-hour window should be counted as one denial for a one way trip, or as two denials for a round trip. As MATA reports zero trip denials, this apparently has not been properly recorded. We have asked MATA to correct its reporting procedures to reflect this. We will continue to monitor MATA's progress through quarterly reporting in these areas of concern.

3. MATAPlus vehicles have inoperable lifts and securement devices.

The DOT ADA regulations state at 49 CFR sections 37.161 (a) through (c):

(a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices,

(b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

(c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

Our team observed morning "pull-out" procedures one day during the assessment. Drivers performed a pre-trip inspection and reported any vehicles that were unsuitable for service. Of the 38 vehicles available, two were pulled for repairs as a result of operator inspections. Although MATA appears to have policies and procedures in place to address this issue, we note that a number of complaints have allegations regarding this issue. We will address this issue further with MATA under the umbrella of driver training.

4. MATA's fixed route service is not fully accessible.

The DOT ADA regulation requires that new vehicles purchased or leased for use on fixed route service after August 25, 1990, must be accessible in accordance with 49 CFR section 37.71. However, there is no requirement that existing non-accessible vehicles be taken out of service nor that the buses must be retrofitted with equipment to make them accessible. Nor is there a timeline by which all fixed route buses must be accessible. It was anticipated that during this phase-in period, transportation services to persons with disabilities would be supplemented by ADA Complementary Paratransit service.

5. MATAPlus employees, including drivers, dispatchers, and reservation clerks are improperly trained, rude and insensitive, and provide misinformation and disinformation.

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and to operate accessibility features. The regulations state at 49 CFR section 37.173

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

The documentation in the complaints that you provided alleges drivers who do not secure wheelchairs, or secure them improperly, and rude and insensitive employees. Although MATA provided documentation that all of its employees are trained as required by the DOT ADA regulation, we acknowledge that providing the training does not ensure that the lessons taught will be properly implemented. In addition, we have noted several discrepancies in MATA's training manuals that we will ask MATA to correct. These issues will be addressed with MATA in our monitoring requirements.

We recommend that you work directly with MATA to address any future complaints against specific employees, and include sufficient information regarding the time, date, name, route number, and details about the incident so that the employee and the incident can be identified. Complaints should be directed to the Information Center Supervisor at 901-522-9175

6. MATAPlus incorrectly records "missed rides" or no-shows against riders even after they have made cancellations.

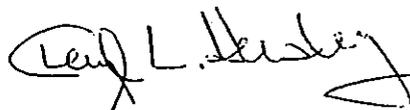
This appears to be a result of MATAPlus' inadequate telephone system, in which voice mail messages were not promptly retrieved and reservation clerks were responsible for answering all types of calls rather than just taking reservations. We anticipate that this alleged problem area will improve with MATA's increased staffing and new telephone system. We will monitor MATA's progress through quarterly reporting requirements.

7. MATA has neglected to take substantive corrective actions in response to consumer complaints about chronic problems with MATAPlus service.

The documentation in our files indicates that MATA responded in writing to many of the complaints filed by your clients. While we recognize that this does not necessarily mean that "substantive corrective actions" were taken, we do not believe that customer complaints were ignored. We are convinced, based upon the results of our investigation as well as the assessment process, that at this time, MATA is making good faith efforts to correct the identified deficiencies.

We will continue to follow MATA's progress until we are satisfied that it has corrected the deficiencies found during the assessment as well as the infractions noted during our investigation of this complaint. We appreciate your diligence and advocacy on behalf of your clients. If you have any questions regarding this letter, please contact me at 1-202-366-0808, or at my electronic mail address: cheryl.hershey@fta.dot.gov Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl E. Hershey
ADA Group Leader
Office of Civil Rights

cc: MATA

Case



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 28 2000

[REDACTED]

Re: FTA Complaint No. 99090

Dear [REDACTED]

This letter responds to your complaint you filed against the Memphis Area Transit Authority (MATA) of Memphis, Tennessee, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the

U.S. Department of Justice for enforcement.

Because of the limitation in resources, complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegations to be as follows:

- 1. On one occasion you were informed that you were denied a return trip because the ADA Complementary Paratransit service did not operate in that area at the time of your desired trip.**
- 2. On another occasion, the MATAPlus vehicle did not pick you up and you were charged with a "no-show."**

We informed MATA of your allegations and requested information relating to the complaints. We reviewed the information presented by MATA and you and made a determination on your allegations based on our analysis of the compiled information. Our references included a report based on a compliance assessment conducted on MATA's ADA Complementary Paratransit service in February 2000 and the DOT ADA regulations. We have restated your allegations followed by our determinations below.

1. On one occasion you were informed that you were denied a return trip because the ADA Complementary Paratransit service, did not operate in that area at the time of your desired trip.

The DOT ADA regulations state at 49 CFR section 37.131(e):

Hours and Days of Service. The complementary paratransit service shall be available throughout the same hours and days as the entity's fixed route service.

We have confirmed that MATAPlus provides service during the same time period that fixed route service is available. We also have confirmed that as to your specific situation, MATAPlus was providing service at the time, and in the service area you designated to other customers on that date. You indicated that your request for a return trip at 7:00 p.m. on May 5, 1999, was denied. MATA's records show that on that date you only requested a one way pick-up to 539 South Highland and did not request a return trip. We are unable, based on these divergent facts, to reach a conclusive determination regarding this incident. However, based on the results of our compliance assessment, we did not find a systemic violation of the hours and days of service provision section 37.131(e) of the DOT ADA regulations. We will further address this issue under #2, training of personnel.

2. On another occasion, the MATAPlus vehicle did not pick you up and you were charged with a "no-show."

Regarding the no-show, MATA responded that: "Our records clearly indicate that we picked [REDACTED] up from [REDACTED] on July 3, 1999, and transported her to [REDACTED]. We also attempted to pick her up for the return trip and [REDACTED]"

she was no where to be found. She was charged with a 'no show'." There is insufficient information to make a determination regarding the no-show itself. The compliance assessment indicated that MATA has some problems with the handling of trip request information, its telephone system, and understaffing that may have affected this particular trip. MATA has already made some improvements that should improve service and we will be monitoring it until we believe that the deficiencies are corrected.

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulations state at 49 CFR section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Although MATA provided documentation that all of its employees are trained as required by the DOT ADA regulations, we acknowledge that providing the training does not ensure that the lessons taught will be properly implemented. We will address this issue with MATA by cover of separate letter.

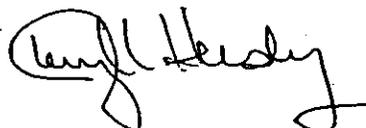
Should you experience any future negative experiences with MATA or MATAPlus employees, we encourage you to contact the Information Center Supervisor at 901-522-9175. Be sure

to include sufficient information regarding the time, date, name, route number, and details about the incident so that the employee and the incident can be identified.

FTA recently conducted an assessment of MATA's ADA Complementary Paratransit service. This was undertaken partially in response to a trend of ADA complaint allegations including yours. The specific issues in your complaint were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its follow-up with MATA until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

We hope that we have adequately responded to your concerns. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: MATA

12/19



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 30, 2000

[REDACTED]

Re: FTA Complaint No. 99076

Dear [REDACTED]

This letter responds to your complaint against New Jersey Transit Corporation (NJTC), in Newark, New Jersey, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegations to be as follows:

1. NJT ADA Complementary Paratransit drivers required you to pay \$1.90 for a one-way fare and later reduced it to \$1.45, even though the fare had been \$1.00 for many years; and
2. You believe that based on NJT's literature, you are entitled to have a companion who rides free with you.

We informed NJT of your allegations, requested information relating to your complaint, reviewed the information presented by NJT and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determinations below

1. **NJT ADA Complementary Paratransit drivers required you to pay \$1.90 for a one-way fare and later reduced it to \$1.45, even though the fare had been \$1.00 for many years.**

The DOT ADA regulation at Section 37.131(c) states:

.fare for a trip charged to an ADA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare for a trip of similar length, at similar time of day, on the entity's fixed route system.

Our investigation found that the NJT Access Link ADA Complementary Paratransit service fares are determined based on NJT Bus Fare Tariffs. This means that Access Link calculates the fare based upon the fare for the most *direct route* for the fixed route rather than checking multiple routes to find the least expensive combination. Access Link provides curb-to-curb service from the point of origin to the point of destination. Therefore, if you travel from one place to another using a number of different combinations of bus routes, you will likely have a different fare.

NJT stated in response to our inquiry that in an effort to provide the rider with consistent fares, it has implemented a "repetitive trip" feature in its computer system. This permits NJT to store data on riders' most frequent trips in an attempt to eliminate the possibility of differing fares for the same ride. In the future, when you call to schedule transportation, you may wish to ensure that your "frequent trips" are entered into that system. As the ADA Complementary Paratransit fare is based on the fixed route fare, the NJT system for calculating fares does not appear to exceed twice that of the fixed route and is not a violation of the DOT ADA regulation at 49 CFR section 37.131(c).

NJT established an ADA Task Force in 1992, for persons with disabilities to provide input on its ADA Complementary Paratransit System. Member organization representatives included the New Jersey (NJ) Commission for the Blind, United Cerebral Palsy, County Offices for the Disabled, and the NJ Protection and Advocacy Group. NJT in its response advised that when it modified the bus, rail and paratransit passengers' fare in 1989 through public input, they relied on input from public hearings, customer forums and annual passenger surveys. It also had the agreement and approval of the NJT Board of Directors and the State Government.

2. **You believe that based on NJT's literature, you are entitled to have a companion who rides free with you.**

The DOT ADA regulation states at 49 CFR section 37.131(c)(2) & (3):

(2) The fares for individuals accompanying ADA paratransit eligible individuals, who are provided service under 37.123(f) of this part, shall be the same as for the ADA paratransit eligible individuals they are accompanying.

(3) A personal care attendant shall not be charged for complementary paratransit service.

The DOT ADA regulation states at 49 CFR section 37.123 (f):

(f) Individuals accompanying an ADA paratransit eligible individual shall be provided service as follows: One other individual accompanying the ADA paratransit eligible individual shall be provided service- (i) If the ADA paratransit eligible individual is traveling with a personal care attendant, the entity shall provide service to one other individual in addition to the attendant who is accompanying the eligible rider.

Under the DOT ADA regulation, an ADA Complementary Paratransit eligible person is entitled to have a personal care attendant (PCA) who rides free. In addition, the eligible rider is entitled to ride with one companion. However, a companion is required to pay the same fare of the individual he or she is accompanying. NJT, in its response, asked that in the future when you reserve a ride you should inform it whether a PCA or companion will be traveling with you so that fares will be assessed accordingly. The "New Jersey Transit Access Link Paratransit Service Questions and Answers" put out by NJT provides both for "personal assistants of ADA eligible riders or companions of eligible riders." As such, it is not a violation of the ADA DOT regulations cited above. We will advise NJT through cover of separate letter that the term "personal assistant" should be replaced with "personal care attendant" the term used by the DOT ADA regulation, to avoid any possible future confusion. However, we do not find any violation in the provision of services.

NJT ADA Complementary Paratransit drivers are responsible for collecting the fare indicated on the manifest. If a fare dispute arises, NJT requests that you do not argue with the driver, but simply pay the fare and later contact ACCESS customer service department to resolve the problem.

We apologize for the delay of our response to your complaint. If you have any questions regarding this decision, please contact Roger Peralta, at our toll-free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: NJT



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 30 2000

[REDACTED]

Re: FTA Complaint No. 00-0305

Dear [REDACTED]

This letter responds to your complaint of discrimination against the Central Florida Regional Transportation Authority (LYNX), alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be as follows:

- **A+ LYNX, the ADA Complementary Paratransit service provider for LYNX, will not send a taxi or a sedan to transport you. Instead, it sends a "wheelchair van" which you are unable to ride because of your disability.**

We reviewed your complaint and made a determination on your allegation based on our analysis of the DOT ADA regulations.

According to the DOT ADA regulations at 49 CFR section 37.121

...each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

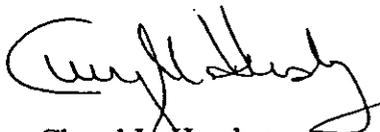
The ADA is a civil rights statute. It clearly emphasizes nondiscriminatory access to fixed route service, with ADA Complementary Paratransit acting as a "safety net" for people who cannot use the fixed route system. Under the ADA, complementary paratransit is not intended to be a comprehensive system of transportation for individuals with disabilities.

The DOT ADA regulations require certain minimum standards beyond which, the transit authority does not have to provide service. A+ LYNX meets the minimum requirement by providing you service in whichever type of vehicle that it has available at the time and location of your trip request. We do not find this a violation the DOT ADA regulations.

In addition, we note from your letter that in the past, A+ LYNX supervisors have honored your request for a taxi or sedan. We commend them for making this special accommodation for you and encourage you to work directly with A+ LYNX to resolve this issue.

If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: LYNX



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 31 2001

[REDACTED]

Re: FTA Complaint No. 99263

Dear [REDACTED]

This letter responds to your complaint against the Washington Metropolitan Area Transit Authority (WMATA), and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If we cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider who may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, the majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be as follows:

- **Most WMATA bus drivers do not deploy the steps for passengers to board the bus even if the passenger has an obvious disability.**

We informed WMATA of your allegation and requested information relating to your complaint; reviewed the information presented by WMATA and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determination follows.

The DOT ADA regulations state at 49 CFR section 37.173:

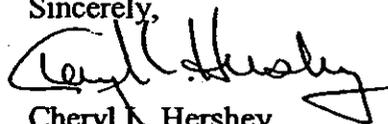
Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

As your letter complained of a systemic problem rather than about specific bus drivers, WMATA responded by explaining its policies on bus driver responsibilities regarding the use of the kneeling feature. WMATA has issued a Standard Operating Procedure that requires the kneeling feature to be deployed upon request or whenever the bus cannot reach a curb because the bus stop loading area is blocked. Each new driver undergoes "extensive" training when hired and attends refresher courses each three years where "the safe operation of buses, work rules and procedures, customer service and specific ADA requirements and duties" are taught. WMATA's street supervisory staff monitor driver performance and WMATA has a progressive discipline policy for violations. In addition, WMATA states that it will soon award a contract to "substantially increase" this monitoring. Based on the above we do not find WMATA deficient under DOT ADA regulation 37.173.

However, we acknowledge that all of these safeguards do not guarantee that bus drivers perform their duties properly. Without more specific information, it is not possible to investigate any particular incident that may have occurred. We advise you to contact WMATA's customer assistance office at (202) 637-1328 to report any future problems regarding WMATA drivers. You should have sufficient information, including the date, time, bus number and bus route, to allow WMATA to identify the driver.

We thank you for bringing this to our attention, and we will monitor other complaints against WMATA for similar type allegations. We hope that this letter sufficiently addresses your concerns. If you have any questions regarding our determinations, please contact Roberta Wolgast at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov.

Sincerely,



Cheryl A. Hershey
ADA Group Leader
Office of Civil Rights

Cc: WMATA (Identity of Complainant Withheld)



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 31 2001

[REDACTED]

Re: FTA Complaint No. 00-0327

Dear [REDACTED]

This letter responds to your complaint against North Slope Borough Department of Municipal Services in Barrow, Alaska, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider who may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

Please note that your complaint about retaliation by North Slope Borough against you has been separated from this complaint and will be addressed under FTA Complaint Number 01-0067. We understand your allegation regarding ADA operational issues to be as follows:

- **The kneeling mechanisms and wheelchair lifts were purposely disconnected on fixed route buses operated by the North Slope Borough Department of Municipal Services (DMS).**

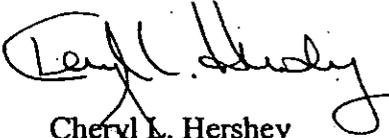
The DOT ADA regulations at 49 CFR section 37.161(a) address this issue with the following guidance:

Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.

With the documentation that you provided as a basis for our investigation, we confirmed with North Slope Borough DMS that it had purposely disconnected the kneeling mechanisms and wheelchair lifts from its fixed route buses to prevent maintenance difficulties. In response to our intervention, North Slope Borough DMS has represented to us that these accessibility features are reconnected and maintained in working order. Based on these actions by North Slope Borough DMS, we will close this portion of your complaint.

We thank you for your willingness to intervene in this matter and for bringing it to our attention. If you have any questions regarding this decision, please contact Roberta Wolgast, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: North Slope Borough DMS



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 31 2001

[REDACTED]

Re: FTA Complaint No. 00-0397

Dear [REDACTED]

This letter responds to your complaint against the Regional Transportation Authority (RTA) of Chicago, Illinois, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, the majority complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be as follows:

- **The RTA ADA Complementary Paratransit eligibility process does not comply with the DOT ADA regulations.**

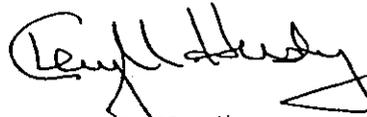
The FTA Office of Civil Rights conducted an on-site compliance review of RTA's ADA Complementary Paratransit eligibility process in June 2000. The assessment included:

- Interviews with riders and advocates;
- Interviews with RTA staff responsible for eligibility determinations;
- A review of public information materials and data regarding the eligibility process;
- Spot checks of the RTA eligibility determination tracking data base; and
- A review of sample applications and determinations.

The final report did not find any deficiencies in RTA's process that would limit the availability of ADA Complementary Paratransit service to qualified individuals. We have included a paper copy of this final report for your information. Please let us know if you prefer to have the report in electronic format.

Based on the findings of our recent in-depth review of RTA's eligibility process, we will not take any further action on your complaint. If you have any questions regarding this decision, please contact Roberta Wolgast, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov. Thank you for bringing this to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Sen. Peter G. Fitzgerald
RTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 31 2001

[REDACTED]

Re: FTA Complaint No. 99180

Dear [REDACTED]

This letter responds to your complaint you filed against the Memphis Area Transit Authority (MATA) of Memphis, Tennessee, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, the majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. In this case, FTA did conduct an on-site compliance review of MATA's ADA Complementary Paratransit service in February 2000. A finding of no violation of a particular allegation in this letter should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegations to be as follows:

1. When you called to schedule an appointment to get your MATAPlus identification card, you were told to call back because they were too busy to talk to you.

2. You were placed on a waiting list that was at MATA's discretion.
3. You were denied an ADA Complementary Paratransit trip from your home to your church.

We informed MATA of your allegations and requested information relating to your complaint; reviewed the information presented by MATA and you; referred to the final compliance review report; and made a determination on your allegations based on our analysis of the compiled information, in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations below.

1. **When you called to schedule an appointment to get your MATAPlus identification card, you were told to call back because they were too busy to talk to you.**

The DOT ADA regulations state at 49 CFR sections 37.125(d) & (e):

37.125(d): The entity's determination concerning eligibility shall be in writing.

37.125(e): The public entity shall provide documentation to each eligible individual stating that he or she is "ADA Paratransit Eligible." The documentation shall include the name of the eligible individual, the name of the transit provider, the telephone number of the entity's paratransit coordinator, an expiration date for eligibility, and any conditions or limitations on the individual's eligibility including the use of a personal care attendant.

The regulations place the onus on the transit property for notifying the applicant as to whether or not they have been found eligible. The regulations also require the transit provider to state if there are any conditions of eligibility. This must be provided in writing to the eligible rider. At this point, the rider's right to ride is established. Absent from the regulations are any requirement that once a rider is determined eligible that the determination is contingent on further action by the now eligible rider.

Upon MATA's determination of eligibility, and upon receiving an eligibility notification letter from MATA, you were eligible for ADA Complementary Paratransit service. This is so regardless of whether MATA had any appointments available to issue you an identification card. We believe that by preventing you from using MATAPlus service before you received your identification card, MATA denied you your right to ride, and this constitutes a denial. Moreover, the regulations do not make your right to ride contingent on a photo ID card or on a required document. We understand that during the course of the everyday operation of a bus system, identification and other procedural considerations can be required. In this instance, the right to ride prevails over such procedural considerations.

This specific issue was brought to our attention during the assessment and we are addressing it separately with MATA as part of our ongoing compliance effort there.

2. You were placed on a waiting list that was at MATA's discretion.

With the exception of subscription service, waiting lists for ADA Complementary Paratransit service are not allowed by the DOT ADA regulations. MATA responded that it does not utilize waiting lists. In addition, FTA performed a thorough investigation of MATA's ADA Complementary Paratransit program during the compliance assessment and did not discover the use of any waiting lists.

3. You were denied an ADA Complementary Paratransit trip from your home to your church.

The DOT ADA regulation requires a minimum service area that is described at 49 CFR section 37.131(a):

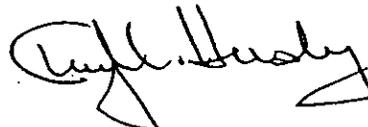
Service Area—(1) Bus. (i) The entity shall provide complementary paratransit service to origins and destinations within corridors with a width of three-fourths of a mile on each side of each fixed route. The corridor shall include an area with a three-fourths of a mile radius at the ends of each fixed route.

MATA confirmed that your request was denied because your church is outside of its ADA Complementary Paratransit service area. This is not a deficiency under the DOT ADA regulations.

The assessment of MATA's ADA Complementary Paratransit service that FTA conducted was done partially in response to a trend of ADA complaints. The specific issues in your complaint were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its follow-up with MATA until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: MATA



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 31 2001

Mr. Thomas J. Ross
Executive Director
Pace Suburban Bus Service
550 West Algonquin Road
Arlington Heights, Illinois 60005-4412

Re: FTA Complaint No. 00-0324

Dear Mr. Ross:

Enclosed is a copy of the Federal Transit Administration Office of Civil Rights' disposition in response to a complaint alleging discrimination against Pace Suburban Bus Service under Title II of the Americans with Disabilities Act of 1990.

This courtesy copy is to advise you that we will take no further action at this time regarding this complaint. If you have questions, please contact Roberta Wolgast, Equal Opportunity Specialist, at 202-366-0802, or contact her at her electronic mail address: roberta.wolgast@fta.dot.gov. Thank you for the cooperation and assistance of your staff during this investigation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cheryl L. Hershey'.

Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 31 2001



Re: FTA Complaint No. 00-0324

Dear 

This letter responds to your complaint against Pace Suburban Bus Service of Arlington Heights, Illinois, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider who may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, the majority complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

The following is a synopsis of your description of an incident that occurred on July 28, 2000:

A Pace bus driver stopped the bus when your companion unfastened one of two securement devices from her wheelchair. The driver would not continue on the route until your companion allowed her wheelchair to be secured in two locations.

A stand-off ensued and the other passengers on the bus became threatening. The police were called for crowd control, and eventually the other passengers were loaded onto another bus while you and your companion were transported to your destination. During the remainder of the ride, your companion's wheelchair was manually held in place by two police officers with her approval.

We have extracted what we understand to be the crux of your complaint and will address it below. We will not make any judgment on the incident itself, but rather will consider the use of wheelchair restraints on fixed route buses, which falls directly under the guidance of the DOT ADA regulations.

We informed Pace of your allegation and requested information relating to your complaint; reviewed the information presented by Pace and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determination follows.

- **Under the DOT ADA regulations, does Pace have the right to refuse service to a person who uses a wheelchair if the passenger refuses to comply with Pace's wheelchair securement policy?**

The DOT ADA regulations at 49 CFR section 37.165(c)(3) allow the transit provider to establish a policy that requires all riders to allow their wheelchairs to be secured. It states, "The entity may require that an individual permit his or her wheelchair to be secured."

At the time of the incident, Pace had an established policy, dated July 31, 1998, that stated in Item No. 3:

All wheelchairs and other mobile assistive devices must be secured in the bus.

Item No. 4 described the method of securement:

Mobile assistive devices which are able to utilize the crabclaw must be secured on both sides. I.E., crabclaw and one red cargo strap or crabclaw and both red cargo straps. Straps and belts should not be wrapped or inserted through wheel spokes.

In September 2000, this office issued FTA ADA Information Bulletin #1 on securements, stating that a transit operator may require common wheelchairs to be secured where they have established such a policy. According to your statement and other documentation in your complaint file, your companion's wheelchair was fastened in two places—on the right side with a crabclaw and on the left side with a cargo strap. We do not find Pace to be in violation of the DOT ADA regulations regarding this issue.

We thank you for bringing this matter to our attention. If you have any questions regarding this decision, please contact Roberta Wolgast, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Pace Suburban Bus Service



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 31 2001

[REDACTED]

Re: FTA Complaint No. 00-0263

Dear [REDACTED]

This letter responds to your complaint against the Utah Transit Authority (UTA) of Salt Lake City, Utah, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If we cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider who may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, the majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your major concern to be that changes in your ADA Complementary Paratransit service (provided by Flextrans through UTA) that were implemented in conjunction with the opening of the new light rail line in Salt Lake City affected your boarding location. We previously responded to the same concern in FTA Complaint Number 99292 in a letter dated February 2, 2000, and therefore will not re-address this issue. A copy of our letter is enclosed for your information.

The remaining issues that pertain to public transportation about which you complained in a September 23, 2000, letter to this office are as follows:

1. Flextrans will not drive down an alley behind your workplace to allow you to embark/disembark, and it will not use a main entrance of a major medical facility as a pickup/drop off location.
2. Some of your Flextrans trips have been longer than it would have taken you if you were riding on fixed route service.
3. UTA employs occupational therapists to perform functional testing for eligibility decisions.
4. There are no bus shelters or seats for some fixed route lines.

We informed UTA of your allegations and requested information relating to your complaint; reviewed the information presented by UTA and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations, below.

1. **Flextrans will not drive down an alley behind your workplace to allow you to embark/disembark, and it will not use a main entrance of a major medical facility as a pickup/drop off location.**

The DOT ADA regulations at 49 CFR section 37.129(a) state that, "... complementary paratransit service for ADA paratransit persons shall be origin-to-destination service."

UTA has adopted a policy of curb-to-curb service. The exact location of pick-up and drop-off sites are an operational issue not governed by the regulations. We note that, according to UTA, its decision regarding the location at the hospital was necessitated because the hospital instituted valet parking at the previous location. As to the alley, UTA cannot drive down the alley because there is no place to turn around without backing the vehicle out of the alley. We do not find any deficiencies in UTA's actions.

2. **Some of your Flextrans trips have been longer than it would have taken you if you were riding on fixed route service. Some trips have taken two hours in comparison to 55 minutes on the fixed route.**

The DOT ADA regulations address excessive trip lengths at 49 CFR section 37.131(f)(3)(i)(C):

(f) Capacity Constraints. The entity shall not limit the availability of complementary paratransit service to ADA paratransit individuals by any of the following:

- (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.
 - (i) Such patterns or practices include, but are not limited to, the following:

(C) Substantial numbers of trips with excessive trip lengths.

UTA reported that it investigated two complaints that you filed in 2000 regarding excessively lengthy trips. On April 11, 2000, you complained that you were on the van for three hours. UTA found that a scheduling error had been made and sent you an apology.

On May 22, 2000, you complained that you were on the van for an hour and forty minutes. UTA explained to you that your ride was scheduled as a shared ride with another passenger who was picked up and dropped off before you, contributing to a longer than usual trip for you.

- In 1998, based upon information in a newspaper article's in Salt Lake City Weekly and subsequent follow-up, the FTA Office of Civil Rights opened a complaint and conducted an assessment of UTA's ADA Complementary Paratransit service. At that time, there were concerns in the area of capacity constraints. Subsequent to the findings in the assessment, we worked with UTA to improve its service, continued to monitor their system and based upon their actions by letter of May 31, 2000, closed the complaint.

These facts presented do not appear to violate section 37.131 (f)(3) of the DOT ADA regulations.

3. UTA employs occupational therapists to perform functional testing for eligibility decisions, rather than depending on the applicants' private physicians.

The DOT ADA regulations at 49 CFR section 37.125 state that:

"Each public entity required to provide complementary paratransit service by section 37.121 of this part shall establish a process for determining ADA paratransit eligibility."

The ADA DOT regulation at Appendix D to 49 CFR section 37.125 provides further guidance in saying that:

The process may include functional criteria related to the substantive eligibility criteria of section 37.123 and, where appropriate, functional evaluation or testing of applicants. The substantive eligibility process is not aimed at making a medical or diagnostic determination. While evaluation by a physician (or professionals in rehabilitation or other relevant fields) may be used as part of the process, a diagnosis of a disability is not dispositive. What is needed is a determination of whether, as a practical matter, the individual can use fixed route transit in his or her own circumstances. That is a transportation decision primarily, not a medical decision.

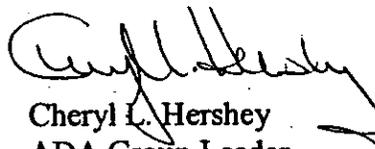
As the DOT ADA regulations do not prescribe the method by which eligibility decisions are to be made and instead, stress that the decision should be based on a person's functional abilities; eligibility should be strictly limited to those who cannot ride fixed route transit. This is not a violation of 49 CFR section 37.125 of the DOT ADA regulations.

4. There are no bus shelters or seats for some fixed route lines.

The ADA DOT regulations at Appendix A to Part 37, *Standards for Accessible Transportation Facilities*, section 10.2.1(2) regarding bus shelters provides that, if they are installed, they must be accessible in accordance with the DOT ADA regulations. There is no requirement that they *shall* be installed. UTA responded to this concern by explaining that it has no public way use agreement with Salt Lake City governing sidewalks, and therefore has no control over where bus shelters are situated. UTA does have an agreement that governs the property on which the TRAX platforms are located, and has provided shelters at those sites. To pursue this further, you may wish to contact the Salt Lake City government.

We hope that this letter sufficiently addresses your concerns. If you have any questions regarding our determinations, please contact Roberta Wolgast at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: UTA



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 31 2001

[REDACTED]

FTA Complaint Number 95038

Dear [REDACTED]

This letter responds to your complaint against the San Joaquin Regional Transit District (SJRTD), in Stockton, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, the majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be as follows:

- **SJRTD failed to provide ADA Complementary Paratransit service on two new fixed routes (routes 20 and 21).**

We informed SJRTD of your allegations, requested information relating to your complaint and reviewed the information presented by SJRTD and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

Our review of SJRTD's materials indicates that the routes in question are not fixed route service, but rather, route-deviation demand-responsive service. As such, ADA Complementary Paratransit is required only on those portions of the route that are fixed route and do not allow user-initiated deviations.

The DOT ADA regulations at Appendix D to 49 CFR section 37.3 state that:

[W]e would regard a system that permits user-initiated deviations from routes or schedules as demand-responsive. For example, if a rural public transit system (e.g. a section 18 recipient) has a few fixed routes, the fixed route portion of its system would be subject to the requirements of subpart F for complementary paratransit service. If the entity changed its system so that it operated as a route deviation system, we would regard it as a demand responsive system. Such a system would not be subject to complementary paratransit requirements.

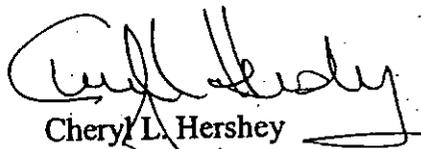
The information indicates that prior to the Spring of 1997, SJRTD offered route deviation service to intercity persons with disabilities that resided within the 3/4 mile corridor of routes 20 and 21. However, in the spring of 1997, SJRTD implemented the General Public Dial-a-Ride Program. The service serves the urban communities, as well as the rural and isolated areas, and is open to persons with disabilities as well as other SJRTD customers. This information shows that SJRTD now operates a route deviation system, which is regarded as a demand responsive system. As a demand responsive system, it is not required to provide ADA Complementary Paratransit service; there is no violation of the DOT ADA regulation.

While the provision of ADA Complementary Paratransit is not required in this instance, nevertheless under the DOT ADA regulation at 49 CFR section 37.77, the purchase or lease of non-rail vehicles for a demand responsive system by a public entity after August 8, 1990, requires that the vehicle be accessible. There are instances however where this not required. A transit property may acquire a non-accessible vehicle after this date if, when the system viewed in its entirety, it provides "equivalent service" for individuals with disabilities, including wheelchair users.

The following characteristics are to be considered, in the provision of service by a demand response system where a vehicle is not accessible and acquired after 8/25/90, to determine if persons with disabilities are receiving "equivalent service": (1) Response time; (2) Fares; (3) Geographic area of service; (4) Hours and days of service; (5) Restriction or priorities based on trip purpose; (6) Availability of information and reservations capability; and (7) Any constraints on capacity or service availability.

We thank you for bringing this to our attention. If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: eugene.jenkins@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: San Joaquin Regional Transit District



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 31 2001

[REDACTED]

Re: FTA Complaint No. 00-0071

Dear [REDACTED]

This letter responds to your complaint against the City of Galesburg, Illinois Handivan ADA Complementary Paratransit service, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

Because of the limitation in resources, the majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be that:

- **The City of Galesburg Handivan service unfairly denied you ADA Complementary Paratransit disability certification eligibility for transportation services, and upon your appeal of the denial, you were not provided an official appeals process or response stating the reason for the denial of service.**

As to the actual determination of eligibility, in complaints of this nature, unless the facts of the particular circumstance appear to be egregious or substantively violate the regulation, we consider only the appeals process to determine if it comes within the requirements of the DOT ADA regulations. Our review of the facts does not warrant accepting this allegation of eligibility denial as egregious or substantively violative. We accept for investigation the allegation regarding the propriety of the appeal process.

We informed the City of Galesburg ADA Paratransit service of this complaint allegation; reviewed the information presented by both City of Galesburg and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation.

The DOT ADA regulation at Section 37.125(g) states that:

The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial. (1) The entity may require that an appeal be filed within 60 days of the denial of an individual's application. (2) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it. (3) The entity is required to provide paratransit service to the individual pending the determination on appeal. However, if the entity has not made a decision within 30 days of the completion of the appeal process, the entity shall provide paratransit service from that time until and unless a decision to deny the appeal is issued.

- We note that you were initially evaluated for ADA Complementary Paratransit service on November 29, 1999, and were found on December 17, 1999, by the Heyde Eye Center, to be legally blind and that you met the eligibility standards for ADA Complementary Paratransit Service. On May 6, 2000, Handivan determined that an appointment with Dr. J.H. Rigsby III, from Cottage Methodist Medical group, be arranged to re-evaluate your visual impairment.
- The City of Galesburg Handivan received your letter of June 14, 2000, expressing your concerns over your eligibility status and indicating you were appealing this matter. The City of Galesburg responded by letter dated June 22, 2000, stating, "a decision has not yet been made on your eligibility. You have not been denied and you cannot appeal a determination that has not been made yet. A determination of your eligibility cannot be made until we receive the functional evaluation of your vision from Dr. Rigsby." In addition, this same letter clearly outlined your appeal rights and the sixty-day time period following determination of your eligibility.
- On June 20, 2000, Dr. Rigsby's vision evaluation determined that you were not legally blind, and that with your visual acuity of 20/40 in the right eye; you are legally able to drive a motor vehicle in the state of Illinois.

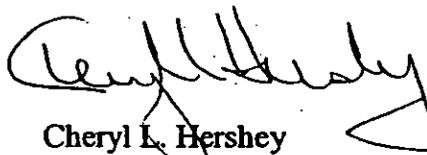
- You were notified on July 11, 2000, that your eligibility for ADA Complementary Paratransit Service was denied and that if you did not agree with the decision, you would have the right to appeal the determination within 60 days of the notification. The letter clearly outlines that your appeal must be in writing and where to mail your appeal.

A review of the information and documentation from the City of Galesburg indicates that their current policy allows an appeal to be filed within 60 calendar days from the date of the denial notification letter. It also states that the Director of Community Development will consider the appeal and make a determination of the disposition of your case within 30 days of the receipt of your appeal.

Under these facts, we have no evidence that you have chosen to participate in the Handivan appeal process. Based on the information provided, the City of Galesburg did not violate the DOT ADA regulations with regard to its eligibility certification appeal process.

Handivan advised that if there are any changes in your ability to use the fixed route service in the future, to please submit a new application. If you have any questions regarding this decision, please contact Linda Wood King, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Mr. Roy A. Parkin, Director,
Transportation and Community Development

JoAnn M. Harris, Human Service Coordinator,
City of Galesburg Handivan



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 31 2001



Re: FTA Complaint No. 00-0328

Dear 

This letter responds to your complaint regarding the Washington Metropolitan Area Transit Authority (WMATA), and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be as follows:

- The emergency exit gates adjacent the "extended paid area" at WMATA's L'Enfant Station are not in compliance with the DOT ADA regulations.

We informed WMATA of your allegation; reviewed the documentation in your file; observed the extended paid area as well as the emergency gates in question; analyzed WMATA's response; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determination follows.

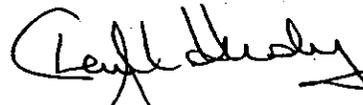
The DOT ADA regulations at Appendix A to Part 37, section 10.3.1(7) applies to automatic fare vending, collection and adjustment systems, and states in part:

Gates which must be pushed open by wheelchair or mobility aid users shall have a smooth continuous surface extending from 2 inches above the floor to 27 inches above the floor...

In its response, WMATA stated that, "The gates are clearly posted with signs saying, 'STOP, For Emergency Use Only.'" Representatives of this Office, previously in a related complaint, made an on-site visit and observed the path of travel as well as the gate. It is clear that the gates are not meant to be used as part of the accessible path and have no direct relationship to automatic fare vending, collection or adjustment systems. As such, we do not find these emergency exit gates to be deficient under the DOT ADA regulations.

If you have any questions regarding this decision, please contact Roberta Wolgast, Equal Opportunity Specialist, on FTA's toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: roberta.wolgast@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concern to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: WMATA
(Identity of Complainant Withheld)

Chow



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 27 2001

[REDACTED]

Re: FTA Complaint No. 99015

Dear [REDACTED]

This letter responds to your complaint filed by you and your daughter, [REDACTED] on your behalf, regarding Access Services, Inc. (ASI) of Los Angeles, California, and its alleged noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegations to be as follows:

1. ASI's telephone system keeps you and your daughter, [REDACTED], calling on your behalf, on hold for unreasonable long periods of time, up to 10 to 15 minutes at a time;
2. ASI ADA paratransit drivers are consistently late for scheduled pick ups, leaving you waiting up to an hour outside, in extremely cold and extremely hot weather;

3. On several occasions, ASI taxi drivers have attempted to charge a higher fare than the actual fare to ADA paratransit passengers; and
4. ASI dispatchers treated you rudely and inappropriately.

We reviewed the information presented by you and Access Services, Inc. and made a determination based on our analysis of that information in relation to the DOT ADA regulations. We have restated your allegations followed by our determination below.

1. **Does ASI's telephone system that keeps you and your daughter on hold for unreasonably long periods of time, constitute a capacity constraints or a violation of section 37.167(f)?**

The DOT ADA regulation at 49 CFR part 37.167(f) states:

The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

In addition, the DOT ADA regulation at 49 CFR 37.131(f) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: (1) Restrictions on the number of trips an individual will be provided; (2) Waiting lists for access to the service; or (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.

During the investigation of this complaint, Western Law Center for Disability Rights filed a lawsuit against MTA, Nadine Flores, et al v Los Angeles County Metropolitan Transit Authority, et al. This suit at page 20 alleges, among other issues, that "MTA and ASI, in their provision of complementary paratransit, have limited the availability of paratransit to ADA paratransit-eligible individuals by imposing capacity constraints". Lengthy telephone hold times often are an indicator of capacity constraints. As this issue is the subject of pending litigation, we will hold this portion of the complaint in abeyance pending the outcome of the litigation.

2. **Does ASI's on time performance where ADA paratransit drivers are consistently late for scheduled pick-ups, leaving you waiting up to an hour outside, in extremely cold and extremely hot weather, constitute a capacity constraint?**

The DOT ADA regulation at 49 CFR 37.131(f) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: (1) Restrictions on the number of trips an individual will be provided; (2) Waiting lists for access to the service; or (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (I) Such patterns or practices include, but are not limited to,

the following: (A) Substantial numbers of significantly untimely pickups for initial or return trips.

During the investigation of this complaint, Western Law Center for Disability Rights filed a lawsuit against MTA, Nadine Flores, et al v Los Angeles County Metropolitan Transit Authority, et al. This suit at page 20 alleges, among other issues, that "MTA and ASI, in their provision of complementary paratransit, have limited the availability of paratransit to ADA paratransit-eligible individuals by imposing capacity constraints". The allegations specifically include late pick-ups. As this issue is the subject of pending litigation, we will hold this portion of the complaint in abeyance pending the outcome of the litigation.

3. **On several occasions, ASI taxi drivers have attempted to charge a higher fare than the actual fare to ADA paratransit passengers.**

The DOT ADA regulation at 49 CFR part 37.131(c) and (c) (1) Fares, state:

(c) "The fare for a trip charged to an ADA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the entity's fixed route system. In calculating the full fare that would be paid by an individual using the fixed route system, the entity may include transfer and premium charges applicable to a trip of similar length, at a similar time of day, on the fixed route system.

(c) (1) "In calculating the full fare that would be paid by an individual using the fixed route system, the entity may include transfer and premium charges applicable to a trip of similar length, at a similar time of day, on the fixed route system."

This issue as to fare structure is under review and consideration by FTA and our response will be forthcoming.

4. **ASI dispatchers treated you rudely and inappropriately.**

The DOT ADA regulation requires that transit providers educate personnel to work with persons with disabilities and with accessibility features. The regulation states at Section 37.173.

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

ASI reviewed all of the complaints you filed with them and report that the issue of rudeness was raised only once where you complained about an incident with a rude reservationist. This employee, because she has no prior history of reported rude conduct, was given a disciplinary warning.

ASI provided documentation that it has a training program that meets the requirements of the DOT ADA regulation. ASI has a policy that any employee, whether internal or contracted, displaying a continued pattern or poor behavior will be terminated. ASI stated that passengers are encouraged to ask for the individual's name and file a complaint with the Customer Service Center for resolution. ASI stated that allegations of mistreatment by Access Paratransit drivers are taken very seriously.

Information provided by ASI indicates that, this fiscal year, based on passengers' complaints and road observations 196 drivers were required to be retrained; 53 drivers were suspended from service for various period of time and were required to complete re-training before they are put back on the road; and, two drivers and two dispatchers were permanently removed from service. Also, ASI's paratransit providers, independent of ASI's direction, regularly remove and re-train drivers based on their own observations. Based on the foregoing, because ASI has promulgated a non-discrimination policy and has also demonstrated good faith efforts in implementing it, we do not find a violation of the ADA or of the DOT's implementing regulation.

Thank you for bringing this matter to our attention. If you have any questions regarding this decision, please contact Roger Peralta, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,



Cheryl B. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Richard DeRock, ASI

Cham

U.S. Department
of TransportationFederal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 28 2001

Re: FTA Complaint No. 99039

Dear

This letter responds to your complaint against MTA New York City Transit (NYCT) of Brooklyn, New York and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If the FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, the majority complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be as follows:

- **Drivers on NYCT paratransit service are late on scheduled pickups on numerous occasions.**

We informed NYCT of your allegation and requested information relating to your complaint; reviewed the information presented by NYCT and you; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations.

The DOT ADA regulation at 49 CFR 37.131(f) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: (1) Restrictions on the number of trips an individual will be provided; (2) Waiting lists for access to the service; or (3) Any operational pattern or practice that significantly limits the Availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of significantly untimely pickups for initial or return trips.

NYCT provided us your 7-month trip history from December 1998 through June 1999 and found that of the 17 ADA Complementary Paratransit trips you requested, you were placed in a "no show" category 9 times (you were not there when they arrived in a timely fashion), 3 were late cancellations, and five were pick ups after the scheduled pick up time. NYCT instituted a policy requiring ADA Complementary Paratransit riders to be ready to travel within 5 minutes before and to wait 25 minutes after the scheduled pick up time. Of these five, only one time, was outside of the pick up window. Please note that the documentation gathered does not support a finding of a violation of the DOT ADA regulation 37.131 (f).

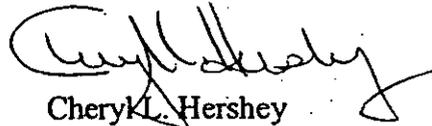
NYCT also established a procedure so that if the vehicle has not arrived within the 30-minute window, the rider can: (1) call the Command Center for the status of their ride; and, (2) if the vehicle is not expected to arrive within 45 minutes of the pickup time, the customer is authorized reimbursement for taxi or car service expenses.

This service offered by NYCT should be viewed as an additional service and does not in any way diminish their obligation to timeliness in their Dial A Ride system. However, we wish to make you aware of this procedure for your future use. This system requires you to call and get an authorization number and after obtaining a receipt from the driver mail it in for reimbursement. We understand in speaking with your daughter recently that you at times have difficulty obtaining receipts from the taxi drivers. While this is not an ADA issue, it is the responsibility of NYCT to ensure responsible performance of their contractor, in this instance the taxi service, and we suggest you address this concern with them directly.

NYCT advised in their response that they decided to drop the assessment of points against your record. In addition, NYCT also has authorized you a personal care attendant, who travels free while accompanying you on your trips and who may call the NYCT Command Center regarding the status of your trips. You expressed interest in subscription service to attend Church regularly and we encourage you to pursue this by making application to NYCT. If available, this service would assist in resolving your transportation concerns.

Thank you for bringing your concern to our attention. If you have any questions regarding this decision, please contact Mr. Peralta, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: NYCT



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 28 2001

[REDACTED]

Re: FTA Complaint No. 00055

Dear [REDACTED]

This letter responds to your complaint against the Alameda-Contra Costa Transit District (AC Transit), in Oakland, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

- **We understand your allegations to be that East Bay Paratransit Consortium (EBPC) ADA Complementary Paratransit service, has been late when picking you up or that the driver did not show up on two occasions.**

We reviewed the information submitted by you and EBPC, a local ADA Complementary Paratransit provider for AC Transit and the San Francisco Bay Area Rapid Transit District, and made a determination based on our analysis of that information in relation to the DOT ADA regulations.

Section 37.131(b) of the DOT ADA regulation states:

The entity shall schedule and provide paratransit service to any ADA paratransit eligible at any requested time on a particular day in response to a request for service made the previous day.

Section 49 CFR part 37.131 (f)(3) states:

Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. Such patterns or practices include, but are not limited to the following: (A) Substantial numbers of significantly untimely pickups for initial or return trips; (B) Substantial number of trip denials or missed trips;...

We reviewed the information provided by EBPC and we learned that you were reported as a "no show" on your initial ADA Complementary Paratransit trip on January 28, 2000. However, Intelitran, Inc., a service provider for EBPC, located and provided you a return trip. Intelitran's dispatch clerk failed to inform EBPC's reservation center that you had been transported as scheduled. She was counseled for this failure. We find EBPC policy to cancel automatically a return trip if the rider was a "no show" for the first half of the trip not acceptable. Therefore, we will address this issue with EBPC by separate letter.

Regarding your February 18, 2000, scheduled trip to the Veterans Affairs (VA) Clinic, you stated that the driver was one hour late in picking you up and that you were required to transfer to another vehicle to complete your trip, and that your trip was too long. EBPC responded directly to these allegations and confirmed that the driver was late. EBPC, in its May 18, 2000 response, explained that this is a rare occurrence and has apologized to you for your inconvenience.

However, EBPC did not agree that the duration of your trip was excessive as your trip was 25 miles in length and was a shared ride. For example, as the chart below indicates, it will take an average of 33.2 minutes to travel a 7.7 miles. According to EBPC, the June 18, 2000, and June 28, 2000, incidents are similar to your complaint about a January 18, 2000, trip in which you stated, that you were asked to ride in an over-crowded sedan. We understand that EBPC's sedans have bench front seats, six seatbelts and it can accommodate up to six people. ADA Complementary Paratransit and Fixed Route services are intended to be a shared ride situation. In this instance, since you refused to allow the vehicle to proceed, staff appropriately provided a cab ride for another passenger so as to accommodate you. This action was not required by the ADA and goes over and above the DOT ADA regulatory requirements.

EBPC investigated both late pick up incidents that occurred on June 24, 2000, and July 16, 2000, and as a result letters dated July 5 and July 20, 2000 respectively, were sent to you apologizing for your inconvenience and provided you two complimentary tickets each for these incidents.

Regarding your July 25, 2000 scheduled trip, EBPC is unable to ascertain the status of this trip and whether there was any error on their part as it has no record that a complaint was filed regarding this ride and drivers' manifests could not be retrieved because they were in the long-term storage.

EBPC's overall 9-month on-time performance from July, 1999 through March, 2000, within a 30-minute pick up window (15 minutes before and 15 minutes after the scheduled pickup time) during this period, was 86.9 percent.

EBPC System-wide ADA Complementary Paratransit Service Performance Report

	February 2000	March 2000	July 1999-March 2000
On-Time Performance	84.0%	84.2%	86.9%
Late Trips: (15-30)	11.0%	11.9%	10.1%
(31-59 min)	3.6%	3.3%	2.6%
(60 min or more)	0.6%	0.5%	0.5%
Average Trip Length	7.8 miles	7.5 miles	7.7 miles
Average Ride Time	33.2 minutes	32.1 minutes	33.2 minutes

The ADA DOT regulation does not provide a percentage goal for transit properties to follow in the provision of timely service. It does appear, based on EBPC's responses to your complaint, that their service has been less than timely for you personally.

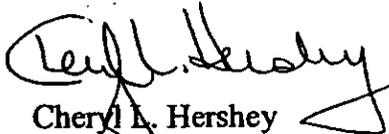
EBPC has initiated the following actions to improve its ADA Complementary Paratransit service to persons with disabilities, as follows:

- To increase its pool of paratransit drivers;
- To arrange for additional service providers;
- To implement approved changes in their cancellation procedures that riders can now cancel trip 1 hour before the scheduled trip rather than 2 hours and will not be "no showed" and making trip reservation for next day service was extended from 5 p.m. to 6 p.m.; and
- To institute an information campaign concerning peak hour travel time by asking riders to voluntarily reserve a trip after peak hours.

Based on the above information and the facts, EBPC has taken appropriate action in resolving your concerns and continues to work towards improving their ADA Complementary Paratransit service.

We thank you for bringing this matter to our attention. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,


 Cheryl L. Hershey
 ADA Group Leader
 Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 28 2001

[REDACTED]

Re: FTA Complaint Number 00-0322

Dear [REDACTED]

This letter responds to your complaint on behalf of your son [REDACTED] against the Port Authority of Allegheny County, Pittsburgh, Pennsylvania (PAT), and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

- 1. Your son was wrongly denied eligibility for PAT's ADA Complementary Paratransit service.**
- 2. [REDACTED] was suspended from service with a hearing, and then later on in the day he was suspended and you had to pick him up.**

We informed PAT of your allegations, requested information relating to your complaint and reviewed the information presented by PAT and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determinations below:

1. Your son was wrongly denied eligibility for PAT's ADA Complementary Paratransit service.

DOT ADA regulations at 49 CFR 37.123 state:

(e) The following individuals are ADA paratransit eligible:

- (1) Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable individuals with disabilities.
- (2) Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time, or within a reasonable period of such time, when such a vehicle is not being used to provide designated public transportation on the route.

PAT provided a written response advising that your son was not denied eligibility, as he has been certified continuously on ACCESS since November 1982 until March 31, 1999.

██████████ suspension of service on March 31, 1999, for two weeks, occurred due to several incidences when he kicked and hit drivers and passengers. On July 28, 1998, ██████████ began hitting himself and a driver, to the point where the driver had to pull the van off the road. On March 16, 1999, ██████████ began to kick and struggle so much, the driver had to return him to your house. On March 31, 1999, ██████████ kicked another passenger twice. PAT provided incident reports on all the above incidents. The DOT ADA regulations at 49 CFR 37.5(h):

It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct.

From the information received, it does not appear that PAT acted in any way that was a violation of DOT ADA regulations. Therefore, we will take no further action on this allegation.

- 2. We are restating your allegation based on our investigation as follows:
You feel ██████████ was denied due process in appealing his suspension of ADA Complementary Paratransit service.**

The DOT ADA regulation outlines clearly what due requirements are as to "no shows" in section 37.125 and at the Appendix 37.125. Accessibility is a civil right, and a decision striking at the heart of that access implicates due process requirements. Due process requirements are implicated whenever one's eligibility status is called into question. The Appendix at section 37.125 describes the right to ride as a property right with the attendant features ascribed to such a right:

Once an entity has certified someone as eligible, the individual's eligibility takes on the coloration of a property right. (This is not merely a theoretical statement. If one depends on transportation one has been found eligible for to get to a job, and the eligibility is removed, one may lose the job. The same can be said for access to medical care or other important services.) Consequently, before eligibility may be removed "for cause" under this provision, the entity must provide administrative due process to the individual.

PAT reported that:

The [REDACTED] family requested an in-person meeting that was scheduled at their convenience on April 19, 1999. [REDACTED] parents were in attendance along with [REDACTED] MR case manager, [REDACTED] from Parent and Child Guidance Center. There was an agreement at this meeting that, in the future, if [REDACTED] "acted up" in the morning, his parents would cancel his ACCESS ride and drive him to the program. If, in the judgment of the program manager, [REDACTED] were acting appropriately, his return from the program would be provided by ACCESS. Any cancellations of [REDACTED]'s trips for any reason, even with little advanced notice, would not be considered no shows or late cancellations.

[REDACTED] agreed to find an aide to ride with [REDACTED] for 10 days, according to the ACCESS suspension policy, although he expressed concerns about finding staff for that number of days. The number of days to [REDACTED] would be required to travel was an aide was subsequently reduced by 50% by ACCESS staff. The meeting concluded with the understanding that [REDACTED] would find an aide to ride with [REDACTED] for five days. If these trips were uneventful, [REDACTED] ACCESS service would be immediately and fully reinstated.

In addition, PAT reported the following information:

On June 3, 1999, [REDACTED] called ACCESS to explain that he was still working on trying to locate an aide that would travel with [REDACTED]. [REDACTED] of the ACCESS staff repeated that the aide would only be required for five days, if there were no episodes during this time.

On June 15, 1999, [REDACTED] called ACCESS to reinstate [REDACTED] ACCESS service. He scheduled an a.m. trip for [REDACTED] from his home to the

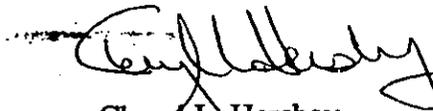
program, accompanied by aide [REDACTED]. An ACCESS trip was scheduled to provide return service for [REDACTED] and the aide back to the [REDACTED] home. Mr. Southwood cancelled this trip on the morning of June 16th, with no explanation. This was the last time anyone calling on [REDACTED] behalf have contacted ACCESS regarding his transportation.

PAT stated in its letter that [REDACTED] ADA Complementary Paratransit service remains in effect. He may begin to use ACCESS at any time by scheduling his trips through the ACCESS office, accompanied for the first five days by an aide

Based on the aforementioned information we do not see any violations of the DOT ADA regulations by PAT.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, on FTA toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: PAT
ACCESS Services

Chen

U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 28 2001

Re: FTA Complaint No. 00-0284

Dear

This letter responds to your complaint against the City Transit System and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Part 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, the majority complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your specific allegation to be that:

- **City Transit System ADA Complementary Paratransit provider does not operate the system after 7 PM on week days and Saturdays and ADA Complementary Paratransit service is not provided on Sundays.**

We reviewed the information provided by you and City Transit System and made a determination based on our analysis of the information in relation to the DOT ADA regulations. Our determination on your allegation is stated below:

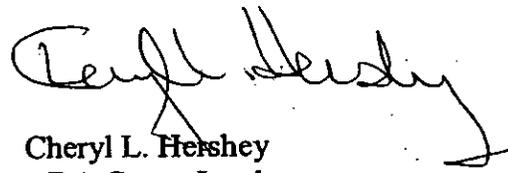
The DOT ADA regulation at CFR 37.131(e) states that, "The complementary paratransit service shall be available throughout the same hours and days as the entity's fixed route service."

An examination of the information submitted by you and the City Transit System shows that the ADA Complementary Paratransit service operates on the same days and hours as the fixed-route system and serves passengers within the 3/4 mile corridor along the fixed-route. The fixed-route system does not operate after 7 PM during the weekdays and on Saturdays. In addition, the fixed route system does not operate on Sundays because two ridership surveys showed that the riding public had no interest in the Sunday service.

In your complaint and in a conversation with you, you stated that the ADA Complementary Paratransit hours of operation should be extended to accommodate your transportation needs beyond 7 PM. Decisions to extend, eliminate, or modify hours, routes, etc. are made at the local levels and FTA is prohibited by the Federal Transit Laws, as codified under 49 U.S.C., Section 5324(c) "Prohibitions Against Regulating Operations and Charges," from becoming involved in local decisions regarding transit operations unless there is a discriminatory practice. We do not fund such a practice and this means that we are unable to assist you in your attempt to persuade City Transit System to extend their Saturday hours of operation and discontinue the practice of no service on Sundays. Based on the above, City Transit System did not violate section 37.13(e) of the DOT/ADA regulation.

If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, eugene.jenkins@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 26 2001

Mary McDougle Homburg, Esq.
VIA Metropolitan Transportation
800 West Myrtle
P.O. 12489
San Antonio, Texas 78212

Re: FTA Complaint No. 95202

Dear Ms. Homburg:

Thank you for your prompt response to our request for a copy of the settlement agreement signed by VIA Metropolitan Transportation with regard to the delivery of ADA Complementary Paratransit services. We encourage conflicting parties to resolve their differences locally whenever a mutually satisfactory agreement can be reached to the benefit of all parties involved in the issues.

I note that the settlement agreement sets forth that ten percent rate of trip denials is acceptable. This provision is contrary to the Department's ADA regulations, which prohibit capacity constraints. A transit provider may never, consistent with DOT rules, plan to serve only 90 percent (or any percentage short of all) of the demand. The provider must bring to bear resources sufficient to meet all reasonable predictable demand. In the area of trip denials, all transit systems must increase ADA Complementary Paratransit capacity in the same way that capacity is increased on its fixed route system. To fail to provide an equivalent level of service to riders with disabilities is a violation of the ADA and the ADA DOT implementing regulations.

We recognize that matters beyond the control of the provider (e.g., problems related to weather, traffic accidents, unanticipated special events) may occasionally interfere with the proper provision of service. But it is never consistent with DOT regulations to tell a given percentage of callers that a trip cannot be scheduled because of insufficient capacity or resources. It is the recipient's obligation to ensure that sufficient capacity and resources are in place. FTA Office of Chief Counsel issued several letters to further clarify the area of capacity constraints, including trip denials. We have enclosed these for your reference.

We ask you to review VIA's ADA Complementary Paratransit current policy regarding capacity constraints to ensure that it is consistent with FTA policy. Please advise us of your status regarding this matter within fifteen days. If you have any questions regarding FTA's policy in reference to ADA Complementary Paratransit, please contact Eugene Jenkins, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at his electronic mail address, eugene.jenkins@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 3 2001

[REDACTED]

Re: FTA Complaint No. 01-0055

Dear [REDACTED]

This letter responds to your complaint against the East Bay Paratransit Consortium (EBPC) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be as follows:

- **Your eligibility is scheduled to expire in October 2001 and you feel that the transit property actions with regard to your eligibility status are discriminatory.**

We informed EBPC of your allegation and requested information relating to your complaint; reviewed the information presented by EBPC and you; and made a determination

on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations.

The DOT ADA regulation at 49 CFR 37.125(f) states that "The entity may require recertification of the eligibility of ADA paratransit eligible individuals at reasonable intervals." The Appendix at 49 CFR 37.125 offers guidance in saying:

The entity may certify eligibility at reasonable intervals to make sure that changed circumstances have not invalidated or changed the individual's eligibility.

Often, persons who were at one time eligible for paratransit service no longer need ADA Complementary Paratransit service to the degree they once did because circumstances have changed—fixed route buses have become accessible or the person's ability to travel on fixed route has improved—they no longer need paratransit service to the degree they once did.

- We note that your original ADA re-certification application was received by EBPC on June 29, 2000, but it was returned to you on July 5, 2000, because it was incomplete.
- On July 10, 2000, you resubmitted your application. EBPC reviewed your application and decided to interview you in person to clarify the information you provided and mailed you an in-person assessment letter.
- EBPC did not receive a response from you by September 5, 2000, and your application was placed in an "incomplete" file.
- On September 28, 2000, EBPC received a call from you asking why you were not certified ADA eligible. EBPC informed you that they needed to do an in-person assessment to determine your eligibility. Your response was that as soon as your wheelchair is repaired that you will call back to arrange for an in-person assessment.
- On October 23, 2000, you submitted a new application.
- On November 7, 2000, EBPC mailed a professional verification form to your clinic, Andrew and Associates, Inc. (AAI).
- On December 19, 2000, you requested EBPC to mail another evaluation form to AAI. EBPC mailed the form on December 20, 2000.
- EBPC called AAI on December 27, 2000, and was told that you will be evaluated by January 8, 2001. As of January 10, 2001, neither you or your physician has not provided the additional information requested by EBPC.
- On January 18, 2001, you submitted needed additional information and agreed to come for an in-person interview and as a result you were found ADA complementary paratransit eligible for another three years.

Based on the above we find that EBPC acted in accordance with the DOT ADA regulation section 37.125, regarding the eligibility certification process, and that their actions were not discriminatory.

Thank you for bringing your concern to our attention. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Rick Fernandez, General Manager, AC Transit



U.S. Department
of Transportation

Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

APR '3 2001



FTA Complaint No. 00-0269

Dear

This letter responds to your complaint on behalf of your son, against the Dallas Area Rapid Transit (DART), Dallas, Texas, alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If we cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider who may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, the majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be that:

- **DART discontinued their ADA Complementary Paratransit Service from picking up your son in the alley behind your home.**

The DOT ADA regulation at 49 CFR Section 37.129(a) states that, "... complementary paratransit service for ADA paratransit persons shall be origin-to-destination service."

The DOT ADA regulation Section 37.129 at the Appendix provides guidance saying that "The local planning process should decide whether, or in what circumstances, this service is to be provided as door-to-door or curb- to curb service."

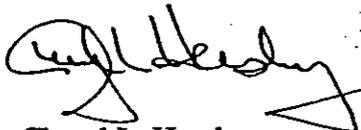
DART's Complementary Paratransit Service is a curb-to-curb shared-ride program. The exact locations of pick-up and drop-off sites are operational issues. DART's publication, "Guide to Paratransit Service," explains how service is provided to all eligible riders. DART provided a copy of this publication to you in October 1999. According to DART's policy, riders must be waiting at the sidewalk or at another safe waiting area in front or as close as possible to the entrance of the pick-up location. Bus operators will wait for a rider at the curb of a public street in front or as close as possible to the rider's house, building, or other designated pick-up location.

DART advises that its decision to discontinue alley pick-up service for your son, was based on the narrowness of the alleys and the obscurity of the van to oncoming and exiting vehicular traffic that presents an unsafe and hazardous condition to passengers and DART property. We note that, according to DART, it has never advocated alleyway service, due to the potential for unpreventable accidents, property damage, and unsafe passenger conditions. DART states that this practice has been individualized by driver personnel wanting to provide quality service, and that each instance of alleyway service that is brought to DART's attention is addressed immediately and rescinded.

Based on our review of the facts, we do not find DART's actions with respect to delivery of ADA complementary paratransit service to be deficient.

If you have any questions regarding our determinations, please contact Linda Wood King at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: Linda.king@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Mr. Marcus Moore
Manager, ADA Compliance/Accessible Service



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 3 2001

[REDACTED]

Re: FTA Complaint No. 01-0136

Dear [REDACTED]

Thank you for your letter regarding the transportation difficulties experienced by your daughter, [REDACTED]. We understand your concern and this office is responsible for the investigation of complaints of discrimination based on the Americans with Disabilities Act of 1991.

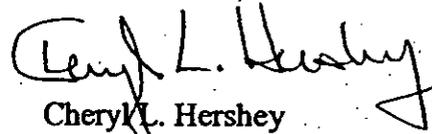
We have reviewed the information that you provided and considered it in the light 49 Code of Federal Regulation, Section 37.129, "Types of Service." Under this section, providers of fixed route mass transit systems are obligated to provide ADA Complementary Paratransit for persons with a disability who cannot use the fixed route system. It is not intended to be comparable, but complementary as a "safety net" that provide the same mass transportation opportunities for individuals with disabilities as individuals who use the fixed route system, whether that service is good, bad, or mediocre.

The ADA mandates that mass transit providers provide ADA Complementary Paratransit service within a 3/4 miles corridor on each side of the service route and at the end of the route. The ADA also obligates the transit providers to service small areas surrounded by the 3/4 miles corridor and located outside of the 3/4 mile service area. The ADA does not mandate that an eligible person live within the corridor to receive service. If the individual lives outside of the corridor and can find a way to travel to the nearest stop, the individual must be serviced by the transit system's ADA Complementary Paratransit service.

While we recognize your frustration the ADA does not require, under the facts you outlined, that [REDACTED] be provided ADA Complementary Paratransit unless she can get herself to the 3/4 mile area to be transported and then only if she is an eligible rider. Your efforts in resolving this problem by developing an accessible pathway from your home to the 3/4 mile area would be more properly served by contacting the Department of Transportation Federal Highway Administration. The Department of Justice also has jurisdiction over accessible curbs and sidewalks and their toll-free hotline number is 1-800-514-0301.

We thank you for bringing this to our attention and regret that we have not been able to be of more assistance. If you have any questions regarding this letter, please contact Mr. Eugene Jenkins, on FTA's toll free ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: eugene.jenkins@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Whatcom Transit Authority



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 11 2001



Re: FTA Complaint No. 99265

Dear Mr. Watts:

This letter responds to your complaint of discrimination, of which you asked that your name remain anonymous. Your complaint is against the Toledo Ohio Area Regional Transit Authority (TARTA), Toledo Area Regional Paratransit (TARPS) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegations to be as follows:

- TARTA provides frequent trip denials and offers standbys for pick-up time. In addition, you documented trip denials on September 16-17, 1999.

We informed TARTA of your allegations and requested information relating to your complaint; Reviewed the information presented by TARTA and you; and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations below.

- **TARTA provides frequent trip denials and offers of standbys for pick-up time. In addition, you documented trip denials on September 16-17, 1999.**

The DOT ADA regulation at 49 CFR 37.131(f)(3)(i)(A) and (ii) states:

(f) *Capacity constraints.* The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:

- (1) Restrictions on the number of trips an individual will be provided;
- (2) Waiting lists for access to the service; or
- (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.

(i) Such patterns or practices include, but are not limited to, the following:

(A.) Substantial numbers of significantly untimely pickups for initial or return trips

(ii) Operational problems attributable to causes beyond the control of the entity (including, but not limited to, weather or traffic conditions affecting all vehicular traffic that were not anticipated at the time a trip was scheduled) shall not be a basis for determining that such a pattern or practice exists.

As you did not wish to release your identity it was not possible to verify your specific allegations as to your denials on September 16-17, 1999. However, TARTA admits that it experienced denials of service that it attributed to excessive demands at specific times of the day. TARTA advised that the level of service has greatly increased for the Toledo disability community due to a budget increase of approximately 25 percent and the hiring of additional bus operators. As a result, TARTA has represented that denials have been resolved. We spoke with a number of the co-complainants, who advised that they attended the Special Transportation Coordinating Committee meetings to address their needs in an on-going manner. All of the riders who spoke said they had not experienced any denials since February 7, 2000.

TARTA acknowledges that prior to February 7, 2000, standby status for passengers was exercised when it was unable to give the consumer an exact time for their requested trip or if it were unable to meet their request. TARTA advised that standbys were continuously contacted if there was a cancellation that would meet their need. In addition, they state that riders were offered one-way trips on occasion. While there were riders opposed to these trips others were able to utilize them.

Based on complaints such as yours, the FTA Office of Civil Rights conducted an ADA Complimentary Paratransit compliance assessment from April 2-5, 2001. The team spent four days reviewing TARTA's ADA Complimentary Paratransit service. For any problems that are identified, FTA will work with TARTA to improve its service to persons with disabilities. Thereafter, FTA will continue to monitor, where appropriate, to ensure TARTA will continue to make good faith efforts to comply with its ADA obligations. Upon completion of the assessment, and the opportunity for TARTA to comment on the findings, the assessment report will become final and a copy may be obtained upon a Freedom of Information Act (FOIA) request.

We recognize your involvement in working with TARTA to resolve your transportation needs, and encourage you to continue to work with TARTA to assist in resolving any remaining transportation issues. If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl D. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Mr. Richard L. Ruddell, General Manager
Ms. Laura J. Swigart, ADA Director



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 11 2001

[REDACTED]

Re: FTA Complaint No. 99266

Dear [REDACTED]

This letter responds to your complaint against the Toledo Ohio Area Regional Transit Authority (TARTA), Toledo Area Regional Paratransit (TARPS) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be as follows:

- You experienced trip denials on September 20-22, 1999.

We informed TARTA of your allegation and requested information relating to your complaint; reviewed the information presented by TARTA and you; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations.

The DOT ADA regulation at 49 CFR 37.131(f) states:

(f) *Capacity constraints.* The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:

- (1) Restrictions on the number of trips an individual will be provided;
- (2) Waiting lists for access to the service; or
- (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.

(i) Such patterns or practices include, but are not limited to, the following:

(A) Substantial numbers of significantly untimely pickups for initial or return trips.

(ii) Operational problems attributable to causes beyond the control of the entity (including, but not limited to, weather or traffic conditions affecting all vehicular traffic that were not anticipated at the time a trip was scheduled) shall not be a basis for determining that such a pattern or practice exists.

However, TARTA admits that it experienced denials of service that it attributed to excessive demands at specific times of the day. TARTA advised that the level of service has greatly increased for the Toledo disability community due to a budget increase of approximately 25 percent and the hiring of additional bus operators. As a result, TARTA has represented that denials have been resolved. We spoke with a number of the co-complainants, who advised that they attended the Special Transportation Coordinating Committee meetings to address their needs in an on-going manner. All of the riders who spoke said they had not experienced any denials since February 7, 2000.

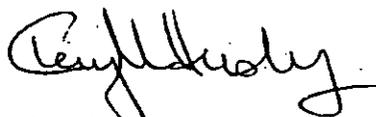
Ms. Laura Swigart, TARTA's ADA Director, has advised that since these changes she has received no further complaints from you. In a telephone conversation on March 31, 2000, with Linda Wood King, Equal Opportunity Specialist of this office, you informed her that you are now satisfied with your transportation service and have not received any trip denials.

TARTA acknowledges that prior to February 7, 2000, standby status for passengers was exercised when TARTA was unable to give the consumer an exact time for their requested trip or if they were unable to meet their request. TARTA advised that standbys were continuously contacted if there was a cancellation that would meet their need. In addition, they state that riders were offered one-way trips on occasion. While there were riders opposed to these trips, others were able to utilize them.

Based on complaints such as yours, the FTA Office of Civil Rights conducted an ADA Complimentary Paratransit compliance assessment from April 2-5, 2001. The team spent four days reviewing TARTA's ADA Complimentary Paratransit service. For any problems that are identified, FTA will work with TARTA to improve its service to persons with disabilities. Thereafter, FTA will continue to monitor, where appropriate, to ensure TARTA will continue to make good faith efforts to comply with its ADA obligations. Upon completion of the assessment, and the opportunity for TARTA to comment on the findings, the assessment report will become final and a copy may be obtained upon a Freedom of Information Act (FOIA) request.

We recognize your involvement in working with TARTA to resolve your transportation needs, and encourage you to continue to work with TARTA to assist in resolving any remaining transportation issues. If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Mr. Richard L. Ruddell, General Manager
Ms. Laura J. Swigart, ADA Director



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 11 2001



Re: FTA Complaint No. 99268

Dear 

This letter responds to your complaint against the Toledo Ohio Area Regional Transit Authority (TARTA), Toledo Area Regional Paratransit (TARPS) of Toledo, Ohio, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be as follows:

- On August 23, 1999, TARTA failed to timely and properly secure a scooter and a wheelchair.

We informed TARTA of your allegation and requested information relating to your complaint; reviewed the information presented by TARTA and you; and made a determination on your allegation based on our analysis of the compiled information in relation to the DOT ADA regulations.

The DOT ADA regulation at 49 CFR section 37.165(f) states:

Where necessary or upon request, the entity's personnel shall assist individual with disabilities with the use of securement systems, ramps and lifts. If it is necessary for the personnel to leave their seat to provide this assistance, they shall do so.

The DOT ADA regulation at 49 CFR section 37.173 states:

Each operator of a public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

We understand that you advise that the driver took more than one half an hour to secure your scooter and your associate's wheelchair on your initial trip, while on your return trip the same day, the driver failed to properly secure your scooter, only securing it at one point, and as a result your scooter moved about the bus while you were en route.

In a memo dated July 6, 2000, ADA Director, Laura Swigart advises that sensitivity/diversity training was provided March 21, 2000, to all fixed route and paratransit operators. Prior to this, the last full training was in November 1994. Between 1994 and 2000, various operational bulletins were sent to operators regarding ADA requirements and instructions, i.e., Use of Lift-Equipped Buses on Non-Lift-Equipped Routes, Wheelchair Tie Downs, and Dealing with Individuals with Disabilities. All new operators received training during pre-employment classes.

Section 37.173 requires that "personnel are trained to proficiency." To quote the appendix:

"While there is no specific requirement for recurrent or refresher training, there is an obligation to ensure that, at any given time, the employees are trained to proficiency. An employee who has forgotten what he was told in past training sessions, so that he or she does not know what needs to be done to serve individuals with disabilities, does not meet the standard of being trained to proficiency."

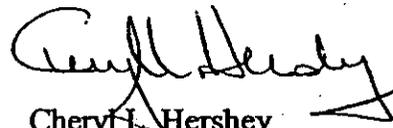
After a lengthy gap on providing training, we acknowledge that TARTA recently completed training given in March 2000, and encourage more frequent hands on training for the operator. Having the proper policies, procedures and training in place does not guarantee that drivers will always properly implement them. As a result of your complaint and our investigation, TARTA's transportation department investigated the incident that you described. We understand that the operator was reprimanded to ensure that this type of behavior does not reoccur.

Enclosed please find a copy of the Securement Information Bulletin issued by this Office. (See enclosed bulletin.)

We encourage you to work with TARTA to assist in resolving your transportation issues. Based on TARTA's response to your concerns, we will take no further action on your individual complaint and will consider your complaint resolved.

If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Mr. Richard L. Ruddell, General Manager
Ms. Laura J. Swigart, ADA Director



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 27 2001

[REDACTED]

Re: FTA Complaint No. 99168

Dear [REDACTED]

This letter responds to your complaint you filed against the Central Midlands Council of Governments (CMCOG), of Columbia, South Carolina, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, the majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. In this case, FTA conducted an on-site compliance review of CMCOG's ADA Complementary Paratransit service, known as DART, in July 1999. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be as follows:

- **DART could not guarantee you ADA Complementary Paratransit service at the hours of 8:00 a.m. and 6:00 p.m. in order for you to arrive at your job site consistently on time.**

We reviewed the information you presented; referred to the assessment report; and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determination follows.

We understand your allegation to mean that you were unable to obtain subscription service that would have enabled you to travel to and from work each day without making a daily reservation. The DOT ADA regulations state the following at 49 CFR section 37.133(a) – (c):

- (a) This part does not prohibit the use of subscription service by public entities as part of a complementary paratransit system, subject to the limitations in this section.
- (b) Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is non-subscription capacity.
- (c) Notwithstanding any other provision of this part, the entity may establish waiting lists or other capacity constraints and trip purpose restrictions or priorities for participation in the subscription service only.

This regulatory cite means that transit agencies are under no obligation to provide subscription service, but may provide it if they choose under the above parameters. However, transit agencies are required by 49 CFR section 37.131(b) to provide “next day service,” as follows:

The entity shall schedule and provide paratransit service to any ADA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day.

The DOT ADA regulations at 49 CFR section 37.131(b)(4) state:

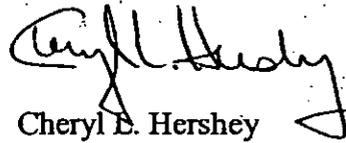
The entity may permit advance reservations to be made up to 14 days in advance of an ADA paratransit eligible individual’s desired trips.

These requirements mean that a customer should be able to call at any time during the open reservation period, which is 14 days in advance at DART, and obtain a reservation for a ride. Apparently, you were not able to do so and consequently were not able to accept the job that you were offered. The findings of our assessment conducted at CMCOG indicated that DART experienced trip denials and placed persons on waiting lists for rides. Both of these circumstances would be evidence of capacity constraints.

FTA’s assessment of CMCOG’s ADA Complementary Paratransit service was initiated based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues in your complaint were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its follow-up with CMCOG until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings. When an ADA Complementary Paratransit system has capacity constraints, it is expected that the problems you experienced would occur.

Thank you for bringing this matter to our attention. We will be closing your complaint based upon our intention to proceed as described above. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: *roberta.wolgast@fta.dot.gov*. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl E. Hershey
ADA Group Leader
Office of Civil Rights

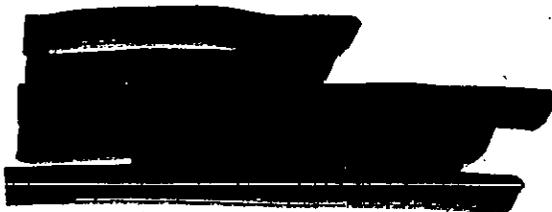
cc: CMCOG



U.S. Department
of Transportation
**Federal Transit
Administration**

APR 27 2001

400 Seventh St., S.W.
Washington, D.C. 20590



Re: FTA Complaint No. 98252

Dear 

This letter responds to your complaint you filed against the Central Midlands Council of Governments (CMCOG), of Columbia, South Carolina, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In July 1999, FTA conducted an on-site compliance assessment of CMCOG's ADA Complementary Paratransit service, known as DART. The assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding DART's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with CMCOG until we determine that the deficiencies noted in the report

are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

The allegations that we will address regarding the CMCOG fixed route service are as follows:

1. The CMCOG fixed route service does not adequately accommodate persons with disabilities.
2. There is inadequate access to information for persons with hearing and visual disabilities.

We reviewed your complaint and made a determination based on our analysis of your allegations in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations below.

- 1. The CMCOG fixed route service does not adequately accommodate persons with disabilities. Buses are not equipped with wheelchair lifts.**

When the DOT ADA regulations were promulgated on September 6, 1991, public transportation providers were not required to immediately replace fixed route buses with new accessible buses. It was anticipated that systems would gradually come into compliance over a period of years as older buses were replaced. Nor were providers required to retrofit buses with wheelchair lifts. The DOT ADA regulations state at 49 CFR section 37.71:

Except as provided elsewhere in this section, each public entity operating a fixed route system making a solicitation after August 25, 1990, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

All new buses purchased for fixed route use must now be accessible. Those persons with disabilities who were unable to use the fixed route service because the system was not yet accessible were automatically eligible for ADA Complementary Paratransit. We do not find this a deficiency under the DOT ADA regulations.

- 2. There is inadequate access to information for persons with hearing and visual disabilities. Persons with hearing and speech impediments are not able to call an [CMCOG] operator using a telecommunications display device (TDD). Persons with visual impairments do not have access to Braille or telecommunications that announce bus starts and stops.**

Two separate parts of the regulations apply to this allegation. The first applies to any information regarding service. The DOT ADA regulations state at 49 CFR section 37.167(f):

The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

In the case of persons with hearing and speech impairments, we believe that the Telecommunications Relay Service that is available without charge is an acceptable alternative to TDD service. In the case of persons with visual impairments, there is no requirement that transit providers must offer information in Braille. Other accessible formats, such as audio or electronic mediums are acceptable alternatives. However, there is a requirement at 49 CFR section 37.167(b) – (c) that stop announcements must be made as follows:

(b) On fixed route systems, the entity shall announce stops as follows:

- (1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location.
- (2) The entity shall announce any stop on request of an individual with a disability.

(c) Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be to the vehicle operator as a person seeking a ride on a particular route.

This regulation does not require telecommunication devices to be used to announce bus stops, voice announcement in accordance with the above regulation is acceptable. If you have current information that stop announcements are not made as required above, please provide us with specific details, such as route numbers, bus numbers, dates, times, etc. This would provide enough information for CMCOG to identify specific drivers who may not be complying with the requirements.

Thank you for bringing this matter to our attention. We will be closing your complaint based upon our intention to proceed as described above. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: CMCOG



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 27 2001

[REDACTED]

Re: FTA Complaint No. 96083

Dear [REDACTED]

This letter responds to your complaint you filed against the Tri-County Metropolitan Transportation District of Oregon (Tri-Met), alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In June 1999, FTA conducted an on-site compliance assessment of Tri-Met's ADA Complementary Paratransit service, known as LIFT. The assessment was done based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues in your complaint were addressed from a broader perspective by this assessment. FTA did not find any significant deficiencies in the LIFT program and required no follow-up actions by Tri-Met. A copy of the final assessment report is enclosed for your information.

Thank you for bringing this matter to our attention. We will be closing your complaint based upon the above. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl D. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Tri-Met



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 16 2001



Re: FTA Complaint No. 99270

Dear 

This letter responds to your complaint of discrimination against the Toledo, Ohio Area Regional Transit Authority (TARTA), Toledo Area Regional Paratransit (TARPS) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. In this case, FTA conducted an on-site compliance review of TARTA's ADA Complementary Paratransit service known as TARPS, on April 2-5, 2001. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We informed TARTA of your allegations and requested information relating to your complaint; reviewed the information presented by TARTA and you; and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

We understand your allegations to be as follows:

- 1. TARTA Complementary Paratransit service provided on August 18, 1999, arrived earlier than the scheduled pickup.**

The DOT ADA regulation at 49 CFR 37.131 (b) states:

The entity may negotiate pick up times with the individual, but the entity shall not require an ADA paratransit eligible individual to schedule a trip to begin more than one hour before or after the individual's departure time.

In addition the DOT ADA regulation 49 CFR 37.131(3) prohibits:

- (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.**

TARTA admitted that they were attempting to correct a "glitch" in the Trapeze system of rider data. They stated the problem was the time printed on the operator's manifest was not the same as the call back sheet used when contacting the client. We have confirmed with TARTA that this problem, that appears to be an error in the Trapeze system, has been corrected.

- 2. You received rude treatment of yelling at you by a TARTA Complementary Paratransit bus operator.**

The DOT ADA regulation at 49 CFR 37.173 states:

Each operator of a public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Your complaint did not identify the driver in question, however, in a memo dated July 6, 2000, ADA Director, Laura Swigart advises that sensitivity/diversity training was provided on March 21, 2000, to all fixed route and paratransit operators. Prior to this, the last full training was in November 1994. Between 1994 and 2000, various operational bulletins were sent to operators regarding ADA requirements and instructions, i.e., Use of Lift-Equipped Buses On Non-Lift-Equipped Routes, Wheelchair Tie Downs, and Dealing with Individuals with Disabilities. All new operators received training during pre-employment classes.

Section 37.173 requires that "personnel are trained to proficiency." To quote the Appendix:

"While there is no specific requirement for recurrent or refresher training, there is an obligation to ensure that, at any given time, the employees are trained to proficiency. An employee who has forgotten what he was told in past training sessions, so that he or she does not know what needs to be done to serve individuals with disabilities, does not meet the standard of being trained to proficiency."

After a lengthy gap on providing training, we acknowledge that TARTA completed training given in March 2000 and encourage more frequent hands on training for the operator. Having the proper policies, procedures and training in place does not guarantee that drivers will always properly implement them. As a result of your complaint and our investigation, TARTA's transportation department investigated the incident that you described. We understand that the operator was reprimanded to ensure that this type of behavior does not reoccur.

3. TARTA Complementary Paratransit bus operators have problems with service animals and insist that your dog be tied to the back of the bus "out of the way."

The DOT ADA regulation at 49 CFR 37.167(d) states:

The entity shall permit service animals to accompany individuals with disabilities in vehicles and facilities.

In response to this allegation, TARTA denies that the bus operator tied your dog to the back of the bus. In addition, TARTA states that conversations occurred with you regarding your dog, Sadie's, overly active behavior. They stated that after boarding the vehicle, you were not able to control or contain your dog, as service animals are not permitted to sit or walk over the seats of the vehicles. TARTA is also unaware of any other allegations against them of incidences of mistreatment to your service animal. TARTA advised that they have had a number of conversations with Assistance Dogs of America, Inc. and with your attorney to obtain additional training for your dog and to determine what could be done to alleviate this problem with your service dog. As your version of the events and TARTA's are substantially in conflict, we are unable to reach a factual determination on this allegation.

According to the ADA regulations, a person with disabilities has the right to be accompanied by a service animal. (see attached U.S. Department of Justice information piece titled "Commonly asked questions about service animals in places of business.") However, it is clear that the above regulation authorizing persons with disabilities to use service animals, places an obligation upon the person with the service animal to be responsible for that animal and to keep it under their control. Implicit in this obligation is that the rider have the service animal in close proximity in order to be able to exercise control over it and to fulfill this obligation. You may exclude a service animal when that animal's behavior poses a direct threat to the health or safety of others. TARTA is not responsible for the training of a service animal.

4. As a result of your filing a complaint, TARTA practiced possible retaliation against you by increasing the denial of your ride.

The DOT ADA regulation at 49 CFR 27.123(e) states:

No employee or contractor of a recipient shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Section 504 of the ACT or this part or because the individual has made a complaint, testified, assisted, or participated in any manner in an investigation, hearing or proceeding, under this part.

TARTA states that they do not tolerate retaliation of any type. They informed us that Ms. Laura J. Swigart, ADA Coordinator, and you spoke about this issue over the phone regarding what appeared to be an increase in denials for you. They advised us that every attempt was made to accommodate you in accordance with your request. TARTA states that you informed them that because your aide, that assists you, is not always able to make schedule adjustments, you are somewhat limited in your availability to be ready for the arrival of your ride. Based on our review of the information regarding this allegation, the evidence does not support a finding of retaliation against TARTA.

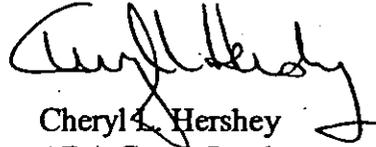
TARTA advised that the level of service has greatly increased for the Toledo disability community due to a budget increase of approximately twenty-five percent and the hiring of additional bus operators. As a result, TARTA has represented that denials have been resolved. We spoke with a number of co-complainants who advised that they attended the Special Transportation Coordinating Committee meetings to address their needs in an on-going manner. All the riders who spoke said they had not experienced any denials since February 7, 2000. TARTA acknowledges that prior to February 7, 2000, standby status for passengers were exercised when TARTA was unable to give the consumer an exact time for their requested trip or if they were unable to meet their request. TARTA advised that standbys were continuously contacted if there was a cancellation that would meet their need. In addition, they state that riders were offered one-way trips on occasion. While there were riders opposed to these trips, others were able to utilize them.

Based, in part, on complaints such as yours, the FTA Office of Civil Rights conducted an ADA Complimentary Paratransit compliance assessment from April 2-5, 2001. The team spent four days reviewing TARTA's ADA Complimentary Paratransit service. For any problems that are identified, FTA will work with TARTA to improve its service to persons with disabilities. Thereafter, FTA will continue to monitor, where appropriate, to ensure TARTA will continue to make good faith efforts to comply with its ADA obligations. Upon completion of the assessment, and the opportunity for TARTA to comment on the findings, the assessment report will become final and a copy may be obtained upon a Freedom of Information Act (FOIA) request.

We also recognize your involvement in working with TARTA to resolve your transportation needs. We encourage you to continue to work with TARTA to assist in resolving your transportation issues. Based on TARTA's response to your concerns, we will take no further action on your individual complaint and will consider your complaint resolved.

If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: *linda.king@fta.dot.gov*. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Mr. Richard L. Ruddell, General Manager
Ms. Laura J. Swigart, ADA Director



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 23 2001

[REDACTED]

Re: FTA Complaint No. 97026

Dear [REDACTED]

This letter responds to your complaint against the Regional Transportation District (RTD), Denver, Colorado, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

Because of the limitation in resources, the majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be that:

- You experienced over fourteen incidents in which you and your guide dog were denied access to bus transportation and were severely ridiculed by RTD personnel on various forms of RTD transportation. You allege that these incidents have continued since you filed this complaint.

We informed RTD of your allegation, requested information relating to your complaint and reviewed the information presented by RTD and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

The DOT ADA regulation at Section 37.3 states:

A service animal means any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

In addition, the DOT ADA regulation at Section 37.167:

The entity shall permit service animals to accompany individuals with disabilities in vehicles and facilities.

RTD's response stated that from 1990 to 1997, you filed various complaints about RTD bus operators questioning your use of a service animal and denying you and your service animal access to transportation. RTD acknowledges that you filed numerous incidence reports alleging that you and your service animal were denied access to bus transportation and that all the documented complaints were received by a customer service representatives and then forwarded to the appropriate personnel for action. The most recent incident was the following:

On March 1, 1999, at 1:40 pm., bus number 2518, the bus operator yelled at you to "get dog off" the bus. In addition, you found out from a supervisor that the driver was a new employee, and you stated that RTD is not doing their job in training new operators. RTD searched all their Customer Service contact files and were not successful in finding any recent records of the alleged incident report. This allegation cannot be substantiated as no record of this incident was found.

RTD has incorporated a training video from the Delta Society, (National Service Dog Center), into the bus operator's educational training program. The sensitivity training was designed to assist operators in better understanding the issues hearing and visually impaired passengers' experience. RTD stated that the video information is a part of their training program for newly hired operators. Student operators are put through a six-week training program, (the latest provided in July, 2000), that prepares them for service on the fixed route systems. On the final week, operators participate in a classroom training that specifically addresses ADA requirements. Veteran operators participate in refresher training, which is designed to keep them current on ADA requirements. In addition to this training, operators are required to attend a class on service animals. RTD indicated that the most recent memo (TR-00-027) was issued and distributed to all RTD bus operators, March 28, 2000, as a reminder that operators must comply with ADA requirements.

RTD further stated that all operators (new hires, rehires and veterans) are required to take educational system video post-test prepared by the Delta Society. This test is used as an educational tool, and helps to identify training needs. At the conclusion, the post-test is administered to affirm operators' understanding of the correct procedures to follow when encountering a passenger with a service animal.

We find that the January 2001, edition of the Trailblazer (Bus Operators Guide) has been updated and contains information about ADA requirements. The Trailblazer, distributed to all bus operators, requires operators to adhere to all ADA requirements in Section III of the publication.

Based on the facts, the RTD has made considerable progress in their efforts to educate their bus operators in the requirements of the ADA and especially in the use of service animals by persons with disabilities. We hope that RTD has succeeded in its efforts to improve driver sensitivity toward passengers with service animals. We have warned RTD that we will monitor for any further complaints from you or other passengers with service animals. If you again experience problems, we would suggest that you first contact RTD's Equal Opportunity Compliance Officer, Jewell Dean Underwood, at (303) 299-2190. If a pattern of problems develops, contact your investigator, Linda Wood King, and FTA will determine if further action is necessary.

If you have any questions regarding this decision, please contact Ms. King, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. We apologize for the long delay in reaching a final determination and a response to your complaint. Thank you for bringing your concerns to our attention.

Sincerely,



for Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Clarence W. Marsella
General Manager, RTD

Jewell Dean Underwood
EO Compliance Officer, RTD

Charlotte N. Sweeney
Attorney, LaFond & Sweeney

Congresswoman Diana Degette



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 30 2001

Ms. Allison Scharf
Maryland Disability Law Center
1800 N. Charles Street, Suite 202
Baltimore, Maryland 21201

Re: FTA Complaint No. 00-0300

Dear Ms. Scharf:

This letter responds to the complaint you filed on behalf of your client, [REDACTED], against the Mass Transit Administration (MTA), of Baltimore, Maryland, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

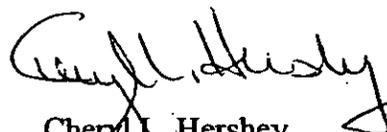
Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In May 2001, FTA conducted an on-site ADA compliance assessment of MTA's fixed route service, concentrating on wheelchair lift usage, compliance reliability and maintenance. The assessment was based in part on [REDACTED] complaint that you submitted to the FTA Office of Civil Rights. The specific issues about which you complained regarding MTA's fixed route service were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with MTA until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on

the complaints with those addressing the assessment findings. For the reasons discussed above, we have administratively closed this complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: *mary-elizabeth.peters@fta.dot.gov*. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: MTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 30 2001

[REDACTED]

Re: FTA Complaint No. 99235

Dear [REDACTED]

This letter responds to your complaint you filed against the Mass Transit Administration (MTA), of Baltimore, Maryland, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

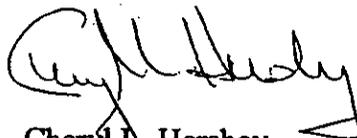
Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In May 2001, FTA conducted an on-site ADA compliance assessment of MTA's fixed route service, concentrating on wheelchair lift usage, compliance reliability and maintenance. The assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues about which you complained regarding MTA's fixed route service were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with MTA until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on

the complaints with those addressing the assessment findings. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: MTA



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 92011

Dear [REDACTED]

This letter responds to your complaint you filed against the Central Midlands Council of Governments (CMCOG), of Columbia, South Carolina, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

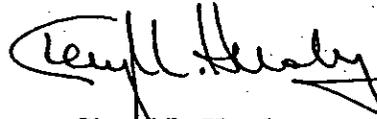
In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In July 1999, FTA conducted an on-site compliance assessment of CMCOG's ADA Complementary Paratransit service, known as DART. The assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding DART's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with CMCOG until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

Thank you for bringing this matter to our attention. We will be closing your complaint based upon our intention to proceed as described above. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: CMCOG



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 00053

Dear [REDACTED]

This letter responds to your complaint you filed against the Central Florida Regional Transportation Authority (LYNX), of Orlando, Florida, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

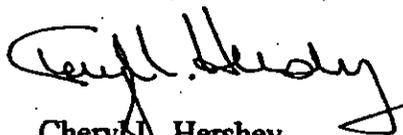
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In May 1999, FTA conducted an on-site compliance assessment of LYNX ADA Complementary Paratransit service, known as A+Link. The compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding A+Link ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this compliance assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with LYNX until we determine that the deficiencies noted in the

report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

Accordingly, we have administratively closed your complaint based upon the above findings. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl A. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Byron W. Brooks
LYNX

Ron Jones
LYNX



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 96136

Dear [REDACTED]

This letter responds to your complaint you filed against the Palm Beach County Surface Transportation Department (Palm Tran), alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

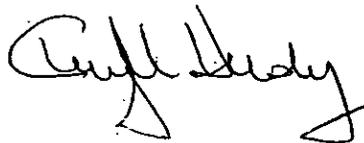
Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In April 2000, FTA conducted an on-site compliance assessment of Palm Tran's ADA Complementary Paratransit service, known as the Palm Tran CONNECTION (the CONNECTION). The assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding the CONNECTION's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with Palm Tran until we determine that the deficiencies noted in the report are corrected. A copy of the final report is included for your information. We intend to combine our monitoring efforts

on the complaints with those addressing the assessment findings. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Palm Tran



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 96137

Dear [REDACTED]

This letter responds to your complaint you filed against the Palm Beach County Surface Transportation Department (Palm Tran), alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In April 2000, FTA conducted an on-site compliance assessment of Palm Tran's ADA Complementary Paratransit service, known as the Palm Tran CONNECTION (the CONNECTION). The assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding the CONNECTION's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with Palm Tran until we determine that the deficiencies noted in the report are corrected. A copy of the final report is included for your information. We intend to combine our monitoring efforts

on the complaints with those addressing the assessment findings. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: *roberta.wolgast@fta.dot.gov*. Please include the FTA complaint number on any correspondence with this office.

Sincerely,

Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Palm Tran



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 96138

Dear [REDACTED]

This letter responds to your complaint you filed against the Palm Beach County Surface Transportation Department (Palm Tran), alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In April 2000, FTA conducted an on-site compliance assessment of Palm Tran's ADA Complementary Paratransit service, known as the Palm Tran CONNECTION (the CONNECTION). The assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding the CONNECTION's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with Palm Tran until we determine that the deficiencies noted in the report are corrected. A copy of the final report is included for your information. We intend to combine our monitoring efforts

on the complaints with those addressing the assessment findings. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Palm Tran



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 96139

Dear [REDACTED]

This letter responds to your complaint you filed against the Palm Beach County Surface Transportation Department (Palm Tran), alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In April 2000, FTA conducted an on-site compliance assessment of Palm Tran's ADA Complementary Paratransit service, known as the Palm Tran CONNECTION (the CONNECTION). The assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding the CONNECTION's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with Palm Tran until we determine that the deficiencies noted in the report are corrected. A copy of the final report is included for your information. We intend to combine our monitoring efforts

on the complaints with those addressing the assessment findings. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,

Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Palm Tran



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 96140

Dear [REDACTED]

This letter responds to your complaint you filed against the Palm Beach County Surface Transportation Department (Palm Tran), alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

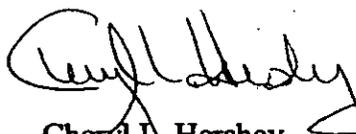
Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In April 2000, FTA conducted an on-site compliance assessment of Palm Tran's ADA Complementary Paratransit service, known as the Palm Tran CONNECTION (the CONNECTION). The assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding the CONNECTION's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with Palm Tran until we determine that the deficiencies noted in the report are corrected. A copy of the final report is included for your information. We intend to combine our monitoring efforts

on the complaints with those addressing the assessment findings. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl D. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Palm Tran



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 99159

Dear [REDACTED]

This letter responds to your complaint you filed against the Metropolitan Atlanta Regional Transit Authority, Atlanta, Georgia, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

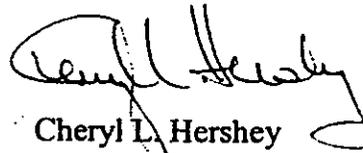
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of MARTA's ADA Complementary Paratransit service in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding late pickups and scheduled times being changed on the ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor MARTA's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Nathaniel P. Ford, Sr.
General Manager
MARTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 00-0225

Dear [REDACTED]

This letter responds to your complaint you filed against the Chicago Transit Authority (CTA), alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In June 2000, FTA conducted an on-site compliance assessment of CTA's ADA Complementary Paratransit service. The assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding the CTA's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with CTA until we determine that the deficiencies noted in the report are corrected. A copy of the final report is included for your information. We intend to combine our monitoring efforts

on the complaints with those addressing the assessment findings. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,

Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: CTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 97048

Dear [REDACTED]

This letter responds to your complaint you filed against the Central Florida Regional Transportation Authority (LYNX), of Orlando, Florida, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

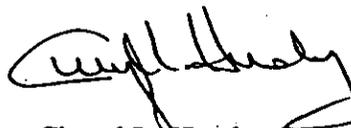
In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In May 1999, FTA conducted an on-site compliance assessment of the LYNX ADA Complementary Paratransit service, known as A+Link. The compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding LYNX's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this compliance assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with LYNX until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

Accordingly, we have administratively closed your complaint based upon the above findings. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

LYNX



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 00-0234

Dear [REDACTED]

This letter responds to your complaint you filed against the Central Midlands Council of Governments (CMCOG), of Columbia, South Carolina, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

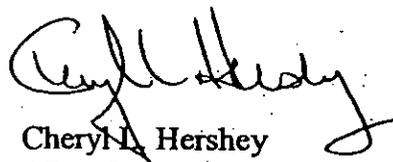
Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In July 1999, FTA conducted an on-site compliance assessment of CMCOG's ADA Complementary Paratransit service, known as DART. The assessment was based in part on complaints submitted to the FTA Office of Civil Rights. The specific issues regarding DART's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with CMCOG until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those

addressing the assessment findings. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl N. Hershey
ADA Group Leader
Office of Civil Rights

cc: CMCOG



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 00049

Dear [REDACTED]

This letter responds to your complaint you filed against the Metropolitan Transportation Authority (MTA), Long Island Railroad, Long Island, New York, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

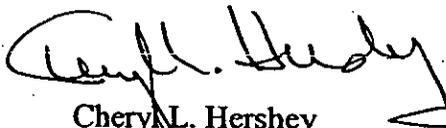
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property

The Long Island Railroad Woodside station is the only station indicated in your complaint, that is a designated Key Station, and therefore, required by DOT ADA regulations to be accessible to individuals with disabilities.

In August 19, 1999, FTA conducted a Key Station Assessment (See Enclosure), that addressed the MTA, Long Island Railroad's Woodside station. The specific issues in your complaint were addressed from a broader perspective by this Key Station assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with MTA, Long Island Railroad until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

Accordingly, we have administratively closed your complaint based upon the above findings. If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc:

Kelly A. Reape, Senior Attorney
MTA, Long Island Railroad

SECTION 4 — CONDUCT OF SURVEYS

Field assessments of the Long Island Rail Road (LIRR) commuter rail stations Woodside, Ronkonkoma, Long Beach, Lynbrook, Rockville Centre, and Mineola were conducted on August 16 through August 19, 1999. The elements found to be noncompliant with specific ADAAG standards are summarized below.

WOODSIDE STATION

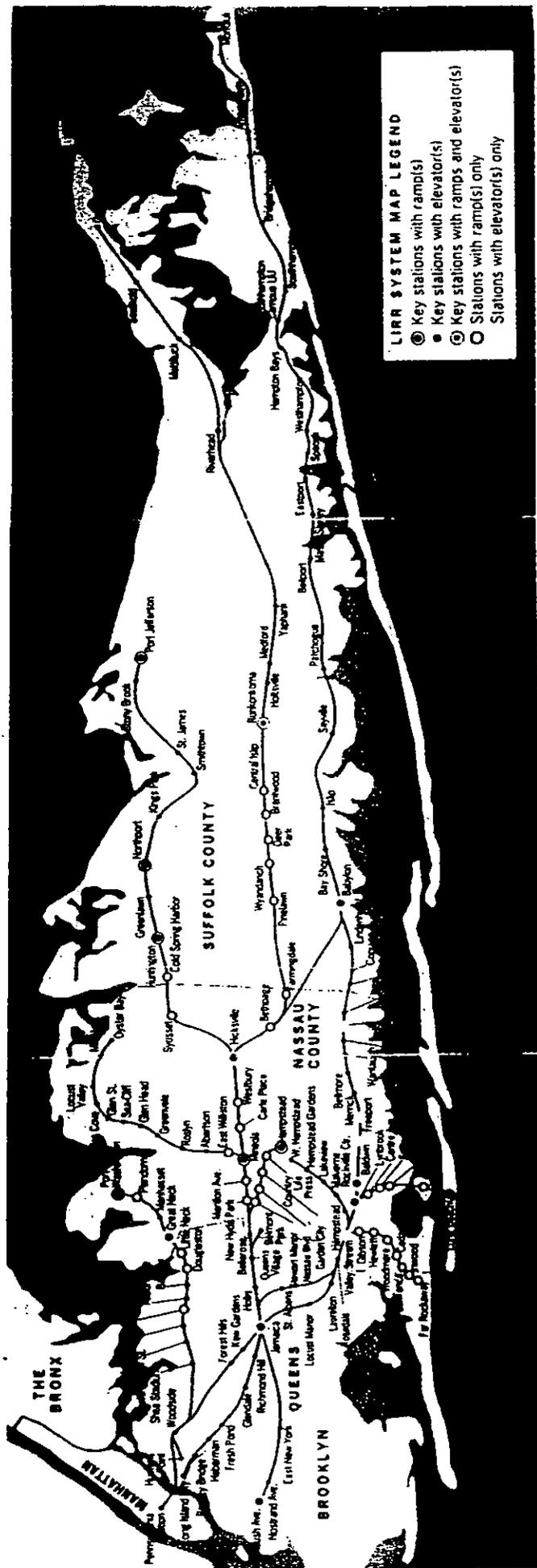
This station is an intermediate station along the Main (Penn) Line and Port Washington Line which originates at Penn Station in New York City and terminates at Port Washington on the north shore of Long Island. The station consists of an elevated mezzanine with three platforms below the mezzanine at grade level. The station mezzanine houses an attended ticketing counter, a waiting area, restrooms, and a direct connection to the NYCT Number 7 Line. The platforms are open air with partial canopies. They are high-level and provide level boarding. They are accessed by ramps and elevators. No parking is provided by the LIRR at this station. General views of this station are shown in Exhibit 4-1, *General Views of Woodside Station*.

Entrance

The accessible entrance provided by the elevator at street level has a visual and tactile station name sign. The tactile sign, as shown in Exhibit 4-2, *Accessible Entrance at Elevator*, is mounted at 56 inches to the center of the sign and a curb exists at the base of the elevator which prevents a person from approaching the sign within 3 inches. There is a concrete curb and apron at the base of the sign that protrudes more than 3 inches from the sign face. This sign is the property of the NYCT. ADAAG 4.30.6 states that mounting height shall be 60 inches above the finish floor to the centerline of the sign. Mounting location for such signage shall be so that a person may approach within 3 inches of signage without encountering protruding objects or standing within the swing of a door.

Elevator

Access to the street level hall call buttons of the entrance elevator is hindered by the projecting base of the elevator, as also shown in Exhibit 4-2, *Accessible Entrance to Elevator*. ADAAG 4.10.3 states that objects mounted beneath hall call buttons shall not project into the elevator lobby more than 4 inches.



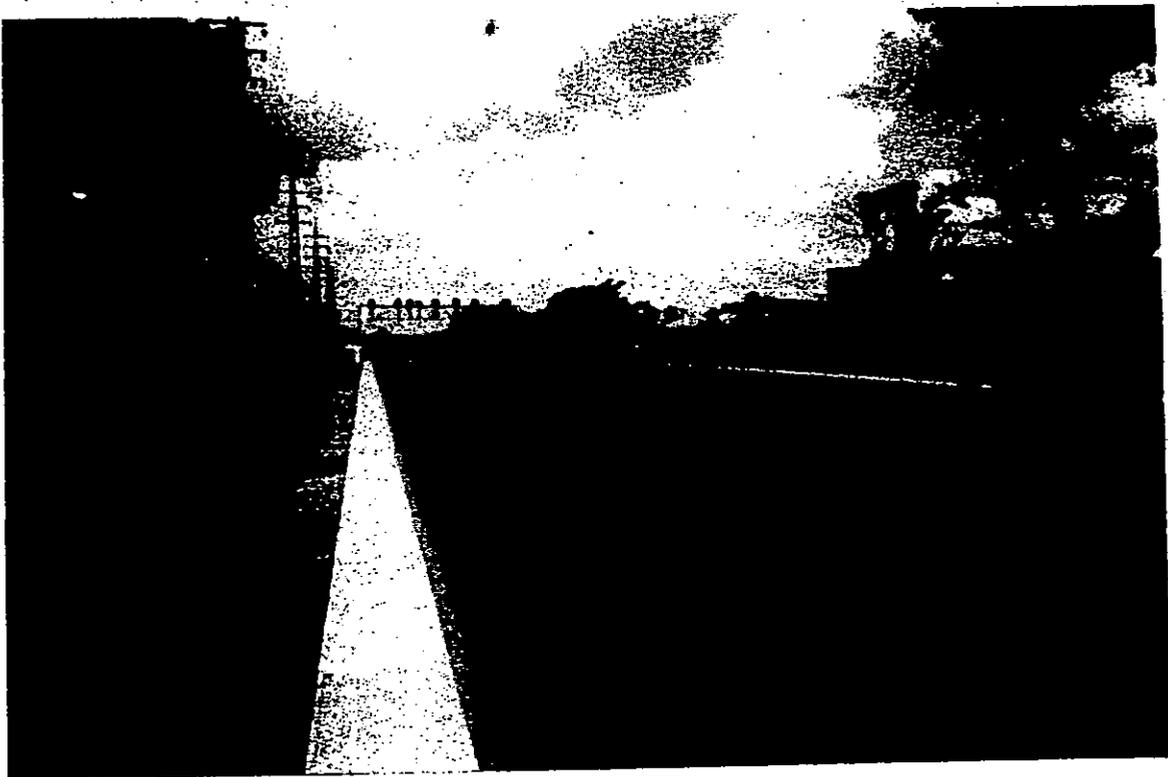
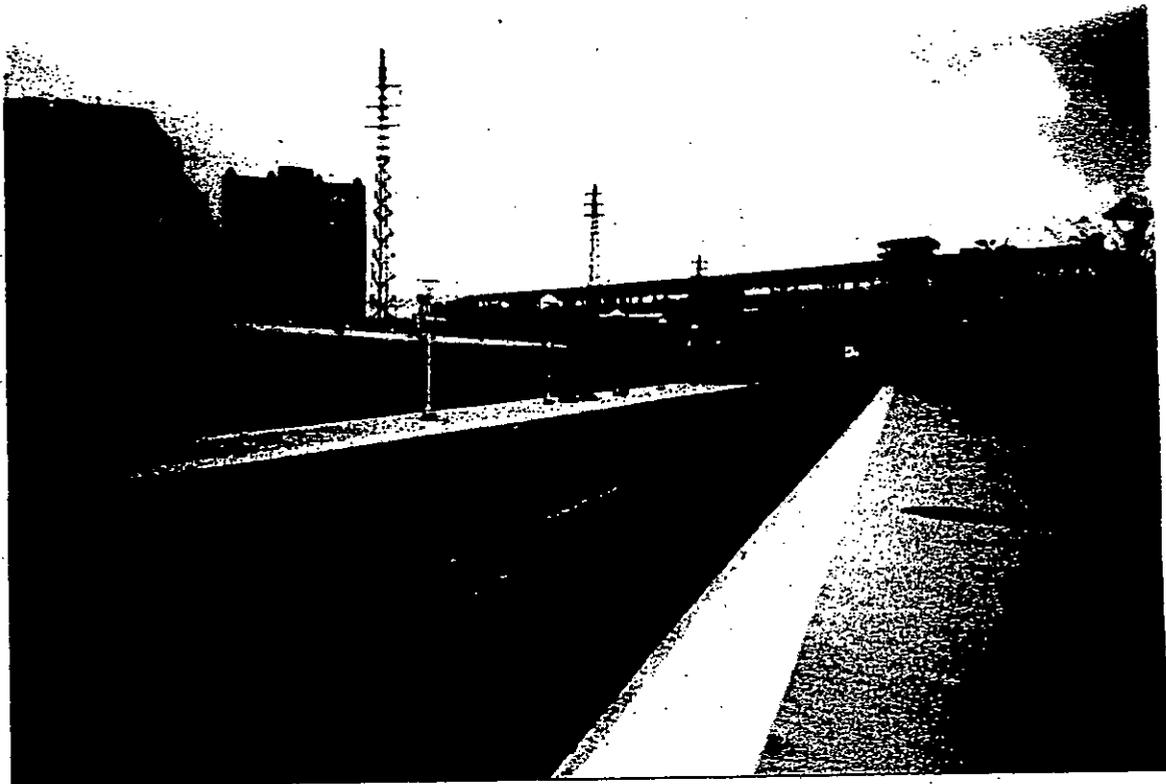


Exhibit 4-1: General Views of Woodside Station

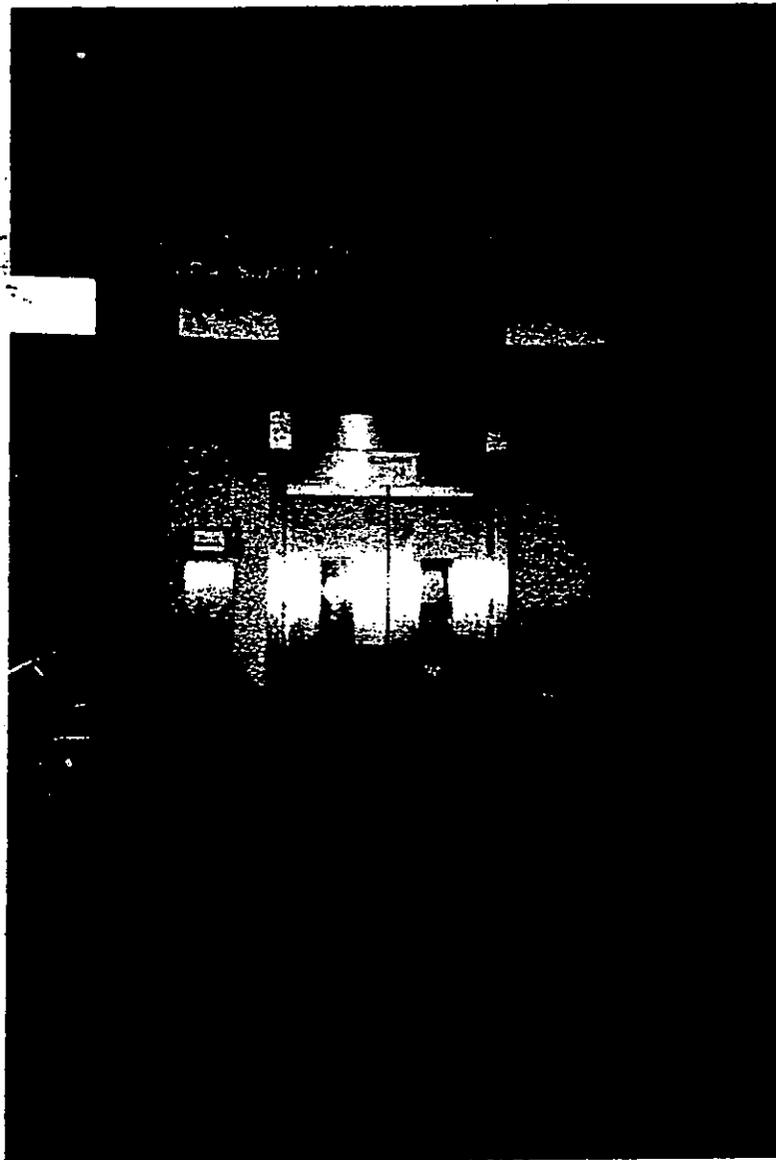


Exhibit 4-2: Accessible Entrance at Elevator

4-3

SECTION 5 — EXIT MEETING

The exit meeting was held at the LIRR offices at Jamaica Station, Jamaica, New York, on August 20, at 11:00 a.m. The following persons participated in the exit meeting:

Ms. Jackie L. Gross	LIRR, Senior Attorney
Mr. Robert Beck	LIRR, Project Manager
Ms. Nancy Greer	LIRR, Passenger Services
Ms. Michele Tifverman	LIRR, Manager, Grant Management
Ms. Lori Katzman	LIRR, CPM
Mr. Don Kloehn	KRW Incorporated

The survey findings described earlier in Section 4 for the six stations assessed were discussed with LIRR staff. Summaries of the findings and the responses of LIRR staff follow:

1. WOODSIDE STATION

Entrance

The LIRR stated that the New York City Transit will be notified of the improperly mounted tactile entrance sign.

Elevator

The LIRR stated that the issue of the elevator base, which projects into the elevator lobby more than 4 inches, will be referred to the NYCT, the elevator owner.

2. RONKONKOMA STATION

Parking

The LIRR stated that the all of the parking layout issues of the Lot 340 parking lot will be corrected.

Accessible Route

The LIRR stated that a curb ramp will be installed from the Lot 340 parking lot surface to the sidewalk in order to provide the accessible route to the station.

3. LYNBROOK STATION

Parking and Drop-off

The LIRR stated that the deficient passenger drop-off lane is not the responsibility of the LIRR and the issue will be examined for corrective action as necessary.

4. ROCKVILLE CENTRE STATION

Ramps

The LIRR stated that the non-compliant termination of the handrails on the ramp to the temporary station building will be corrected.

Elevator

The assessment of the single elevator at this station revealed that the flooring is loose and raised at the door edge of the floor. The LIRR stated that repairs to the elevator flooring are planned.

The LIRR disagrees with the requirements for vision panels in key station elevators. The LIRR stated that it is their interpretation of 49 CFR 37.9(b) that, since the elevator at this station was installed prior to ADAAG rule and it was installed under ANSI A-117.1 and/or UFAS standards, the requirement for elevator vision panels are "grandfathered". The LIRR also provided a copy of a letter from the FTA concurring with their position. A copy of the letter, dated April 26, 1999 is provided in Exhibit 5-1.

It was explained to the LIRR that because neither ANSI A-117.1 or UFAS required vision panels in elevators and that ADAAG 10.3.1(17) states "Where provided, elevators shall be glazed or have transparent panels to allow an unobstructed view both in to and out of the car.", key station elevators must have vision panels. 49 CFR 37.9(b) states, in part, "This paragraph applies only to alterations of individual elements and spaces and only to the extent that provisions covering those elements or spaces are contained in UFAS or ANSI A117.1, as applicable." Appendix A of Part 37, 37.9(b) states, in part, "The rule specifically provides that 'grandfathering' applies only to alterations of individual elements and spaces and only to the extent that provisions covering those elements or spaces are found in UFAS or ANSI A117.1. For example, alterations to the telephones in a key station may have been carried out in order to lower them to meet the requirements of UFAS, but telecommunications devices for the deaf (TDD's) were not installed. (Neither UFAS nor the ANSI standard include requirements concerning TDD's). However, because appendix A does contain TDD requirements, the key station must now be altered in accordance with the standards for TDD's. Similarly, earlier alteration of an entire station in accordance with UFAS or the ANSI standard would not relieve an entity from compliance with any applicable provision concerning the gap between the platform and the vehicle in a key station, because neither of these two standards addresses the interface between vehicle and platform."

5. MINEOLA STATION

Accessible Route

The LIRR stated that the uneven areas of the track crossing at this station will be repaired.



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 98017

Dear [REDACTED]

This letter responds to your complaint you filed against the Greater Cleveland Regional Transit Authority (GCRTA), of Cleveland, Ohio, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

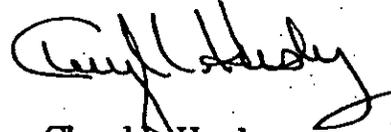
In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In March 2000, FTA conducted an on-site compliance assessment of GCRTA's ADA Complementary Paratransit service. The compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding GCRTA's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this compliance assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with GCRTA until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

Accordingly, we have administratively closed your complaint based upon the above findings. If you have any questions regarding this letter, please contact Eugene Jenkins, Equal Opportunity Specialist, at 1-888-446-4511 or at his email address: eugene.jenkins@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Joseph A. Calabrese
CEO/General Manager
GCRTA



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 97092

Dear [REDACTED]:

This letter responds to your complaint filed against the Santa Cruz Metropolitan Transit District (SCMTD), of Santa Cruz, California, alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and

38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If we cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means,

- **formal enforcement proceedings may be initiated against the public transportation provider who may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.**

- **Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review**

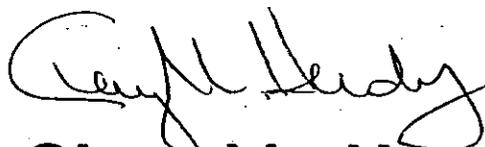
of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, you alleged that information on SCMTD's website was not accessible to you, as a person with a visual disability. We have ascertained that SCMTD's website is now posted in HTML format which conforms to current accessibility standards.

Based on the above information, we will consider your complaint to be administratively closed. If you have any questions regarding our determination, please contact Eugene Jenkins, Equal Opportunity Specialist,

**at our toll free FTA ADA Assistance
Line, 1-888-446-4511, or at his
electronic mail address:
Eugene.Jenkins@fta.dot.gov.**

Sincerely,



**Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights**

Cc: SCMTD



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

FTA Complaint No. 99111

Dear [REDACTED]

This letter responds to your complaint filed against Dallas Area Rapid Transit (DART), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If we cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider who may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that you were denied ADA complementary paratransit service when DART driver did not show up for your 9:00 a.m. scheduled pick up time.

We investigated your allegations, and sent a data request letter to Mr. Roger Snoble, President and Executive Director, DART. We received a response from DART

(enclosed) that addressed and provided relevant information on your allegation noted above.

DART explained that it has a 20-minute ready pick-up window and riders are required to board the vehicle within 5 minutes of the bus arrival. If the rider fails to board within 5 minutes after the vehicles arrival, the rider is recorded as a no-show. The vehicle arrived at 9:00 a.m. and waited until 9:05 a.m. before the driver contacted the Control Center to inform them of a potential no-show. We understand that the Control Center called you without success before allowing the vehicle to leave. In this situation, the driver in question exhausted every effort to ascertain your whereabouts prior to departing to his next location. To better serve the riders, DART is currently testing an Automatic Vehicle Locator (AVL) technology to determine the precise location of vehicles in relation to the rider's point of origin or destination.

After reviewing all of the submitted materials, it appears that there is a substantial difference of opinion between you and the transit property as to what transpired as to this particular incident. However, the information provided by DART shows they have procedures in place as required by the DOT ADA regulation and that they are ensuring they are followed. We are administratively closing your complaint as of the date of this letter.

If you have any questions regarding our determinations, please contact Roger Peralta at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Roger P. Snoble
President/Executive Director
DART
1401 Pacific Avenue
P.O. Box 660163
Dallas, Texas 75266-0163



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 94146

Dear [REDACTED]

This letter responds to your complaint you filed against the Central Midlands Council of Governments (CMCOG), of Columbia, South Carolina, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In July 1999, FTA conducted an on-site compliance assessment of CMCOG's ADA Complementary Paratransit service, known as DART. The assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding DART's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with CMCOG until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings. For the reasons discussed above, we have administratively

closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: CMCOG



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 99025

Dear [REDACTED]

This letter responds to your complaint against **Guam Mass Transit Authority (GMTA)**, alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that you were denied ADA complementary paratransit service.

We investigated your allegation, and sent a data request to Mr. J.A. (Tony) Martinez, General Manager, GMTA. We received a response from GMTA (enclosed) that addressed and provided relevant information on your allegation noted above.

GMTA explained that it does not have a policy to make reservation based on trip purpose. However, it has established policy that as long as eligible riders meet the 24-hour advance reservation requirement, whether for one stop or multiple stops, the contractor will honor the reservation. In your case, the contractor accommodated your important doctor's appointment on January 9, 1999, otherwise, the contractor could have denied your request entirely for not meeting the 24-hour reservation time frame.

The material submitted by GMTA also included your trip history from 1998 through 1999. The approximately 668 scheduled ADA complementary paratransit trips which were provided to you by GMTA were for the most part on time and within the 15 minutes before and 15 minutes window.

After reviewing all of the submitted materials, it appears that the facts leading to the particular circumstances, the situations you encountered were regrettable. However, the information provided by GMTA shows they have procedures in place as required by the DOT ADA regulation and that they are ensuring they are followed. We are administratively closing your complaint as of the date of this letter.

Thank you for bringing your concern to our attention. If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: J. A. (Tony) Martinez
General Manager
Guam Mass Transit Authority
236 East O'Brien Drive
Hagatna, Guam 96910



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 96047

Dear [REDACTED]

This letter is a follow-up to your Americans with Disabilities Act of 1990 (ADA) complaint against the Detroit Department of Transportation (DOT), Detroit, Michigan that you filed in 1996. In reviewing all of the documentation contained in the file, we find no facts to support an alleged deficiency under the ADA or the DOT ADA regulations. In some instances we were unable to determine the validity of the allegation(s) due to the general nature of the information provided. For your information the transit property's response to your concern(s) is enclosed. In addition, this is to advise that FTA plans to conduct an on-site compliance assessment of the Detroit DOT ADA Complementary Paratransit service in the near future. The decision to perform this assessment, recognizing your concerns were largely in the fixed route area, was based in part on your complaint submitted to FTA. Based on this, we have administratively closed your complaint.

If you have any questions regarding this letter, please call us on the FTA toll free ADA Assistance Line, 1-888-446-4511. You also may contact us at our e-mail address: ada.assistance@fta.dot.gov.

Sincerely,

Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Detroit Department of Transportation



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 000374

Dear [REDACTED]

This letter responds to your complaint against San Francisco Municipal Railway (MUNI), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that you and your friend were denied service to board the train because the elevators at Van Ness and Civic Center stations, operated by MUNI and the Bay Area Rapid Transit District (BART), were out of service and that no announcements were made to inform the public.

We investigated your allegations, and sent a data request to Mr. Michael T. Burns, General Manager, MUNI. We received a response from MUNI (enclosed) that addressed and provided relevant information on each of your allegations noted above.

MUNI explained that its Station agents currently make periodic announcements regarding out-of-service elevators. Accessible Services Program staff will work promptly with Station Operations to assure that a bulletin outlining the announcement procedure is circulated as a reminder to Station Agents.

MUNI has a policy that elevators are repaired promptly and it has been MUNI's experience that the elevator repair service personnel respond promptly to elevator service calls. MUNI contracts out the maintenance of the MUNI-only elevators to private elevator repair vendors. Sometimes repair parts are not readily available, therefore, the elevator maybe out of service for a few days until repairs can be made. In order to ensure prompt repair and timely notification of out of service elevators, MUNI has established an Elevator Malfunction Procedure in place. In addition, as part of the opening procedures each morning, Station agents are responsible for verifying that each elevator is clean and in good working order.

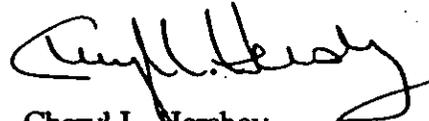
We have been advised that BART is in the process of overhauling all of the elevators in the downtown shared stations. The Embarcadero, Montgomery, and Powell Station elevators have been overhauled, and the Civic Center elevators was closed for overhaul on February 5, 2001.

MUNI stated that if you have any additional concerns regarding access to MUNI's metro system that you contact directly Ms. Annette Williams, Accessible Services Program Manager at (415) 923-6142.

After reviewing all of the submitted materials, it appears that the facts leading to the particular circumstances experienced by you and your friend were the result of temporary deficiencies. However, the information provided by MUNI shows they have procedures in place as required by the DOT ADA regulation and that they are ensuring they are followed. We are administratively closing your complaint as of the date of this letter.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Michael T. Burns
General Manager, MUNI
949 Presidio Avenue
San Francisco, California 94115



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 27 2001

[REDACTED]

Re: FTA Complaint No. 98139

Dear [REDACTED]

This letter responds to your complaint you filed against the Pioneer Valley Transit Authority (PVTA), of Springfield, Massachusetts, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

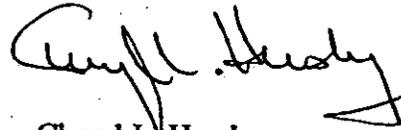
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of PVTA's ADA Complementary Paratransit service in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding PVTA's ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor PVTA's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Eugene Jenkins, Equal Opportunity Specialist, at 1-888-446-4511 or at his email address: eugene.jenkins@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights\

Cc: Gary Shepard
Administrator
PVTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

Mr. Harold Eyre
Advocacy Coordinator
Independence Center, Inc.
Koger Center, Potomac Building #15
6320 North Center Driver, Suite 100
Norfolk, Virginia 23502

Re: FTA Complaint No. 98164

Dear Mr. Eyre:

This letter responds to the complaint filed by your predecessor, [REDACTED], against the Transportation District Commission of Hampton Roads (HRT), formerly Tidewater Regional Transit District, of Hampton, Virginia, on behalf of clients of the Independence Center serving South Hampton Roads. The complaint alleged noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of HRT's ADA Complementary Paratransit service, known as Handi-Ride, in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding HRT's ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor HRT's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Michael S. Townes
Executive Director
Transportation District Commission of Hampton Roads



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 010154

Dear [REDACTED]

This letter responds to your complaint against Johnson City Transit (JCT), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for Possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

JCT has denied you paratransit service.

DOT ADA Regulation at 49 CFR, Part 37.121(a) "Requirement for comparable complementary paratransit service" states that:

"(a) Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit or other

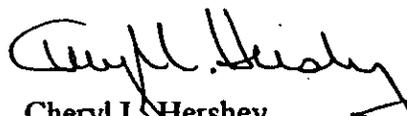
special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.”

We contacted Ms. Eldonna Janutolo, Director, of JCT, who explained and submitted information to show that JCT made substantial efforts to provide you paratransit service. A letter dated June 7, 2001, shows that a settlement agreement was reached between JCT and Northeast Tennessee Transportation (NET Trans) that effective June 4, 2001, NET Trans is now providing you paratransit service within the Johnson City area. JCT's cost per trip on paratransit is \$1.20 within the Johnson City area. You will pay \$1.20 per trip on NET Trans, and JCT will pay any additional cost for paratransit service to you within the Johnson City area. NET Trans will bill JCT monthly for the difference in the cost per trip.

After reviewing the letter explaining the agreement between JCT and NET Trans, it appears that your particular circumstances regarding provision of paratransit service has been resolved. In view of this, we are administratively closing your complaint as of the date of this letter.

If you have any questions regarding this decision, please contact Eugene Jenkins, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: eugene.jenkins@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Eldonna Janutolo
Director, Johnson City Transit
137 West Market Street
Johnson City, Tennessee 37601

Federal Transit Administration
TCR:EJenkins:60793:6/8/2001



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

Re: FTA Complaint No. 98166

Dear

This letter responds to your complaint you filed against the Transportation District Commission of Hampton Roads (HRT), formerly Tidewater Regional Transit District, of Hampton, Virginia, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

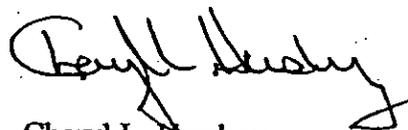
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of HRT's ADA Complementary Paratransit service, known as Handi-Ride, in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding HRT's ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor HRT's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Michael S. Townes
Executive Director
Transportation District Commission of Hampton Roads

Harold Eyre
Advocacy Coordinator
Independence Center



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]
[REDACTED]
[REDACTED]

Re: FTA Complaint No. 98167

Dear [REDACTED]

This letter responds to your complaint you filed against the Transportation District Commission of Hampton Roads (HRT), formerly Tidewater Regional Transit District, of Hampton, Virginia, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA

regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

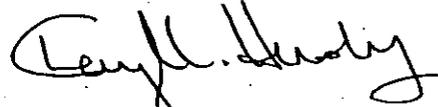
FTA plans to conduct an on-site compliance assessment of HRT's ADA Complementary Paratransit service, known as Handi-Ride, in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding HRT's ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor HRT's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For

the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: *roberta.wolgast@fta.dot.gov*. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl E. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Michael S. Townes
Executive Director
Transportation District Commission of Hampton Roads

Harold Eyre
Advocacy Coordinator
Independence Center



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

Re: FTA Complaint No. 98168

Dear

This letter responds to your complaint you filed against the Transportation District Commission of Hampton Roads (HRT), formerly Tidewater Regional Transit District, of Hampton, Virginia, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

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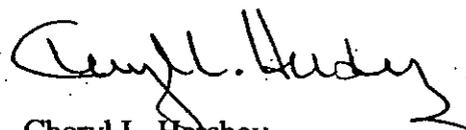
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We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Michael S. Townes
Executive Director
Transportation District Commission of Hampton Roads

Harold Eyre
Advocacy Coordinator
Endeppendence Center



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

Re: FTA Complaint No. 98169

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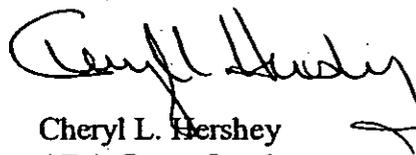
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Harold Eyre
Advocacy Coordinator
Independence Center



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 98170

Dear [REDACTED]:

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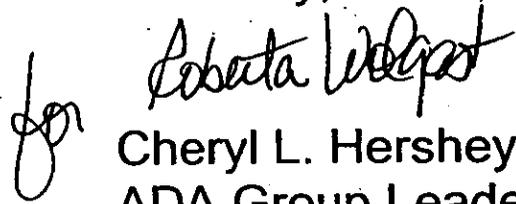
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Harold Eyre
Advocacy Coordinator
Independence Center



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400 Seventh St., S.W.
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JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 98171

Dear [REDACTED]

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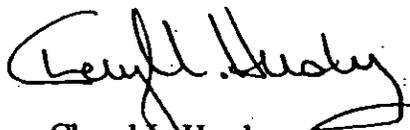
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Harold Eyre
Advocacy Coordinator
Independence Center



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JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 98172

Dear [REDACTED]

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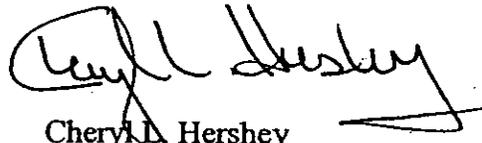
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JUN 28 2001

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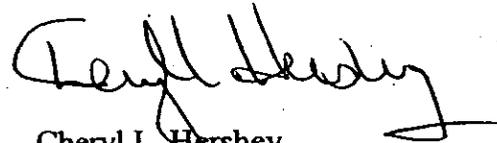
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JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 98174

Dear [REDACTED]

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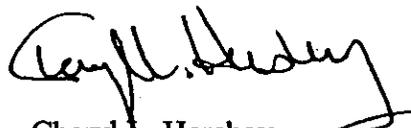
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400 Seventh St., S.W.
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JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 98175

Dear [REDACTED]

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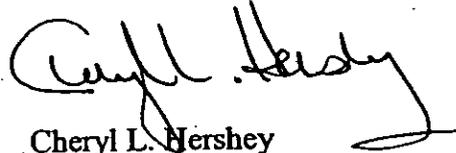
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400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 98176

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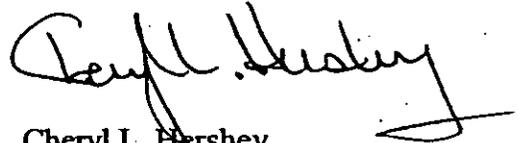
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JUN 28 2001

Re: FTA Complaint No. 98177

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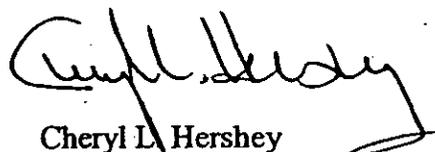
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JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 98178

Dear [REDACTED]

This letter responds to your complaint you filed against the Transportation District Commission of Hampton Roads (HRT), formerly Tidewater Regional Transit District, of Hampton, Virginia, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

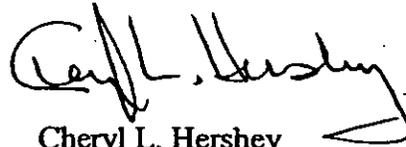
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of HRT's ADA Complementary Paratransit service, known as Handi-Ride, in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding HRT's ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor HRT's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Michael S. Townes
Executive Director
Transportation District Commission of Hampton Roads

Harold Eyre
Advocacy Coordinator
Independence Center



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

Re: FTA Complaint No. 98180

Dear

This letter responds to your complaint you filed against the Transportation District Commission of Hampton Roads (HRT), formerly Tidewater Regional Transit District, of Hampton, Virginia, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

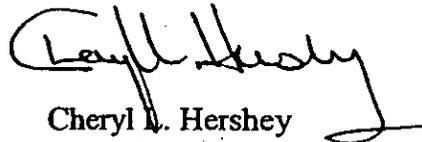
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FTA plans to conduct an on-site compliance assessment of HRT's ADA Complementary Paratransit service, known as Handi-Ride, in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding HRT's ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor HRT's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Michael S. Townes
Executive Director
Transportation District Commission of Hampton Roads

Harold Eyre
Advocacy Coordinator
Endeppence Center



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 98183

Dear [REDACTED]

This letter responds to your complaint you filed against the Transportation District Commission of Hampton Roads (HRT), formerly Tidewater Regional Transit District, of Hampton, Virginia, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation,

we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

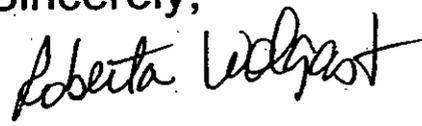
FTA plans to conduct an on-site compliance assessment of HRT's ADA Complementary Paratransit service, known as Handi-Ride, in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding HRT's ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor HRT's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the

compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,


for Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Michael S. Townes
Executive Director
Transportation District Commission of Hampton Roads

Harold Eyre
Advocacy Coordinator
Independence Center



U.S. Department
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Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 98184

Dear [REDACTED]

This letter responds to your complaint you filed against the Transportation District Commission of Hampton Roads (HRT), formerly Tidewater Regional Transit District, of Hampton, Virginia, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

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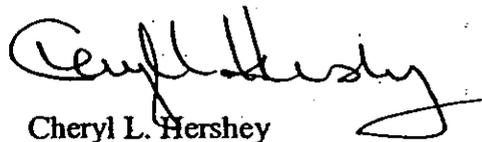
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FTA plans to conduct an on-site compliance assessment of HRT's ADA Complementary Paratransit service, known as Handi-Ride, in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding HRT's ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor HRT's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Michael S. Townes
Executive Director
Transportation District Commission of Hampton Roads

Harold Eyre
Advocacy Coordinator
Independence Center



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 98194

Dear [REDACTED]

This letter responds to your complaint you filed against the Transportation District Commission of Hampton Roads (HRT), formerly Tidewater Regional Transit District, of Hampton, Virginia, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

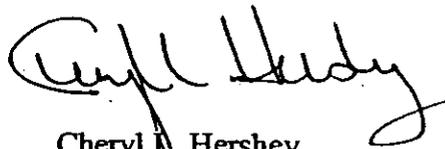
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of HRT's ADA Complementary Paratransit service, known as Handi-Ride, in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding HRT's ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor HRT's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl M. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Michael S. Townes
Executive Director
Transportation District Commission of Hampton Roads

Harold Eyre
Advocacy Coordinator
Independence Center



U.S. Department
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Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 96051

Dear [REDACTED]

This letter responds to the complaint you filed against the Miami-Dade Transit Agency (MDTA), of Miami, Florida, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

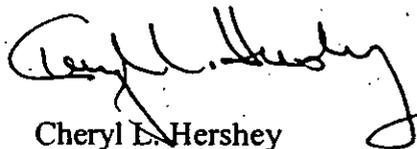
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In July 1998, FTA conducted an on-site compliance assessment of MDTA's compliance with the stop announcement requirements of the DOT ADA regulations, and in February 2001, FTA conducted an assessment of MDTA's ADA Complementary Paratransit service. The compliance assessments were based in part on complaints submitted to the FTA Office of Civil Rights. The specific issues regarding ADA Complementary Paratransit service and ADA stop announcements in your complaint were addressed from a broader perspective by these compliance assessments. Where we made findings of deficiencies, FTA will continue its monitoring activities with MDTA until we determine that the deficiencies noted in the report are corrected. We intend to combine

our monitoring efforts on the complaints with those addressing the assessment findings.

Accordingly, we have administratively closed your complaint based upon the above findings. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl E. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Miami-Dade Transit Agency



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

FTA Complaint No. 99044

Dear [REDACTED]

This letter responds to your complaint against Suffolk County Accessible Transportation (SCAT) alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If we cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider who may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. You are unable to make advance reservation because the telephone is busy;
2. When contact is made, you are unable to reserve a desired date and time of travel.

The ADA regulation at 49 CFR Section 37.131(b)(1)(4), Service Criteria for Complementary Paratransit Service Area states that:

(1) The entity shall make reservation service available during at least all normal business hours of the entities administrative offices, as well as during times, comparable to normal business hours, on the day when the entity's offices are not open before the service day.

(4) The entity shall permit advance reservation to be made up to 14 days in advance of an ADA paratransit eligible individual's desired trip.

We investigated your allegations, and sent a data request letter to Mr. Gerald Cronin, Director of Transit Operations, SCAT. We received a response from SCAT (enclosed) that addressed and provided relevant information on your allegations noted above.

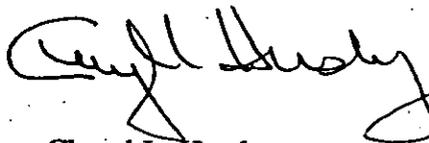
The information received from SCAT shows that the reservation desk experienced call congestion because it employed a single telephone line. SCAT has since committed more resources to the reservation process. It has hired additional reservation personnel and installed additional telephone lines to accommodate the volume of calls. SCAT has also updated its computer system to allow for faster and more efficient routing of the increasing number of trip requests.

Our records further show that you filed your complaint on 1/25/99. During the period, 8/98 to 2/99, SCAT reservation office received 40,949 trip requests and 40,483 calls resulted in a reservation approval. Also during this period, the paratransit enrollment increased by 573 new registrants.

After reviewing all of the submitted materials, it appears that in the facts leading to the particular circumstances, the situations that you encountered were temporary deficiencies. However, the information provided by SCAT shows they have procedures in place as required by the DOT ADA regulation and that they are ensuring procedures are followed. Accordingly, we are administratively closing your complaint as of the date of this letter.

If you have any questions regarding this matter, please contact Eugene Jenkins at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: Eugene.Jenkins@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Gerald Cronin
Director of Transportation Operations
Suffolk County Transit
335 Yaphank Avenue
Yaphank, New York 11985



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001



Re: FTA Complaint No. 99141

Dear 

This letter responds to your complaint against Pierce Transit, alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that you and your son were denied seating in the priority seating area because the bus operator failed to request other passengers to move.

Pierce Transit provided information (enclosed) that on May 20, 1999, Mr. Jerry Health, Assistant Transit Services Manager, explained that the DOT ADA regulations require that bus operators request passengers who are not elderly or disabled to move from the priority seating areas when an elderly person or a person with a disability needs the seat. From our review of the documentation in your file, it appears that the bus driver claims he was not aware that you or your son had a disability. We understand that you believe that the bus driver was aware of your disability. In cases such as this, when the material facts are disputed, we have no way to establish

what actually occurred. The DOT ADA regulations at 49 CFR section 37.167(j)(1) state:

When an individual with a disability enters a vehicle and because of a disability, the individual needs to sit in a seat or occupy a wheelchair securement location, the entity shall ask the non-disabled or elderly persons seated at the priority seating area to move in order to allow the individual with a disability to occupy the seat or securement location.

Pierce Transit's policy appears to correctly reflect this requirement.

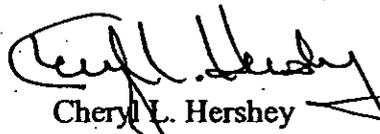
The material submitted by Pierce Transit also included the following information:

- All buses were checked and of the 108 buses only one bus did not have stickers on the front-facing priority seats for elderly persons and persons with disabilities. Bus maintenance was immediately contacted and stickers were installed.
- Pierce Transit restriped the parking lot, moving the parking spaces closer to the Tacoma Community College Bus Transfer Station.
- Any two elevators at the Tacoma Dome Station elevators were programmed not only to travel to the second floor, but now to go to the ground floor while the elevator is out of service.

After reviewing all of the submitted materials, it appears that the facts leading to the particular circumstances, the situations you encountered were regrettable. However, the information provided by Pierce Transit shows they have procedures in place as required by the DOT ADA regulations and that they are ensuring they are followed. Based on the foregoing, we are administratively closing your complaint as of the date of this letter.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Don S. Monroe
Chief Executive Officer
Pierce Transit



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 01-0025

Dear [REDACTED]

This letter responds to your complaint against Long Beach Transit (LBT), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that you were denied eligibility to use LBT Dial-A-Ride service. We investigated your allegation, and sent a data request to Mr. Lawrence W. Jackson, President and General Manager, LBT. We received a response from LBT (enclosed) that addressed and provided relevant information on your allegation noted above.

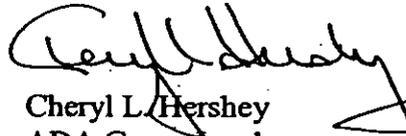
LBT explained that you are eligible to use the ADA Complementary Paratransit service provided by Access Services, Inc. (ASI), of Los Angeles, California, on behalf of LBT. However, LBT did not find you eligible to use Dial-A-Ride, its other specialized service for persons with disabilities. LBT indicated that the Dial-A-Ride service has more stringent eligibility criteria that is based on having multiple or very severe disabilities.

The DOT ADA regulations only require that service comparable to the fixed route be provided to persons with disabilities who are unable to use the fixed route. LBT meets this requirement through its agreement with ASI to provide ADA Complementary Paratransit service to LBT's eligible customers. From its description, Dial-A-Ride does not appear to be ADA Complementary Paratransit.

After reviewing all of the submitted materials, it appears that although your situation is regrettable, LBT has not discriminated against you under the DOT ADA regulations. Accordingly, we are administratively closing your complaint as of the date of this letter.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Lawrence W. Jackson
President and General Manager, LBT



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 010150

Dear [REDACTED]

This letter responds to your complaint you filed against the Washington Metropolitan Area Transit Authority (WMATA), of Washington, DC, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

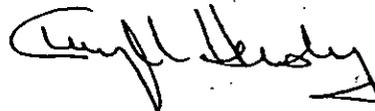
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of WMATA's ADA Complementary Paratransit service, known as Metro Access, in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding WMATA's ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor WMATA's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Richard White
General Manager
WMATA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 97040

Dear [REDACTED]

This letter responds to your complaint you filed against the Central Florida Regional Transportation Authority (LYNX), of Orlando, Florida, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

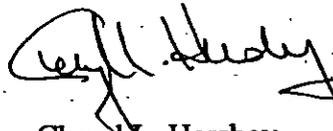
In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In May 1999, FTA conducted an on-site compliance assessment of the LYNX ADA Complementary Paratransit service, known as A+Link. The compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding LYNX's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this compliance assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with LYNX until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

Accordingly, we have administratively closed your complaint based upon the above findings. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl M. Hershey
ADA Group Leader
Office of Civil Rights

LYNX



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 99243

Dear [REDACTED]

This letter responds to the complaint you filed against the Memphis Area Transit Authority (MATA) of Memphis, Tennessee, on behalf of [REDACTED], alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

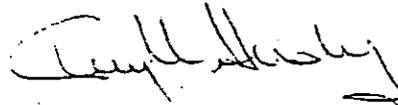
In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In February 2000, FTA conducted an on-site compliance assessment of MATA's ADA Complementary Paratransit service, known as MATAPlus. The compliance assessment was based in part on complaints submitted to the FTA Office of Civil Rights. The specific issues regarding MATA's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this compliance assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with MATA until we determine that the deficiencies noted in the report are corrected.

Accordingly, we have administratively closed your complaint based upon the above findings. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: MATA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 00063

Dear [REDACTED]

This letter responds to your complaint on behalf of your daughter, [REDACTED] against the Regional Transit District (RTD), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that your trip request scheduled for September 17, 1999 was denied by Town and Country Transportation, a taxicab company.

We investigated your allegation, and sent a data request to Mr. Clarence W. Marsella, General Manager, RTD. We received a response from RTD (enclosed) that addressed and provided relevant information on your allegation noted above.

RTD provided information that your trip request in question was scheduled by Atlantic Paratrans, an ADA complementary paratransit provider for RTD. Atlantic Paratrans, in turn, forwarded your request to its contractor, Special Transit of Boulder, Colorado to provide you the service. However, because Special Transit, is hosting their 25th Anniversary Celebration that same evening elected to contact a local Cab Company, Town and Country Transportation. Town and Country participates in the RTD's subsidized access-a cab program.

ADA eligible riders may, at their own discretion, contact a participating Cab Company and request a same day trip. However, unlike RTD's Access-A-Ride, these trips are not ADA paratransit trips. Riders pay the first \$2.00 and any amount over \$9.00 on the meter, RTD subsidizes up to \$7.00 per trip.

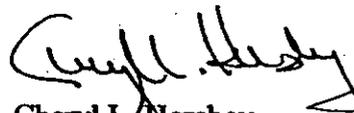
RTD conducted an investigation of this incident and was unable to identify a driver to perform this particular pick up. However, RTD has determined that Special Transit had no authority to subcontract the trip to a third party provider. RTD explained that it took immediate action in order to avoid similar incident from reoccurring by instructing Special Transit to refer any trip denials back to the contractor, Atlantic Paratrans, instead of trying to find a private cab company to take the trip.

RTD's Manager of Paratransit Service spoke to you in great length regarding the service your daughter was receiving from Atlantic Paratrans. RTD cautioned the Cab Company and instructed its drivers regarding their attitude and behavior towards your daughter and since the date of this incident, RTD has not received any complaints from you. RTD subsequently terminated the contract with Atlantic Paratrans due to poor performance in providing ADA paratransit service.

After reviewing all of the submitted materials, it appears that the facts leading to the particular circumstances experienced by your daughter were as a result of temporary deficiencies. However, the information provided by RTD shows they have procedures in place as required by the DOT ADA regulation and that they are ensuring they are followed. We are administratively closing your complaint as of the date of this letter.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Clarence W. Marsella, General Manager
RTD, 1600 Blake Street
Denver, Colorado 80202-1399



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 00-0406

Dear [REDACTED]

This letter responds to the complaints you filed against the Memphis Area Transit Authority (MATA) of Memphis, Tennessee, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

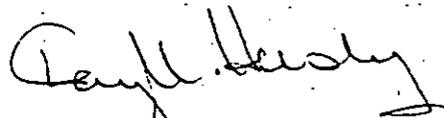
In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In February 2000, FTA conducted an on-site compliance assessment of MATA's ADA Complementary Paratransit service, known as MATAPlus. The compliance assessment was based in part on complaints submitted to the FTA Office of Civil Rights. The specific issues regarding MATA's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this compliance assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with MATA until we determine that the deficiencies noted in the report are corrected.

Accordingly, we have administratively closed your complaint based upon the above findings. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: MATA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 00-0403

Dear [REDACTED]

This letter responds to your complaint against Access Services, Inc. (ASI), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that you were denied ADA complementary paratransit eligibility when you applied for recertification.

We investigated your allegation, and sent a data request to Mr. Richard DeRock, Executive Director, ASI. We received a response from ASI (enclosed) that addressed and provided relevant information on your allegation noted above.

ASI explained that on April 1, 1998, you participated in an in-person functional assessment to determine your ability to board, ride and disembark the bus transportation system. Based on this assessment, you were given a temporary eligibility.

On May 10, 1999 when you reapplied for certification you were found ineligible to use ASI's ADA complementary paratransit service. This decision was based on several criteria, including your in-person functional assessment and your application; and your current use of an electric wheelchair that increased your mobility to get to and from the bus and that you possessed other transportation skills to use accessible fixed route service. Be advised that eligibility is not based solely on a medical diagnosis, but rather based on the rider's functional ability to use a fixed route bus.

On May 24, 1999, ASI denied you eligibility and explained to you of your right to appeal the decision; however, you did not exercise that right.

ASI encourages you to use public transportation and reapply for paratransit service if your condition has changed or if you feel that you are eligible for paratransit service by calling Access Customer Services at 1 800 827-0827.

After reviewing all of the submitted materials, it appears that the facts leading to the particular circumstances, the situations you encountered were regrettable. However, the information provided by ASI shows they have procedures in place as required by the DOT ADA regulation and that they are ensuring they are followed. We are administratively closing your complaint as of the date of this letter.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,



Cheryl U. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Richard DeRock
Executive Director, ASI



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

FTA Complaint No. 99088

Dear [REDACTED]

This letter responds to your complaint against Centre Area Transportation Authority, CATA), State College, Pennsylvania alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If we cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleges that the bus driver did not properly tie-down your scooter causing you to fall off when the bus driver turned a curve.

The DOT ADA regulation at 49 CFR Part 37.161(b)(c) Maintenance of accessible features, states that:

(b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

(c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

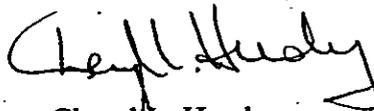
We investigated your allegation, and sent a data request letter to Mr. Hugh Mose General Manager, CATA. We received a response from CATA (enclosed) that addressed and provided relevant information on your allegation noted above.

The information received from CATA shows that on March 23, 1999, the bus operator properly secured your scooter in the securement area with a 4-point tie down system. Unfortunately, one of the belts malfunctioned causing the scooter to tilt when the bus turned a curve and you fell to the floor. CATA investigated the incident and determined that a malfunctioning tie-down belt caused the accident. The tie-down belt mechanism was replaced immediately and CATA instituted a new maintenance procedure.

After reviewing all of the submitted materials, it appears that in the facts leading to the particular circumstances, the situation that you encountered was regrettable. However, the information provided by CATA shows that CATA has procedures in place as required by the DOT ADA regulation and that they are ensuring they are followed. Accordingly, we are administratively closing your complaint as of the date of this letter.

If you have any questions regarding this matter, please contact Eugene Jenkins at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: Eugene.Jenkins@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Hugh Mose
General Manager
Centre Area Transportation Authority
2081 West Whitehall Road
State College, PA 16801



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 2 9 2001

[REDACTED]

Re: FTA Complaint No. 00-0402

Dear [REDACTED]

This letter responds to your complaint against Access Services, Inc. (ASI), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that you were denied ADA complementary paratransit service because ASI's ride reservation system is unreliable.

We investigated your allegation, and sent a data request to Mr. Richard DeRock, Executive Director, ASI. We received a response from ASI (enclosed) that addressed and provided relevant information on your allegation noted above.

ASI explained that the service related issues, including a specific incident that you experienced on July 18, 2000, were mainly due to a transition in service providers. Beginning on June 24, 2000, United Paratransit (UP), now provides service in the West/Central Region area. ASI indicated that UP is currently providing nearly 75-80 percent more trips daily than the previous contractor and trip denials were virtually eliminated and overall ridership has improved. United Paratransit on-time performance in providing ADA Complementary Paratransit Service is currently at 90.4 percent and hoping to achieve a "0" percent denial rate.

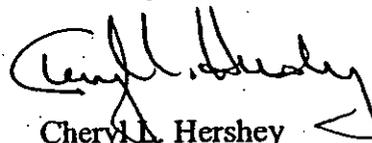
The material submitted by ASI also included your trip history from September 2000 through October 2000. We reviewed your trip history and noted that UP on time performance during this period was within 4 minutes before and 17 minutes after your scheduled pick up time.

ASI stated that if you are experiencing service problems to call 1(800) 827-0829 to register a complaint or contact the Operations Monitoring Center (OMC) at 1(800) 827-0829, by pressing "1" on the keypad, as soon as the 20-minute on time window has elapsed. OMC has access to other resources to provide needed service when the intended service provider has failed for any reason, including providing assistance when a rider is unable to receive a ride within the required one-hour negotiation window.

After reviewing all of the submitted materials, it appears that the transit property has taken steps to remedy the difficulties you encountered. The information provided by ASI shows they have procedures in place as required by the DOT ADA regulation and that they are ensuring they are followed. We are administratively closing your complaint as of the date of this letter.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,



Cheryl D. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Richard DeRock
Executive Director
ASI
633 W 5th Street, 9th Floor
Los Angeles, California 90071-0684



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 98089

Dear [REDACTED]

This letter responds to your complaint filed against the Memphis Area Transit Authority (MATA), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

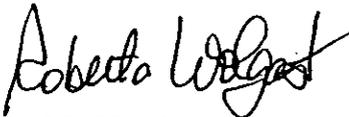
In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If we cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider who may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, you alleged that information regarding accessible fixed route transit was not available through MATA's automated telephone system at 901-274-MATA. We recently called this telephone number and were able to obtain information regarding specific routes, schedules and accessibility. As it appears that the required information is now available, we will consider your complaint to be administratively closed.

If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: Roberta.wolgast@fta.dot.gov.

Sincerely,


for Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: MATA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2003

[REDACTED]

Re: FTA Complaint No. 99198

Dear [REDACTED]

This letter responds to your complaint against the Long Island Rail Road (LIRR), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that LIRR train crews are insensitive to persons with disabilities.

We investigated your allegation, and sent a data request to Mr. Thomas F. Prendergast, President, LIRR. We received a response from LIRR (enclosed) that addressed and provided relevant information on your allegation noted above. In the attached response, LIRR explains its policy to require a person to relinquish a seat designated as "Priority Seating for Disabled Persons" when a member of the LIRR crew requests them to do so. Please note that the November 30, 1993 Amendments to the DOT ADA regulations at 49 CFR section 37.167(j)(1) provide that transit

personnel may ask, but not force someone to relinquish this seating. It does, however, leave open the possibility that a transit agency may develop a policy that goes further than the minimum requirement in the regulation, as LIRR has done by requiring persons to move from the designated seating area.

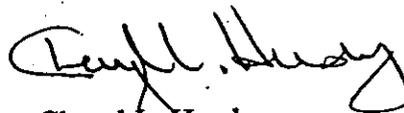
LIRR explained that it apologized to you for the incidents that you and your husband experienced while using LIRR trains. LIRR train crews are provided formal and informal classroom training throughout the year, monitoring and discipline, including assisting persons with disabilities when disembarking the train. All new employees, including train crew personnel, receive instruction on the ADA requirements, including sensitivity training, as part of new employee orientation, prior to being allowed to commence working.

LIRR also has a policy that any conductor who does not comply with Special Instruction 1901-J will be suspended for 10 days. In your situation, LIRR was unable to take such disciplinary action due to lack of specific information as to train number, date and time of the incident/s and the identify of the conductor(s) in question.

After reviewing all of the submitted materials, it appears that the facts leading to the particular circumstances experienced by you and your husband were as a result of temporary deficiencies. However, the information provided by LIRR shows they have procedures in place as required by the DOT ADA regulations and that they are ensuring they are followed. We are administratively closing your complaint as of the date of this letter.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Thomas Prendergast
President, LIRR



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 98112

Dear [REDACTED]

This letter responds to your complaint you filed against the Massachusetts Bay Transit Authority (MBTA), alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

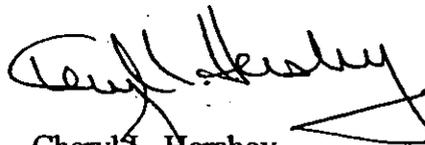
In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property

In July 2000, FTA conducted an on-site compliance assessment of MBTA's fixed route service. The decision to perform this compliance assessment was based in part on your complaint and others submitted to the FTA Office of Civil Rights. The specific issues regarding MBTA's fixed route service in your complaint have been addressed from a broader perspective by this compliance assessment. FTA will monitor MBTA's activities until we determine that the deficiencies noted are corrected. For your information, we have enclosed a copy of the final report of the compliance assessment.

Accordingly, we have administratively closed your complaint based upon the above findings. If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl E. Hershey
ADA Group Leader
Office of Civil Rights

cc: MBTA
Mary Lou Daly
Office of Transportation Access



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 28 2001

[REDACTED]

Re: FTA Complaint No. 010058

Dear [REDACTED]

This letter acknowledges our receipt of your letter dated June 15, 2001, a follow up to your complaint against the Regional Transportation Commission of Southern Nevada (RTC), Las Vegas, Nevada, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegation to be that RTC discriminated against you in its process of determining that you are ineligible for its ADA Complementary Paratransit service.

In reviewing all of the documentation in the file, we find no facts to support an alleged deficiency under the ADA or the DOT ADA regulations. ADA Complementary Paratransit service is a safety net for those individuals, who because of their disability, are unable to ride the fixed route system. RTC utilizes a functional assessment to determine if a person's disability prevents that person from accessing a fixed route bus. RTC determined that your disabilities do not preclude you from riding on fixed route buses. Please understand that according to the DOT ADA regulation, eligibility is a transportation decision, not a medical decision. In addition, consistent with the DOT ADA regulation (49 CFR section 37.125), the transit property provided for, and you utilized, a process to appeal an eligibility determination.

Based only on the facts provided in your complaint and RTC's response, we find nothing to support an alleged deficiency under the DOT ADA regulations. FTA seldom reverses eligibility determinations unless the facts are egregious or procedural violations are apparent. Accordingly, we have administratively closed your complaint.

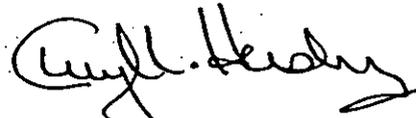
If you still feel that RTC's decision was in error, you may want to contact the Nevada Advocacy and Law Center:

6039 Eldora Avenue, Ste C
Las Vegas, NV 89102
Phone: 702-257-8150 \ 702-257-8160 TDD \ 888-349-3843
Fax: 702-257-8170

Nevada Disability Advocacy and Law Center (NDALC) is Nevada's federally mandated protection and advocacy system for the human, legal, and service rights for individuals with disabilities.

If you have any questions, please call Mary-Elizabeth Peters at (202) 366-0792 or at her e-mail address at: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 10 2001

[REDACTED]

Re: FTA Complaint No. 98038

Dear [REDACTED]

This letter responds to your complaint against Sacramento Regional Transit District (RTD), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that you had difficulty obtaining ADA Complementary Paratransit service rides.

We investigated your allegation, and sent a data request to Ms. Pilka Robinson, General Manager, RTD. We received a response from RTD (enclosed) that addressed and provided relevant information on each of your allegation noted above.

RTD explained that for the period from April 1996 through October 1996, you scheduled a total of 304 ADA Complementary Paratransit trips that were reserved 14 to 2 days in advance.

Between July 1997 and April 1998, you requested 539 rides, of which you cancelled 12 trips; you were denied 4 times and refused 1 trip during the negotiation process. All trips were within 3/4 mile radius. Of the 522 trips you took, 502 were requested two days ahead of the ride date, 8 were requested one day ahead, and 12 were requested on the same day. There were no denials during this period.

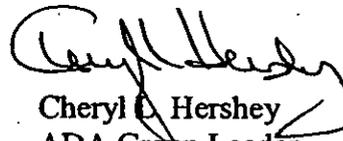
RTD, at the end of October 1996, changed its advance call-in period after an extensive public input process, from 14 to 2 days; to 2 days and at the same time initiated next-day call-in service, which is in compliance with the ADA requirements. To reduce excessive cancellation rate, RTD expanded its call-in period to 7:00 a.m. to 7:00 p.m., from 8:00 a.m. to 5:00 p.m. We understand that based on these actions, the cancellation rate was less and consumers are no longer calling multiple times to obtain different ride times for the same trip.

We have been advised that RTD's eligibility process that you previously participated in has vastly improved and now provides more opportunities to obtain more detail about the applicant's functional abilities and includes an in-person one-on-one assessment.

After reviewing all of the submitted materials, it appears that the facts leading to the particular circumstances you experienced were the result of temporary deficiencies. However, the information provided by RTD shows they have procedures in place as required by the DOT ADA regulation and that they are ensuring they are followed. We are administratively closing your complaint as of the date of this letter.

If you have any questions regarding this decision, please contact Roger Peralta, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: roger.peralta@fia.dot.gov.

Sincerely,


Cheryl C. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Pilka Robinson
General Manager
RTD
P.O. Box 2110
Sacramento, California 95812-2110



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 10 2001

[REDACTED]

Re: FTA Complaint No. 00040

Dear [REDACTED]

This letter responds to your complaint you filed against the City of Detroit, Department of Transportation (DOT), Metro Lift Complementary Paratransit Service Detroit, Michigan, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

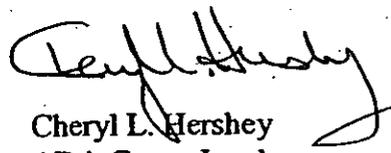
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of the City of Detroit, DOT's ADA Complementary Paratransit service, known as Metro Lift, in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding lengthy waits "on hold" on Metro Lift's telephone reservation line and untimely pickup service in your complaint, will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor Metro Lift's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: Linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 10 2001

[REDACTED]

Re: FTA Complaint No. 99055

Dear [REDACTED]

This letter responds to your complaint against Greater Hartford Transit, (CTTRANSIT), Hartford, Connecticut, alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that CTTRANSIT bus operators are not announcing stops as required by the ADA.

We investigated your allegation, and sent a data request to Mr. David Lee, General Manager, CTTRANSIT. We received a response from CTTRANSIT (enclosed) that addressed and provided relevant information on your allegation noted above.

CTTRANSIT explained that their policy requirement to announce certain bus stops, is emphasized in all bus operators training and retraining. All operators are issued a list of the specific stops to be announced on each route. CTTRANSIT further states that all operators are instructed to announce any stop upon request by a vision-impaired passenger. CTTRANSIT advised that notices reminding operators of the rule are posted periodically, and dispatchers making radio announcements to buses on the street regularly remind operators of the ADA requirement.

CTTRANSIT advised that agents are used who ride buses anonymously to monitor operators' ADA compliance. They state that some agents are employed directly, and also use the services of an independent outside firm, Monitoring Resource Group, to provide agents' ride checks. Agents observe operators' safe driving, fare collection, and customer courtesy performance, as well as ADA compliance. Agents normally ride buses randomly, although they can also be assigned to ride specific trips as part of their investigation of customer complaints regarding a particular operator.

CTTRANSIT stated that operators who fail to announce stops as required, or who fail to use the public address equipment available on some of their buses, are subject to progressive discipline. The disciplinary process includes mandatory retraining provided by the Board of Education and Services for the Blind, a State agency whose representatives also conduct sensitivity training for new operators. Operators who persist in failing to announce stops after being reprimanded and retrained are subject to suspension and, ultimately, termination of employment.

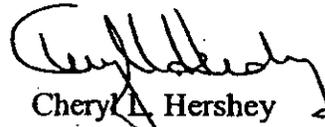
CTTRANSIT advised that you did not specify any particular bus operator for the purpose of a follow-up. CTTRANSIT states that in order to identify a particular operator, it is not necessary to know the individual's badge number or the bus number. It is usually sufficient to know the time and location where one boarded the bus, whether the bus was inbound or outbound, and the route letter.

CTTRANSIT stated that if you have any additional concerns regarding access to CTTRANSIT's bus system that you contact directly Mr. Mike Sanders, Transit Administrator, at (860) 594-2830.

After reviewing all of the submitted materials, it appears that the facts leading to the particular circumstances experienced by you were the result of temporary deficiencies. However, the information provided by CTTRANSIT shows they have procedures in place as required by the DOT ADA regulation and that they are ensuring they are followed. We are administratively closing your complaint as of the date of this letter.

If you have any questions regarding this decision, please contact Linda Wood King, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: linda.king@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: David A. Lee
General Manager, CTTRANSIT
James C. Sanders



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 21 2001



Re: FTA Complaint No. 000313

Dear 

This letter responds to your complaint against Madison Metro Transit System (MMT), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that ADA Complementary Paratransit service did not provide door-to-door service at local shopping malls.

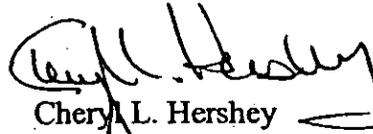
We investigated your allegations, and sent a data request to Ms. Ann Gullickson, Transit Service Manager, Madison Metro Transit System (MMT). We received a response from MMT (enclosed) that addressed and provided relevant information your allegation noted above.

MMT's policy is to provide curb-to-curb service under the DOT ADA regulations at 49 CFR 37 and 38. There is a provision to provide door-to-door service for an additional fare, but this is not required under the DOT ADA regulations. In addition, the transit property does not have the right to go on a shopping mall's premises without the mall's permission. Nevertheless, the transit provider explained that your complaint allowed MMT to revisit the policies of the malls with regard to drop-off points for paratransit passengers. As a result, two additional drop-off points have been provided at each mall, increasing the number of drop off points to three at each mall. This will shorten the distance passengers with disabilities must go to access MMT's ADA Complementary Paratransit service.

After reviewing all of the submitted materials, it appears that the circumstances you describe do not support a finding of a violation of the DOT ADA regulations. We are administratively closing your complaint as of the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Ann Gullikson
Transit Service Manager
MMT



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 18 2001

[REDACTED]
Michigan Protection and Advocacy
Service, Inc.
29200 Vassar Blvd, Suite 501
Livonia, MI 48152-2116

Re: FTA Complaint No. 010095

Dear [REDACTED]

This letter responds to your complaint you filed against the Detroit Department of Transportation (DDOT), of Detroit, Michigan, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

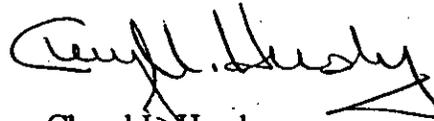
FTA plans to conduct an on-site compliance assessment of DDOT ADA Complementary Paratransit service, known as Metro-Lift, in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding failing to make the fix route system accessible, failing to make paratransit system comparable to the fixed route system, and failing to take action to correct problems with the fixed route and paratransit systems will be addressed from a broader

perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor DDOT's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Eugene Jenkins, Equal Opportunity Specialist at 1-888-446-4511 or at his email address: *Eugene.jenkins@fta.dot.gov*. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 11 2001

[REDACTED]

Re: FTA Complaint No. 99194.

Dear [REDACTED]

This letter responds to your complaint against Southeastern Pennsylvania Transit Authority (SEPTA), Philadelphia, Pennsylvania, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that you were denied a "Standing Order" for a seven-month computer training course.

We investigated your allegation and sent a data request to Mr. John K. Leary, Jr., General Manager, SEPTA. We received a response from SEPTA that addressed and provided relevant information on your allegation noted above.

SEPTA stated in its response that in August 1999, you requested a daily round trip standing order through SEPTA's ADA Complementary Paratransit service (CCT), so that you could attend computer training. CCT staff informed you that CCT could not provide a standing order for a trip during that time, because it would entail daily travel between two counties, coordination among at least two contractors, and travel during both the morning and afternoon CCT rush hours.

The DOT ADA regulations state at 49 CFR 37.133 that:

- (a) This part does not prohibit the use of subscription service by public entities as part of a complementary paratransit system, subject to the limitations in this section.
- (b) Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is non-subscription capacity.
- (c) Notwithstanding any other provision of this part, the entity may establish waiting lists or other capacity constraints and trip purpose restrictions or priorities for participation in the subscription service only.

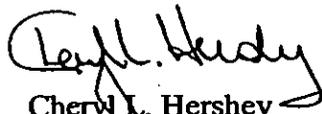
The transit provider is not required by the DOT ADA regulations to offer standing orders at all.

SEPTA further stated that you accepted SEPTA's offer of standing order feeder service to and from the Tioga Market-Frankford Subway/Elevated station for the duration of the training. SEPTA advised that Cynthia Lister, SEPTA's Paratransit Regulatory Coordinator, took four practice trips with you to make certain you were able to make the trips.

In cases such as this, where the material facts are disputed, we have no way to establish what actually occurred. We are administratively closing your complaint as of the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: John K. Leary, Jr.
General Manager, SEPTA
1234 Market Street
Philadelphia, Pennsylvania 19107-3780



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 7 2002

[REDACTED]

Re: FTA Complaint Appeal on Complaint No. 01-0030

Dear [REDACTED]

This responds to your letter of December 3, 2001, regarding the appeal you filed on FTA Complaint No. 01-0030. The Letter of Finding in that matter was issued on November 1, 2001, and was in response to your complaint filed against Tri-County Metropolitan Transportation District of Oregon (Tri-Met), of Portland, Oregon, for its alleged noncompliance with the Americans with Disabilities Act of 1990.

I regret that you were not satisfied with the investigation; however, the staff conducted a thorough investigation. You should be advised that before a determination is made the following occurs: contact with the complainant; contact with the transit property; analysis of the allegations and information obtained; contact again with the complainant or transit property as needed; and a review by the supervisor of the ADA investigations, including pertinent sections and application of the DOT ADA regulations. The investigation of your complaint followed the same investigative procedure we apply to all ADA complaints to ensure a thorough investigation and proper disposition.

Let me respond to a few points in your letter of appeal:

You state:

Representative Kathy Lowe also sent a letter asking that the investigation continue and that I had very good documentation concerning my issues with Tri-Met. I am going to again with good cause assume that the investigation was never reopened and that is the reason that the information in the reply sent to me is old and outdated.

The investigation into your complaint was never closed until the Letter of Finding was issued. All complaint investigations remain open until a determination is made and a Letter of Finding is issued. All pertinent information was considered prior to making the findings.

You made the statement:

If in your opinion I miss stated the violation and you feel it is characteristic of capacity constraint problems, did you investigate for capacity problems?

We reviewed the information you provided in your complaint. In addition, we reviewed the results of a previously conducted compliance assessment of Tri-Met's ADA Complementary Paratransit service, including the area of capacity constraints. We did not find a basis for a violation under the DOT ADA regulations.

Your earlier request for documents between Tri-Met and FTA was forwarded by the Office of Civil Rights to the Office of Public Affairs for processing under the Freedom of Information Act.

On a separate matter, in a letter dated December 17, 2001, you raised a new issue not in your initial complaint. The issue is that the transit property failed to provide you rides within the hour window prescribed in the DOT ADA regulations and failed to record rides provided outside of this window as denials. Because this matter raises a new issue, we will contact Tri-Met and determine whether to treat this allegation as a new complaint.

Again, I regret that you are unhappy with the outcome of the investigation. Based upon our review, we do not find a basis to sustain your appeal or sufficient information that would cause us to revise our finding or reopen your complaint. If you have any questions, please contact Mr. Akira Sano at (202) 366-0804 or at his e-mail address: akira.sano@fta.dot.gov.

Sincerely,


Michael A. Winter, Director
Office of Civil Rights



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 9 2002

[REDACTED]

Re: FTA Complaint No. 01-0186

Dear [REDACTED]

This letter responds to your complaint you filed against the Pioneer Valley Transit Authority (PVRTA) of Springfield, Massachusetts, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

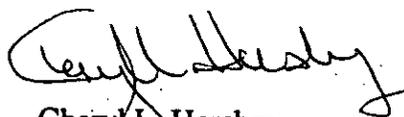
FTA plans to conduct an on-site compliance assessment of PVRTA's ADA Complementary Paratransit service, known as Valley Opportunity Transit, in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding bus operators not showing sensitivity toward persons with disabilities, on PVRTA's ADA Complementary Paratransit service in your

complaint, will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor PVTA's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Ms. Linda Wood King, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc:

Ms. Pamela M. Wells
PVTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 9 2002

[REDACTED]

Re: FTA Complaint No. 99161

Dear [REDACTED]

This letter responds to your complaint against the Sacramento Regional Transit District (RT) alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

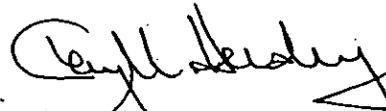
We understand your allegation to be that during the period of time prior to when you filed your complaint with us, you experienced an excessive number of trip denials for ADA Complementary Paratransit service provided on behalf of RT by Paratransit, Inc. You allege that next day service was almost impossible to obtain and two-day service had far too many capacity denials that were not filled.

We investigated your allegation, and sent a data request to Ms. Pilka Robinson, General Manager, of RT. We received a response from RT (enclosed) that addressed and provided relevant information on your allegation noted above.

RT found that you experienced 32 trip denials during a 21-month period from October 1997 through June 1999. However since that time, RT has made both budgetary and operational improvements that have increased the capacity of its ADA Complementary service. As a result of this increased level of service, we understand that you experienced only one capacity denial for an eligible ADA Complementary Paratransit trip during the six-month period prior to October 2001. Based on this information, we have administratively closed your complaint. Should you encounter future difficulties, we encourage you to work closely with Laura Forester, Accessible Services Administrator, who can be reached at (916) 321-3871, to resolve your transportation needs.

If you have any questions regarding this decision, please contact Linda Wood King, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov.

Sincerely,



Cheryl Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Pilka Robinson, General Manager
Laura Forester, Accessible Services Administrator



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 15 2002

[REDACTED]

Re: FTA Complaint No. 000378

Dear [REDACTED]

This letter responds to your complaint you filed against the Bi-State Development Authority (Bi-State), of St. Louis, Missouri, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

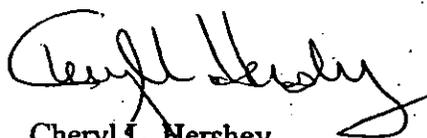
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In November 2000, Bi-State contracted with Multisystems, Inc. (Multisystems), to conduct an on-site system-wide compliance assessment of Bi-State's fixed route service and ADA Complementary Paratransit service. The compliance assessment, conducted in December 2000, was based in part on complaints submitted to both Bi-State and the FTA Office of Civil Rights. Where there were findings of deficiencies, FTA will monitor activities with Bi-State until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

Accordingly, we have administratively closed your complaint based on the above findings. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-202-366-0792 or at her email address:

mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Susan Stauder
Acting Executive Director
Bi-State Development Authority
707 North First Street
St. Louis, Missouri 63102-2595



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

[REDACTED]

JAN 15, 2002

Re: FTA Complaint No. 01-0012

Dear [REDACTED]

This letter responds to your complaint you filed against the Birmingham Jefferson County Transit Authority (BJCTA), Birmingham, Alabama, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

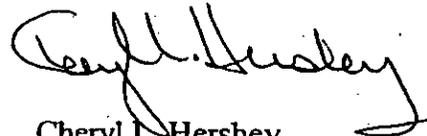
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of BJCTA's ADA Complementary Paratransit service, known as First Transit, Inc., in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues, late pickups and failure to send a replacement bus, regarding BJCTA service in your complaint, will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor BJCTA, First Transit, Inc.'s activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 15 2002

Re: FTA Complaint No. 01-0013

Dear [REDACTED]

This letter responds to your complaint you filed against the Birmingham Jefferson County Transit Authority (BJCTA), Birmingham, Alabama alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

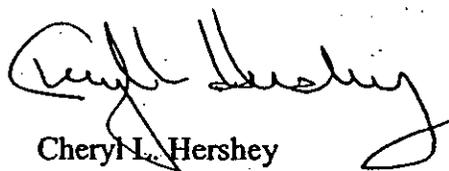
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of BJCTA's ADA Complementary Paratransit service, known as First Transit, Inc., in 2002. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issue in your complaint regarding late pickups, on BJCTA, First Transit Inc.'s ADA Complementary Paratransit service, will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor BJCTA, First Transit, Inc.'s activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 15 2002

[REDACTED]

Re: FTA Complaint No. 01-0020

Dear [REDACTED]

This letter responds to your complaint you filed against the Birmingham Jefferson County Transit Authority (BJCTA), Birmingham, Alabama alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

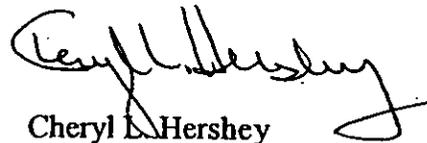
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of BJCTA's ADA Complementary Paratransit service, known as First Transit, Inc., in 2002. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues in your complaint regarding lengthy trips, late and untimely pickups on BJCTA, First Transit Inc.'s ADA Complementary Paratransit service will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor BJCTA, First Transit, Inc.'s activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 15 2002

[REDACTED]

Re: FTA Complaint No. 01-0027

Dear [REDACTED]

This letter responds to your complaint you filed against the Birmingham Jefferson County Transit Authority (BJCTA), Birmingham, Alabama, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

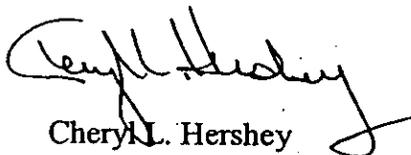
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of BJCTA's ADA Complementary Paratransit service, known as First Transit, Inc., in 2002. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issue in your complaint regarding late pickups on BJCTA, First Transit Inc.'s ADA Complementary Paratransit service, will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor BJCTA, First Transit, Inc.'s activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 15 2002

[REDACTED]

Re: FTA Complaint No. 01-0028

Dear [REDACTED]

This letter responds to your complaint you filed against the Birmingham Jefferson County Transit Authority (BJCTA), Birmingham, Alabama alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of BJCTA's ADA Complementary Paratransit service, known as First Transit, Inc., in 2002. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issue in your complaint regarding late pickups on BJCTA, First Transit, Inc.'s ADA Complementary Paratransit service will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor BJCTA, First Transit, Inc.'s activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl D. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 15 2002

[REDACTED]

Re: FTA Complaint No. 01-0031

Dear [REDACTED]

This letter responds to your complaint you filed against the Birmingham Jefferson County Transit Authority (BJCTA), Birmingham, Alabama alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

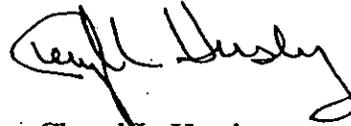
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of BJCTA's ADA Complementary Paratransit service, known as First Transit, Inc., in 2002. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues in your complaint regarding trips denials on the week of October 16, 2000 through October 20, 2000 on BJCTA, First Transit Inc.'s ADA Complementary Paratransit service will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor BJCTA, First Transit, Inc.'s activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 15 2002

Re: FTA Complaint No. 01-0146

Dear [REDACTED]

This letter responds to your complaint you filed against the Birmingham Jefferson County Transit Authority (BJCTA), Birmingham, Alabama alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

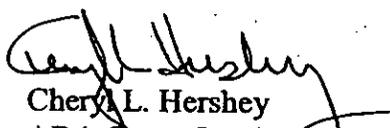
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of BJCTA's ADA Complementary Paratransit service, known as First Transit, Inc., in 2002. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issue in your complaint regarding extremely late pickups will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor BJCTA, First Transit, Inc.'s activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

[REDACTED]

Re: FTA Complaint No. 01-0059

Dear [REDACTED]

This letter responds to your complaint you filed against the Birmingham Jefferson County Transit Authority (BJCTA), Birmingham, Alabama, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

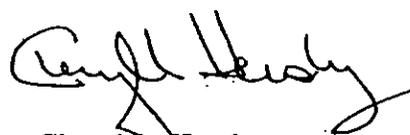
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of BJCTA's ADA Complementary Paratransit service, known as First Transit, Inc., in 2002. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues in your complaint regarding extremely late pickups, and with an insensitive bus operator on BJCTA, First Transit Inc.'s ADA Complementary Paratransit service, will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor BJCTA, First Transit, Inc.'s activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 15 2002

[REDACTED]

Re: FTA Complaint No. 01-0083

Dear [REDACTED]

This letter responds to your complaint you filed against the Birmingham Jefferson County Transit Authority (BJCTA), Birmingham, Alabama, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

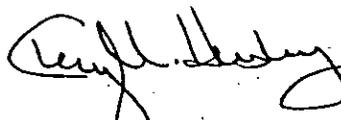
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of BJCTA's ADA Complementary Paratransit service, known as First Transit, Inc., in 2002. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issue in your complaint regarding a paratransit bus operator named [REDACTED] on August 8, 2000, who refused to tie down your wheelchair on BJCTA, First Transit Inc.'s ADA Complementary Paratransit service, will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor BJCTA, First Transit, Inc.'s activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl E. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 15, 2002

[REDACTED]

Re: FTA Complaint No. 00020

Dear [REDACTED]

This letter responds to your complaint you filed against the Maryland Transit Authority (MTA), of Baltimore, Maryland, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

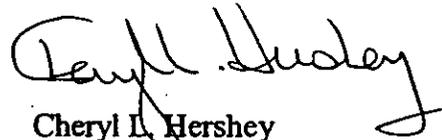
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of MTA's ADA Complementary Paratransit service in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding MTA's ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor MTA's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-202-366-0792 or at her email address: *mary-elizabeth.peters@fta.dot.gov*. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Virginia L. White (Identity of Complainant Withheld)
Acting Administrator
Maryland Transit Administration
William Donald Schaefer Tower
6 Saint Paul Street
Baltimore, Maryland 21202-1614



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 15, 2002

Allison Scharf
Maryland Disability Law Center
1800 North Charles Street
Suite 202
Baltimore, Maryland 21201

Re: FTA Complaint No. 000297

Dear Ms. Scharf:

This letter responds to your complaint you filed on behalf of [REDACTED] against the Maryland Transit Authority (MTA), of Baltimore, Maryland, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

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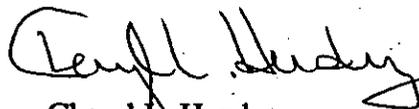
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FTA plans to conduct an on-site compliance assessment of MTA's ADA Complementary Paratransit service in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding MTA's ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor MTA's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-202-366-0792 or at her email address: *mary-elizabeth.peters@fta.dot.gov*. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Virginia L. White
Acting Administrator
Maryland Transit Administration
William Donald Schaefer Tower
6 Saint Paul Street
Baltimore, Maryland 21202-1614



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 15, 2002

Allison Scharf
Maryland Disability Law Center
1800 North Charles Street
Suite 202
Baltimore, Maryland 21201

Re: FTA Complaint No. 000298

Dear Ms. Scharf:

This letter responds to your complaint you filed on behalf of [REDACTED] against the Maryland Transit Authority (MTA), of Baltimore, Maryland, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

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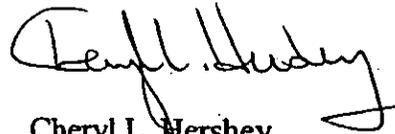
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FTA plans to conduct an on-site compliance assessment of MTA's ADA Complementary Paratransit service in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding MTA's ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor MTA's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-202-366-0792 or at her email address: *mary-elizabeth.peters@fta.dot.gov*. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Virginia L. White
Acting Administrator
Maryland Transit Administration
William Donald Schaefer Tower
6 Saint Paul Street
Baltimore, Maryland 21202-1614



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 15, 2002

Allison Scharf
Maryland Disability Law Center
1800 North Charles Street
Suite 202
Baltimore, Maryland 21201

Re: FTA Complaint No. 000299

Dear Ms. Scharf:

This letter responds to your complaint you filed on behalf of [REDACTED] against the Maryland Transit Authority (MTA), of Baltimore, Maryland, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

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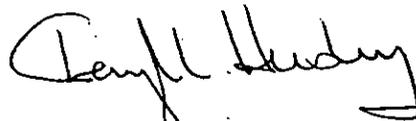
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FTA plans to conduct an on-site compliance assessment of MTA's ADA Complementary Paratransit service in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding MTA's ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor MTA's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-202-366-0792 or at her email address: *mary-elizabeth.peters@fta.dot.gov*. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Virginia L. White
Acting Administrator
Maryland Transit Administration
William Donald Schaefer Tower
6 Saint Paul Street
Baltimore, Maryland 21202-1614



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 15, 2002

Allison Scharf
Maryland Disability Law Center
1800 North Charles Street
Suite 202
Baltimore, Maryland 21201

Re: FTA Complaint No. 000407

Dear Ms. Scharf:

This letter responds to your complaint you filed on behalf of [REDACTED] against the Maryland Transit Authority (MTA), of Baltimore, Maryland, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

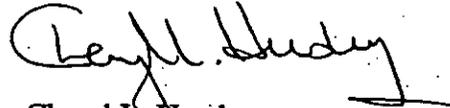
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FTA plans to conduct an on-site compliance assessment of MTA's ADA Complementary Paratransit service in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding MTA's ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor MTA's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-202-366-0792 or at her email address: *mary-elizabeth.peters@fta.dot.gov*. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Virginia L. White
Acting Administrator
Maryland Transit Administration
William Donald Schaefer Tower
6 Saint Paul Street
Baltimore, Maryland 21202-1614



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 15 2002

Allison Scharf
Maryland Disability Law Center
1800 North Charles Street
Suite 202
Baltimore, Maryland 21201

Re: FTA Complaint No. 010061

Dear Ms. Scharf:

This letter responds to your complaint you filed on behalf of [REDACTED] against the Maryland Transit Authority (MTA), of Baltimore, Maryland, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

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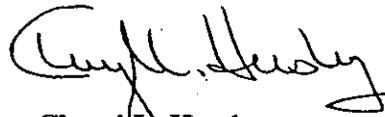
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FTA plans to conduct an on-site compliance assessment of MTA's ADA Complementary Paratransit service in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding MTA's ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor MTA's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-202-366-0792 or at her email address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Virginia L. White
Acting Administrator
Maryland Transit Administration
William Donald Schaefer Tower
6 Saint Paul Street
Baltimore, Maryland 21202-1614



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 15 2002

Mary Lou Coppinger
4058 Saint Monica Drive
Baltimore, Maryland 21222

Re: FTA Complaint No. 010086

Dear Ms. Coppinger:

This letter responds to your complaint you filed on behalf of [REDACTED] against the Maryland Transit Authority (MTA), of Baltimore, Maryland, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

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FTA plans to conduct an on-site compliance assessment of MTA's ADA Complementary Paratransit service in the near future. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding MTA's ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor MTA's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-202-366-0792 or at her email address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Virginia L. White
Acting Administrator
Maryland Transit Administration
William Donald Schaefer Tower
6 Saint Paul Street
Baltimore, Maryland 21202-1614



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 16 2002

[REDACTED]

Re: FTA Complaint No. 00058

Dear [REDACTED]

This letter is a follow-up to your Americans with Disabilities Act of 1990 (ADA) complaint against the Valley Transportation, of Lewiston, Idaho, that you filed in March 2000. In reviewing all of the documentation contained in the file, we find no facts to support an alleged deficiency under the ADA or the DOT ADA regulations.

Please be advised that the Federal Transit Laws, as codified under 49 U.S.C., Section 5324 (c) entitled "Prohibitions against Regulating Operations and Charges," states:

The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under Section 5309 of this title and after a grant is made, may not regulate any charge for the system.

This law prohibits DOT from involving itself in operational matters of local jurisdiction such as the setting of fares or location, elimination, or temporary change of bus routes. Based on this, we have administratively closed your complaint.

If you have any questions regarding this letter, please call us on the FTA toll free ADA Assistance Line, 1-888-446-4511. You also may contact us at our e-mail address: ada.assistance@fta.dot.gov.

Sincerely,

Cheryl A. Hershey
ADA Group Leader
Office of Civil Rights

cc: Valley Transit
1424 Main Street
Lewiston, ID 83501



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 15 2002

[REDACTED]

Re: FTA Complaint No. 000385

Dear [REDACTED]

This letter responds to your complaint you filed against the Bi-State Development Authority (Bi-State), of St. Louis, Missouri, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

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Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In November 2000, Bi-State contracted with Multisystems, Inc. (Multisystems), to conduct an on-site system-wide compliance assessment of Bi-State's fixed route service and ADA Complementary Paratransit service. The compliance assessment, conducted in December 2000, was based in part on complaints submitted to both Bi-State and the FTA Office of Civil Rights. Where there were findings of deficiencies, FTA will monitor activities with Bi-State until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

Accordingly, we have administratively closed your complaint based on the above findings. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-202-366-0792 or at her email address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Susan Stauder
Acting Executive Director
Bi-State Development Authority
707 North First Street
St. Louis, Missouri 63102-2595



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 16 2002

[REDACTED]

Re: FTA Complaint No. 000372

Dear [REDACTED]

This letter responds to your complaint you filed against the Central Florida Regional Transit Authority (LYNX), of Orlando, Florida alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

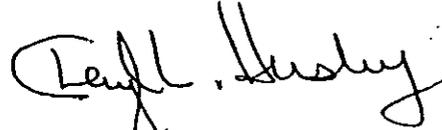
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In May 1999, FTA conducted an on-site compliance assessment of LYNX ADA Complementary Paratransit service, known as A+Link. The compliance assessment was based in part on complaints submitted to the FTA Office of Civil Rights. The specific issues regarding LYNX ADA Complementary Paratransit service in your complaint are being addressed from a broader perspective by this compliance assessment. Where we have made findings of deficiencies, FTA will continue its monitoring activities with LYNX until we determine that the deficiencies noted in the report are corrected. LYNX is submitting quarterly reports, which are closely monitored

by an FTA Office of Civil Rights staff person. We intend to continue our monitoring efforts on the complaints with those addressing the assessment findings.

Accordingly, we have administratively closed your complaint based upon the above findings. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-202-366-0792 or at her email address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

JAN 16 2002

400 Seventh St., S.W.
Washington, D.C. 20590

Memo to Close File

Re: FTA Complaint No. 000398

Letter sent to All Complainants

This letter responds to your complaint you filed against the Bi-State Development Authority (Bi-State), of St. Louis, Missouri, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

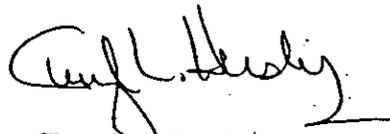
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In November 2000, Bi-State contracted with Multisystems, Inc. (Multisystems), to conduct an on-site system-wide compliance assessment of Bi-State's fixed route service and ADA Complementary Paratransit service. The compliance assessment, conducted in December 2000, was based in part on complaints submitted to both Bi-State and the FTA Office of Civil Rights. Where there were findings of deficiencies, FTA will monitor activities with Bi-State until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

Accordingly, we have administratively closed your complaint based on the above findings. If

you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-202-366-0792 or at her email address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 17 2002



Re: FTA Complaint No. 99081

Dear 

This letter responds to your complaint against the Regional Transit Authority (RTA), of New Orleans, Louisiana, alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, you alleged that several different bus operators repeatedly refused to deploy wheelchair lifts upon your clear request for them to do so. These drivers also exhibited rude and insensitive behavior toward you.

We investigated your allegations, and sent a data request to Mr. LeRoy R. Bailey, Jr., General Manager of RTA. We received a response from RTA that addressed and provided relevant information on each of your allegations noted above.

RTA acknowledged that you filed three complaints between December 1998, and July 1999. Each of these complaints related to service difficulties concerning either an operator's deployment of the wheelchair lift or other inappropriate operator behavior.

RTA advised that upon receiving the first complaint filed December 1, 1998, the RTA ADA Compliance Officer performed an in-depth investigation. RTA stated that it was able to identify two of the three operators involved in this complaint, and that the Transportation Department took appropriate disciplinary steps and training measures to induce compliance on the part of these operators. Each of the identified operators was reinstructed on the applicable DOT ADA regulations as well as the appropriate RTA policies and procedures relative to lift deployment and customer relations. RTA stated that the ADA compliance Officer forwarded a copy of a letter documenting this investigation and a letter of apology to you on December 14, 1998.

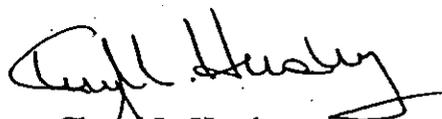
In response to the second complaint that you filed on January 13, 1999, RTA stated that the issues were related to a series of incidents that you alleged occurred on December 14, 1999. In addition, RTA stated that the ADA Compliance Officer performed an investigation and confirmed the incidents involved operators who required retraining. RTA explained that each operator's supervisors was contacted, each operator was trained and counseled, and the appropriate disciplinary actions were taken. RTA explained that the ADA Compliance Officer forwarded a letter to you on February 7, 1999, assuring you that a full investigation had been performed and corrective actions had been taken.

In response to the third complaint that you filed on July 16, 1999, the RTA Compliance Officer apologized to you, and assured you that the Deputy General Manager of Operations would handle the matter. Both operators involved in that incident were identified and reprimanded directly by the Deputy General Manager. In addition, RTA provided data to us indicating that, all operators were scheduled for mandatory retraining as appropriate under DOT ADA regulations. The training addressed policies and procedures concerning lift deployment.

Based on the quick intervention that RTA exhibited in response to your complaints and the corrective actions to retrain its operators that RTA has taken, we will take no further action on your complaint. We have administratively closed your complaint as of the date of this letter.

If you have any questions regarding this decision, please contact Linda Wood King, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov. Thank you for bringing this to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: RTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 17 2002

[REDACTED]

Re: FTA Complaint No. 01-0182

Dear [REDACTED]

This letter responds to your complaint against Access Services, Inc. (ASI), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

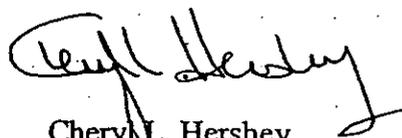
Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be that on March 13, 2001, you were not picked up for a return trip to your home and were left waiting for over two hours before an ASI vehicle picked you up. On the following evening, you discovered that a van was waiting for you, but you were unaware of it because the driver had not approached you. You surmise that the same may happened on March 13, and that was the reason for the "no-show."

We understand that you also filed complaints regarding these two incidents with ASI and that upon investigation of your complaint, ASI took appropriate preventative measures to ensure that the same problem did not reoccur. In its response to us, ASI noted that you had not filed any additional complaints with it since the March 2001 incidents. Based upon the apparent resolution of this situation, we will take no further action on your complaint. We have administratively closed your complaint as of the day of this letter.

If you have any questions regarding this decision, please contact us, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at our electronic mail address: ada.assistance@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 19 2002

[REDACTED]

Re: FTA Complaint No. 01-0067

Dear [REDACTED]

This letter responds to your complaint regarding the North Slope Borough Department of Municipal Services, in which you allege noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be as follows:

- **North Slope Borough retaliated against you in response to the complaint that you filed with this office.**

We informed North Slope Borough of your allegation; reviewed the documentation in your file; analyzed North Slope Borough's response; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations. Our determination follows.

The ADA statute, at 42 U.S.C. 12203, Title V, Section 503(a), states:

No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

As we understand, your original retaliation allegation centered around North Slope Borough's issuance of a "Notice of Contemplated Discipline" dated September 1, 2000, in which you were threatened with a "written reprimand for failing to follow the Borough chain of command." According to the notice, this action was based upon your letter to FTA notifying us that North Slope Borough had purposely disconnected accessibility equipment on its public transit buses.

We sent a letter requesting information about this allegation to North Slope Borough on October 3, 2000. The letter also put North Slope Borough on notice of the ADA's prohibition on retaliation as stated above. In letters dated October 13, and November 29, 2000, North Slope Borough denied that it had disciplined you because of your complaint to us. The second letter stated in part:

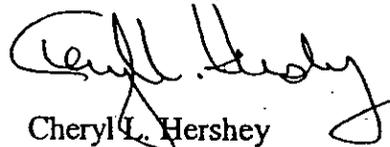
Please be advised, that the North Slope Borough Department of Municipal Services states that [REDACTED] personnel records reflect no such action. Furthermore, North Slope Borough policy forbids retaliation against any employee for reporting a perceived violation of federal, state or Borough anti-discrimination laws and policies. *[Signed by Jacob Kagak, Director, North Slope Borough Department of Municipal Services]*

In the documentation that you provided us, we find no evidence that you received the reprimand that North Slope Borough had contemplated. Based on this lack of documentation and North Slope Borough's assertion that you were not reprimanded, we do not find a violation of the ADA or the DOT ADA regulations regarding this allegation.

You have provided documentation that since the above incident, you have encountered further employment difficulties with North Slope Borough that stem from an on-the-job injury that you received on August 17, 2000. We understand that you have a disability as a result of this accident and wish to file a discrimination complaint under the Equal Employment Opportunity Act. We strongly recommend that you file this complaint with the Equal Employment Opportunity Commission, as this office is unable to seek individual relief on behalf of complainants. With your approval, we will be happy to forward a copy of all of the information in our files regarding this latest allegation.

If you have any questions regarding this decision, please contact me on FTA's toll free FTA ADA Assistance Line, 1-888-446-4511, or at my electronic mail address: *cheryl.hershey@fta.dot.gov*. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: North Slope Borough



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 22 2002

[REDACTED]

Re: FTA Complaint No. 00-0239

Dear [REDACTED]

This letter responds to your complaint submitted on behalf of [REDACTED]. The complaint is against the Metropolitan Transit Authority (MTA), Long Island Bus, of Garden City, New York, alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, you allege that [REDACTED] was subjected to unsafe conditions on May 15, 2000, when a wheelchair lift on bus number 632, failed to function properly.

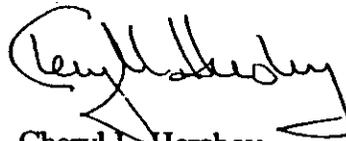
We investigated your allegation, and sent a data request to Mr. Neil S. Yellin, the President of Long Island Bus. We received a response from MTA (copy enclosed) that addressed and provided relevant information on your allegation noted above.

The DOT ADA regulations at 49 CFR section 37.161 and 37.163 require that lifts be properly maintained in operative condition, that a system of regular and frequent maintenance checks be implemented, that repairs be done promptly, and that reasonable steps be taken to accommodate individuals with disabilities who use the feature. However, the regulations also envision that, at times, accessibility equipment will malfunction. Section 37.161(c) states:

This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

Although the lift failure must have been frightening and inconvenient to [REDACTED] and you, based upon our review of all of the materials submitted relevant to this complaint, it does not appear that this incident indicates a violation of the DOT ADA regulations. We have therefore administratively closed your complaint as of the date of this letter. If you have any questions regarding this decision, please contact Linda Wood King, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511. You may also contact her at her electronic mail address: Linda.king@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

Cc: Long Island Bus



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 22 2002

Mr. Robert H. Prince, Jr.
General Manager
Massachusetts Bay Transportation Authority (MBTA)
10 Park Plaza, Room 3910
Boston, Massachusetts 02116

FTA Complaint No. 02-0009

Dear Mr. Prince:

This letter transmits a complaint submitted by [REDACTED] against the Massachusetts Bay Transportation Authority (MBTA), Paratransit Ride Program, Boston, Massachusetts alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA). The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

The FTA Office of Civil Rights is authorized under the DOT regulation, 49 CFR Part 27, Subpart C to pertinent Sections 27.121-123 to investigate discrimination complaints against providers of public transportation. Please respond to the following allegations made by the complainant, Ms. Brickhouse.

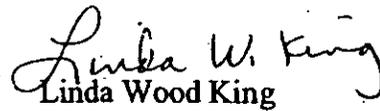
- [REDACTED] and other individuals with disabilities from the Brookline Coalition for Citizens with Disabilities, allege that they experience late pickup of an hour before or after requested times; changes in their requested pickup times; and ride times that consist of an hour and a half or more.

Please see the enclosed complaint (Enclosure 1) for specific details.

By forwarding this complaint to you, we have initiated our investigative process. Please review the enclosed complaint for specific details and reply to our inquiry within 30 days of the date of this letter. With your response, please also provide the items that are checked on enclosure 2 of this letter.

As the complaint investigator assigned to this complaint file, please contact me at (202) 366-0805 or at my electronic mail address: linda.king.fta@dot.gov, should you have any questions regarding this inquiry. Please include the FTA complaint number in any correspondence regarding this complaint. Thank you for your assistance.

Sincerely,


Linda Wood King
Equal Opportunity Specialist
Office of Civil Rights

Enclosure (2)



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 22 2002



Re: FTA Complaint No. 01-0243

Dear 

This letter responds to your complaint you filed against the Washington Metropolitan Area Transit Authority (WMATA), alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

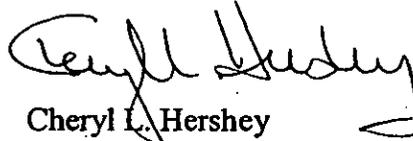
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In September 2001, FTA conducted an on-site compliance assessment of WMATA's ADA Complementary Paratransit service, known as Metro Access. The assessment was based in part on complaints submitted to the FTA Office of Civil Rights. The specific issues regarding Metro Access' ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with WMATA until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with

those addressing the assessment findings.

We will be administratively closing your complaint based upon our intention to proceed as described above. If you have any questions regarding this letter, please contact us at 1-888-446-4511 or at our email address: ada.assistance@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: WMATA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.,
Washington, D.C. 20590

JAN 22 2002

[REDACTED]

Re: FTA Complaint No. 01-0093

Dear [REDACTED]

This letter responds to your complaint against Access Services, Inc. (ASI), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, you alleged that on December 18, 2000, you were left stranded because your scheduled ASI ride did not pick you up. In addition, you stated that this had occurred two additional times before December 18.

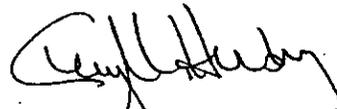
We investigated your allegations, and sent a data request to Mr. Richard DeRock, Executive Director of ASI. We received a response from ASI that addressed and provided relevant information on your allegations noted above.

We understand that Mr. David Foster, of ASI, contacted you to discuss this incident and to determine if you were having any problems with ASI subsequent to the December 18, 2000, incident. Mr. Foster reported that you have had no further serious problems, and that the "no-show" for December 18, 2000, was deleted from your record.

Mr. Foster informed you about the Operations Monitoring Center (OMC), and encouraged you to contact that office should you experience any similar service problems. OMC operates 24 hours a day, 7 days a week and can be reached by calling customer service at (800) 827-0829 and pressing the number "2". Mr. Foster also asked you to contact him directly at (213) 270-6000 should you need assistance.

The information provided by ASI shows that it has procedures in place to address situations such as you described. Based on this and the fact that it appears that your allegations have been appropriately addressed, we are administratively closing your complaint as of the date of this letter. If you have any questions regarding this letter, please contact us at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at our email address: ada.assistance@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Mr. Richard DeRock



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 22 2002

[REDACTED]

Re: FTA Complaint No. 01-0244

Dear [REDACTED]

This letter responds to your complaint you filed against the Washington Metropolitan Area Transit Authority (WMATA), alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be

initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

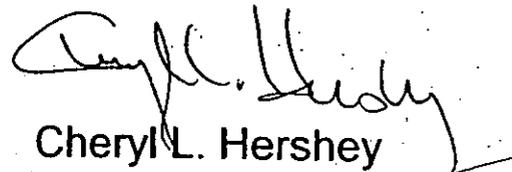
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In September 2001, FTA conducted an on-site compliance assessment of WMATA's ADA Complementary Paratransit service, known as Metro Access. The assessment was based in part on complaints submitted to the FTA Office of Civil Rights. The specific issues regarding Metro Access' ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with WMATA until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

We will be administratively closing your complaint based upon our intention to proceed as described above. If you have any questions regarding this letter, please contact us at 1-888-446-4511 or at our email address: ada.assistance@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: WMATA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 22 2002

[REDACTED]

Re: FTA Complaint No. 00056

Dear [REDACTED]

This letter responds to your complaint against the Mountain Area Regional Transit Authority (MARTA), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint

investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand that you allege the following:

1. On February 2, 2000, you boarded a MARTA bus that was fully loaded and did not have a space available to properly secure your 3-wheeled scooter. You sat on your unsecured scooter, and when the driver went around a curve too fast, you were thrown to the floor.
2. On March 21 or 22, 2000, a MARTA bus driver refused to properly secure your scooter and insisted that you transfer to a seat that did not have seatbelts.

In response to your complaint, we sent a data request to Mr. Martin Gombert, General Manager of MARTA. We received a response from MARTA (enclosed) that addressed and provided relevant information on your allegations noted above. We have restated your allegations followed by our determination on each, below.

1. **On February 2, 2000, you boarded a MARTA bus that was fully loaded and did not have a space available to properly secure your 3-wheeled scooter. You sat on your unsecured scooter, and when the driver went around a curve too fast, you were thrown to the floor.**

The DOT ADA regulations at 49 CFR section 37.167(j)(1) require that:

When an individual with a disability enters a vehicle, and because of a disability, the individual needs to sit in a seat or occupy a wheelchair securement location, the entity shall ask the following persons to move in order to allow the individual with a disability to occupy the seat or securement location:

... (ii) Individuals sitting in a fold-down or other movable seat in a wheelchair securement location.

Because the bus was full when you boarded, as described by you and the driver, there would be no requirement for the driver to ask a rider to move from a seat to accommodate you and your scooter. The choice was yours whether to board a fully loaded bus without space to secure your scooter, or to wait for the next bus. There is obviously some inherent risk in riding on an unsecured scooter. We see no deficiency on the part of MARTA in the situation you described.

2. On March 21 or 22, 2000, a MARTA bus driver refused to properly secure your scooter and insisted that you transfer to a seat that did not have seatbelts.

The DOT ADA regulations at 49 CFR section 37.165(f) state in part:

Where necessary or upon request, the entity's personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts.

Sections 37.165(c)(1)-(2) also are pertinent to your allegation:

(1) For vehicles complying with part 38 of this title, the entity shall use the securement system to secure wheelchairs as provided in that Part.

(2) For other vehicles transporting individuals who use

wheelchairs, the entity shall provide and use a securement system to ensure that the wheelchair remains within the securement area.

If the bus on which you were riding was purchased new after August 1990, it would had to have been accessible according to the DOT ADA regulations. In which case, the driver should have used the proper securement equipment to secure your scooter. If it was an older bus, the bungee cord he used may have been MARTA's attempt to comply with Section 37.165(c)(2) as stated above.

The DOT ADA regulations address the second part of your allegation at 49 CFR section 37.165(e):

The entity may recommend to a user of a wheelchair that the individual transfer to a vehicle seat. The entity may not require the individual to transfer.

(Please note that a 3-wheeled scooter is considered a wheelchair under the DOT ADA regulations.) The driver was incorrect in insisting that you transfer from your scooter to a seat; however, the fact that the bus did not have seatbelts is not a violation of the DOT ADA regulations.

MARTA provided documentation that it trains its drivers as required by the DOT ADA regulations, and specific evidence that the driver named in your first allegation has been trained. The driver also attended a refresher training course after the incident. As you did not name the second driver, we can only assume that he also has attended the mandatory training sessions.

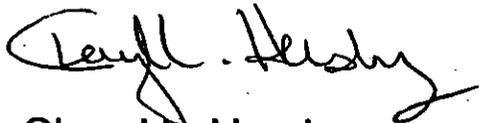
In addition, Mr. Gombert stated that MARTA has ordered a special securement kit from the company, Q-Straint, that will allow drivers to better secure three-wheeled scooters. He states that he has an open relationship with you and is very interested in resolving any

complaints that you may have about MARTA service. Mr. Martin can be contacted directly at (909) 584-9517.

By copy of this letter, we have informed MARTA of the apparent deficiencies by some of its drivers in their implementation of the wheelchair securement requirements. It appears that these deficiencies have already been addressed, but for information purposes we will provide MARTA a copy of FTA's wheelchair securement bulletin. We have also enclosed a copy for you.

Based on the above, we have closed your complaint. If you have any questions regarding this letter, please contact us at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at our electronic mail address: ada.assistance@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Mr. Martin Gombert



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 22 2002

Re: FTA Complaint No. 99274

Dear [REDACTED]

This letter responds to your complaint on behalf of [REDACTED], originally filed by [REDACTED] in 1999, against New York City Transit (NYCT), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. The drivers on Access-a-Ride, NYCT's ADA Complementary Paratransit service, were rude to [REDACTED]
2. Drivers got lost easily between your home and Eger Healthcare Center.
3. [REDACTED] had to make reservations four days in advance, and then she frequently could not book a return trip. She then had to call on a daily basis to schedule a trip.

We investigated your allegations, and sent a data request to Mr. Lawrence Reuter, President, NYCT. We received a response from NYCT (copy enclosed) that addressed and provided relevant information on each of your allegations noted above.

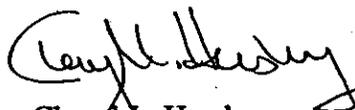
NYCT reports that it has made changes to improve scheduling of intraborough and interborough trips. In addition, in 1999 and 2000, NYCT added 243 new vehicles to its fleet and contracted with new carriers to provide service. As a result, NYCT states that its service has improved with regard to your allegations of drivers being rude and being unfamiliar with the service areas. In addition, NYCT has been conducting periodic supervisory observations of vehicle operators to assess performance.

The transit provider also explained that a check was made of [REDACTED] trip records, and NYCT reported that her trips were being scheduled as she requested.

After reviewing all of the submitted materials, it appears that the facts leading to the particular circumstances experienced by [REDACTED] were the result of temporary deficiencies. We hope that her service has since improved. Based on the above, we have administratively closed your complaint as of the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Lawrence G. Reuter
President
NYCT



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 22 2002

[REDACTED]

Re: FTA Complaint No. 00317

Dear [REDACTED]

This letter responds to your complaint against San Francisco Municipal Railway (MUNI), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegations to be as follows:

1. MUNI bus drivers do not require people sitting in priority seating areas to make them available to senior citizens and/or persons with disabilities.
2. MUNI bus stops do not have benches.
3. MUNI bus drivers do not "kneel" buses to assist persons with disabilities board the bus.

In response to your first allegation, 49 CFR section 37.167(j)(1) of the DOT ADA regulations states:

...the entity shall ask the following persons to move in order to allow the individual with a disability to occupy the seat or securement: (i) Individuals, except other individuals with a disability or elderly persons, sitting in a location designated as priority seating for elderly and handicapped persons (or other seat as necessary); ...

In addition 49 CFR section 137.167(j)(3) of the ADA regulations states:

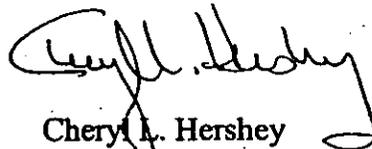
The entity is not required to enforce the request that other passengers move from priority seating areas or wheelchair securement locations.

MUNI provided a copy of its letter to you explaining that MUNI drivers are required to ask persons seated in priority seating areas to move to another seat in order to allow a senior citizen or an individual with a disability to occupy the seat. MUNI's policy also emphasized that drivers are not required to physically relocate a passenger who refuses to move from these priority seating areas. This policy is provided to the drivers via driver bulletins and during drivers' training sessions. Signs in English, Spanish, and Chinese are on board all MUNI vehicles informing passengers that the priority seats are to be vacated for seniors and persons with disabilities. MUNI asked that you report any drivers who do not abide by this policy to MUNI Passenger Services at (415) 923-6164 or Accessible Services Programs at (415) 923-6142 and provide the following information:

- line and coach number
- location
- date and time of day
- driver identification number

It appears that MUNI also has addressed the other issues about which you complained and is willing to work with you to resolve them. Based on the action already taken, we have administratively closed your complaint as of the date of this letter. If you have any questions regarding this decision, please contact us at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at our electronic mail address: ada.assistance@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: MUNI



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 24 2002

[REDACTED]

Re: FTA Complaint No. 97028

Dear [REDACTED]

This letter responds to your complaint against the Los Angeles County Metropolitan Transportation Authority (MTA), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

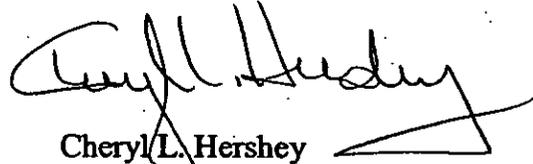
We understand your allegations to be that the MTA rail system is not fully accessible to visually impaired riders.

We sent a data request to Mr. Franklin White, former Chief Executive Officer of MTA, and received a response from MTA that addressed and provided relevant information on your allegations.

MTA stated that it has worked directly with you to remedy these problems, which you acknowledged in your thank you letter to MTA. We understand that MTA created a special task force, composed of blind and visually impaired riders, for the purpose of improving signage at rail stations. We appreciate that in your capacity as Chair, of the Committee on Access on Transportation, California Council of the Blind, you made significant contributions to the successful resolution of these issues. As a result of recommendations from the task force, MTA invested in a "way-finding" program to facilitate use of the rail system, installed directional tiles, and continues to work on areas of deficiencies identified by FTA Key Station Assessments. FTA will continue to monitor MTA's progress until it reaches full compliance with the DOT ADA regulations regarding key stations.

Based on the actions taken by MTA, we have administratively closed this complaint. If you have any questions regarding this decision, please contact us at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at our electronic mail address: ada.assistance@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: MTA



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 24 2002

[REDACTED]

Re: FTA Complaint No. 00-0280

Dear [REDACTED]

This letter responds to your complaint against the Kansas City Area Transportation Authority (KCATA), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be that a KCATA bus operator discriminated against you based on your disability when he threatened to remove you and your service animal from the bus. You stated that the operator acted in a very aggressive manner.

We sent a data request to Mr. Richard F. Davis, former General Manager, of KCATA, and received a response that addressed and provided relevant information on your allegations noted above.

The DOT ADA regulations at 49 CFR 37.3 define "service animal" as:

... any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

KCATA explained that the bus operator radioed Road Supervisors in District #2 and District #1, informing them of an incident of a passenger who was not visually impaired and trying to board the bus with a dog. KCATA stated that both supervisors arrived at the scene to assist the bus operator and you. The District #1 supervisor verified and informed the bus operator that your dog was a guide or aid dog covered under ADA, and that you could remain on the bus to complete your trip. According to the bus operator and the supervisor, they felt that this problem was resolved for you.

KCATA advised that in 1987 it established policy and procedures for "Service to Disabled Bus Passenger - Accessible Bus Operating Procedures," and KCATA provided training to all bus operators. In January 1992, KCATA distributed a bulletin and hired an external firm to conduct training for all bus operators concerning the new ADA requirements. KCATA currently has a "Disability Awareness Training Program" for all of its existing and new bus operators.

In reviewing KCATA's current training materials, we noted the following information:

Service animals shall always be permitted to accompany their users on the bus. One of the most common misunderstandings about service animals is that they are limited to being guide dogs for persons with visual impairments. Dogs are trained to assist people with a wide variety of disabilities, including individuals with hearing and mobility impairments. ... Other animals (e.g., monkeys) are sometimes used as service animals as well.

This information is consistent with the DOT ADA regulations; however, we did note the following statements that we feel may be misleading to bus operators and should be corrected.

Hearing impaired – guide dogs have an "orange" collar or cape and leash.

Also, the owner should have an identification card stating the animal is a service animal.

There is no requirement that the owner of a service animal must have an identification card for the animal, nor is there any requirement that certain types of service animals must wear certain equipment, colors, or other identifying features. We will provide this information to KCATA along with the Department of Justice official guidance on service animals in order that they can make the necessary changes.

KCATA acknowledged in its response that procedures cannot be substituted for sound judgment. We agree with this assessment of the situation. It appears that you unfortunately encountered a misinformed bus operator; however, after reviewing all of the submitted materials, we do not

believe that this indicates a deficiency under the ADA of the DOT ADA regulations by KCATA.

KCATA documented that it has procedures in place as required by the DOT ADA regulations, and when the bus operator called in his supervisors to address the situation, both quickly came and made the correct decision. Based on all of the above, we have administratively closed your complaint as of the date of this letter. We will follow-up with KCATA by way of accompanying letter. KCATA asked that you contact Ms. Diana Winfield, Equal Employment Opportunity Manager at (816) 347-0372, should you have any additional concerns regarding access to KCATA.

If you have any questions regarding this decision, please contact Linda Wood King, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

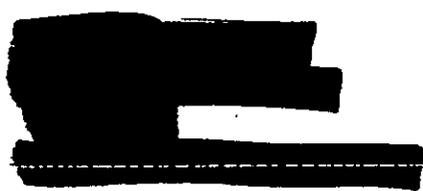
cc: KCATA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 24 2002



Re: FTA Complaint No. 01-0088

Dear [REDACTED]

This letter responds to your complaint filed on behalf of individuals with disabilities against the Utah Transit Authority, of Salt Lake City, Utah, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your general allegations to be the following:

1. UTA bus drivers do not pull up in front of blind persons and announce their route.
2. UTA bus drivers will not pull up to the curb, particularly when turning right.
3. UTA bus drivers will not ask persons without apparent disabilities to move from the reserved seating area for persons with disabilities.

We informed UTA of your allegations and requested information relating to your complaint, reviewed the information presented by you and UTA, and made a determination on each of your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations, followed by our determinations below.

1. UTA bus drivers do not pull up in front of blind persons and announce their route.

The DOT ADA regulations at 49 CFR section 37.167(c) state:

Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

UTA's response to this allegation is as follows:

UTA's practice is consistent with federal requirements and UTA policy. There is no requirement that a bus operator always pull up in front of a visually impaired person regardless of where the person is waiting. Indeed, to do so may be unsafe.

UTA is correct that there is no requirement to stop in front of a person with a visual impairment. UTA does require its drivers to call out routes when they observe a person with a visual impairment at a stop where multiple routes use the stop. However, UTA made no mention of making announcements to all persons in case there are persons waiting whose disabilities are not apparent, but which make them rely on verbal announcements. By copy of this letter, we have notified UTA of this apparent oversight.

2. UTA bus drivers will not pull up to the curb, particularly when turning right.

This is an operational, rather than an ADA issue. It is not always possible for the bus to be maneuvered close to the curb. UTA has procedures in place for drivers to follow when this is the case including keeping the bus 3.5 feet away from the curb.

3. UTA bus drivers will not ask persons without apparent disabilities to move from the reserved seating area for persons with disabilities.

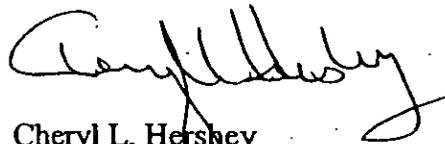
The DOT ADA regulations at 49 CFR section 37.167(j)(1) states:

When an individual with a disability enters a vehicle, and because of a disability, the individual needs to sit in a seat or occupy a wheelchair securement location, the entity shall ask the following persons to move in order to allow the individual with a disability to occupy the seat or securement location: (i) Individuals, except other individuals with a disability or elderly persons, sitting in a location designated as priority seating for elderly and handicapped persons (or other seat as necessary); (ii) Individuals sitting in or a fold-down or other movable seat in a wheelchair securement location.

UTA's policy and training conform to this requirement. Since you did not cite any specific incidents, we have no evidence that UTA is violating any DOT ADA regulations. We will take no further action on this allegation.

After reviewing all of the submitted materials, it appears that UTA did not violate any provisions of the DOT ADA regulations about which you complained. Based on the above, we have administratively closed your complaint as of the date of this letter. If you have any questions regarding this decision, please contact Mary-Elizabeth Peters at (202) 366-0792 or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: UTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 24 2002

[REDACTED]

Re: FTA Complaint No. 99276

Dear [REDACTED]

This letter responds to your complaint of discrimination against the Metro-North Railroad (MNR), of New York, New York, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be as follows:

- **There is no accessible path of travel at the North White Plains station from the parking lot to the station. Snow and ice accumulate there, making conditions more treacherous.**

We sent a data request to Mr. Peter Cannito, President of MNR, and received a response that addressed and provided relevant information to your allegation noted above. We have made a determination on your allegation based on our analysis of the information provided by you and MNR in relation to the DOT ADA regulations.

49 CFR section 37.51 of the DOT ADA regulations states that all key stations on commuter rail lines must be accessible. Key stations are defined at 49 CFR sections 37.51(b)(1)-(5) as:

- (1) Stations where passenger boardings exceed average station passenger boardings on the rail system by at least fifteen percent, unless such a station is close to another accessible station;
- (2) Transfer stations on a rail line or between rail lines;
- (3) Major interchange points with other transportation modes, including stations connecting with major parking facilities, bus terminals, intercity or commuter rail stations, passenger vessel terminals, or airports;
- (4) End stations, unless an end station is close to another accessible station; and
- (5) Stations serving major activity centers, such as employment or government centers, institutions of higher education, hospitals or other major health care facilities, or other facilities that are major trip generators for individuals with disabilities.

In its response, MNR stated that the North White Plains station is not a key station. It was built in the 1970s, and therefore is not required to be accessible. Stations that are not new, recently renovated, or designated as key stations are not required to be accessible under DOT ADA regulations. The DOT ADA regulations at 49 CFR section 37.43(a)(4) concerning alterations of existing facilities state:

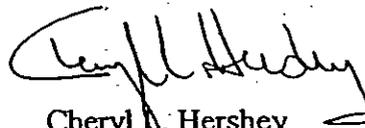
The requirements of this section apply to any alteration which begins (i.e., issuance of notice to proceed or work order, as applicable) after January 25, 1992, or, in the case of intercity and commuter rail stations, after October 7, 1991.

The last construction to alter the station commenced in 1988, prior to the effective date of this part of the regulations.

For your information, MNR informed us that persons requiring elevator access can enter at the Haarlem Avenue entrance.

In view of the facts presented, we do not find that MNR in violation of the DOT ADA regulations regarding these allegations. Based on the above, we have administratively closed your complaint. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl A. Hershey
ADA Group Leader
Office of Civil Rights

cc: Metro-North Railroad



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 25 2002

[REDACTED]

Re: FTA Complaint No. 98278

Dear [REDACTED]

This letter responds to your complaint you filed against the Chicago Transit Authority (CTA), alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

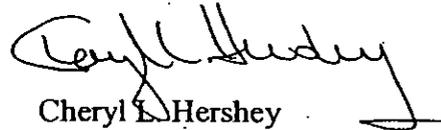
In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In June 2001, FTA conducted an on-site compliance assessment of CTA's ADA Complementary Paratransit service. The assessment was based in part on complaints, including yours, submitted to the FTA Office of Civil Rights. The specific issues regarding CTA's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with CTA until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

We will be administratively closing your complaint based upon our intention to proceed as described above. If you have any questions regarding this letter, please contact us at 1-888-446-4511 or at our email address: ada.assistance@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: CTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 30 2002

[REDACTED]

Re: FTA Complaint No. 99103

Dear [REDACTED]

This letter responds to your complaint against the San Mateo County Transit District (SamTrans), of San Carlos, California, alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegations to be that on May 6, 1999, you were denied next day service on SamTrans' ADA Complementary Paratransit service, Redi-Wheels, and that you were offered a ride outside of the one-hour window before or after your requested time that is allowed by the DOT ADA regulations.

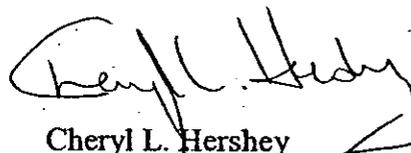
We sent a data request to Mr. Michael J. Scanlon, General Manager of SamTrans, and received a response (copy enclosed) that addressed and provided relevant information to your complaint. According to information provided by Mr. Scanlon, SamTrans accepts reservations for next day service up until seven days in advance, and any ride that cannot be scheduled within the one-hour

period before or after the requested time is properly counted as a denial. Because a ride may not have not been available at the time you requested it, does not, in and of itself, indicate a capacity constraint.

Mr. Scanlon stated that SamTrans had a denial rate of 2.81 percent during the time period of March 1, 1999, through August 31, 1999, which may have indicated capacity constraints. In a follow-up response to us dated May 17, 2001, he reported that as a result of remedial actions taken by SamTrans and additional resources devoted to Redi-Wheels, SamTrans had achieved its goal of zero denials, and that no trips had been denied since December 2000.

Based on the apparent resolution of the issues about which you complained, we have administratively closed your complaint as of the date of this letter. If you have any questions regarding this decision, please contact us at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at our electronic mail address: ada.assistance@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: SamTrans



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 4 2002

[REDACTED]

Re: FTA Complaint No. 01-0145

Dear [REDACTED]

This letter responds to your complaint against San Francisco Municipal Railway (MUNI), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that MUNI does not enforce a policy that would require bus drivers to clear the priority seating area when senior citizens or persons with disabilities need to sit there.

Section 37.167(j)(1) of the DOT ADA regulations states:

...the entity shall ask the following persons to move in order to allow the individual with a disability to occupy the seat or securement: (i) Individuals, except other individuals with a disability or elderly persons, sitting in a location designated as priority seating for

elderly and handicapped persons (or other seat as necessary); ...

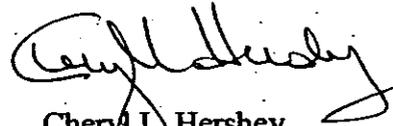
Section 137.167(j)(3) of the DOT ADA regulations states:

The entity is not required to enforce the request that other passengers move from priority seating areas or wheelchair securement locations.

In reviewing your correspondence, you were right in saying that bus drivers have the authority to "notify" or request persons to move from the priority seating areas if they are aware of the need. By copy of this letter, we have notified MUNI of your concerns and ask that it remind its bus and streetcar operators of this requirement.

We have administratively closed your complaint as of the date of this letter. If you have any questions regarding this decision, please contact us at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at our electronic mail address: ada.assistance@fta.dot.gov. Thank you for bringing this to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: MUNI



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 4 2002

[REDACTED]

Re: FTA Complaint No. 01-0142

Dear [REDACTED]

This letter responds to your complaint against the New York City Transit Authority (NYCT) alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

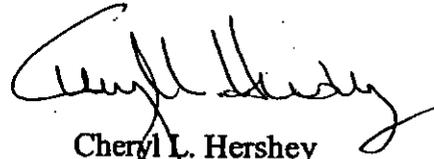
Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

You alleged a wide range of ADA violations by NYCT. In August and December 1998, FTA conducted an on-site compliance assessment of NYCT's ADA Complementary Paratransit service. The assessment was based, in part, on complaints submitted to the FTA Office of Civil Rights. The specific issues regarding NYCT's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this assessment.

In addition to FTA's assessment, a lawsuit (Gonzales vs. MTA/NYCT) was filed against NYCT alleging violations of ADA requirements and was settled out of court. As a result of these actions, NYCT agreed to a course of actions to improve the weaknesses identified in its system.

Thank you for bringing this matter to our attention. If you have any questions, please contact us at 1-888-446-4511 or at our email address: ada.assistance@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: NYCT



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 4 2002



Re: FTA Complaint No.98182

Dear 

This letter responds to your complaint you filed against the Transportation District Commission of Hampton Roads (HRT), formerly Tidewater Regional Transit District, of Hampton, Virginia, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

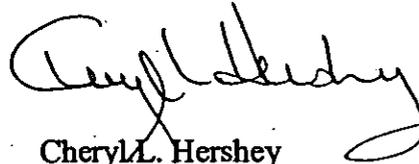
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of HRT's ADA Complementary Paratransit service, known as Handi-Ride, in the near future. The decision to perform this compliance assessment was based in part on complaints submitted to the FTA Office of Civil Rights. The specific issues regarding HRT's ADA Complementary Paratransit service in your complaint will be addressed from a broader perspective by this assessment. If we make findings of deficiencies, FTA will monitor HRT's activities until we determine that the deficiencies noted in the assessment are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy.

We note that your complaint also alleged ADA violations regarding the HRT fixed route bus service. We have attempted to contact you by telephone without success to ascertain if your difficulties have continued. If you wish to continue this portion of your complaint, please contact us by mail, electronic mail, or through the Federal Information Relay Service. Our toll free FTA ADA Assistance Line is 1-888-446-4511, and our general office telephone number is 202-366-4018. Our email address is: ada.assistance@fta.dot.gov. Unless we hear from you within 14 days of the date of this letter, we will be administratively closing your complaint based upon our intention to proceed as described above. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: HRT



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 4 2002

[REDACTED]

Re: FTA Complaint No. 00-0329

Dear [REDACTED]

This letter responds to your complaint against Central Oklahoma Transportation and Parking Authority (COPTA), Metro Transit, alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. Metro Transit places advertisements that cover the signs reserved for seating persons with disabilities and/or elder passengers. The bus operators fail to enforce the reserve-seating rule for these passengers by allowing family and friends to sit in the reserved seats.
2. Metro Transit violated the ADA regulations by removing the seating from a central bus shelter located on Southwest 25th and Robinson Avenue causing discomfort to persons with disabilities and elderly bus patrons required to stand while waiting for the bus.

We investigated your allegations, and sent a data request to Mr. Randall J. Hume, Administrator, COPTA. We received a response from COPTA that addressed and provided relevant information on each of your allegations noted above.

The DOT ADA regulations at 49 CFR section 37.167(j) require bus drivers to request persons, other than those who have disabilities or elderly persons, to move from the priority seating area; however, there is no such requirement for the driver to enforce this request if the person refuses.

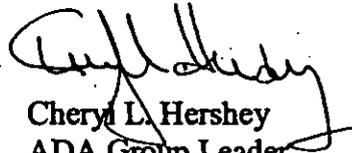
COPTA explained that upon receiving your complaint, and upon inspection of bus #9704, it was discovered that some of the advertising panels on the bus had slid forward and were partially covering some of the signs. In addition, COPTA's maintenance staff checked all buses and instructed the bus-advertising contractor to ensure these signs remain visible to passengers. COPTA advised that priority seating requirements are covered in its bus operator training classes, and that a bus operators' bulletin has been reissued emphasizing the requirement that these priority seats are to be offered to elderly passengers and passengers with disabilities.

Your second allegation is not covered by the DOT ADA regulations; however, COPTA explained that the bus shelter located at Southwest 25th and Robinson is not a COPTA/METRO Transit facility. COPTA stated that the bench in question was removed based on the objection/request of a committee of Capitol Hill Main Street, a not-for-profit redevelopment agency for that area of Oklahoma City.

The information provided by COPTA shows that there are procedures in place as required by the DOT ADA regulations, and that COPTA has taken affirmative action to ensure that these procedures are followed. Based on the above, we have administratively closed your complaint as of the date of this letter.

If you have any questions regarding this decision, please contact Linda Wood King, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov. Thank you for bringing this matter to our attention.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: COPTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 4 2002

[REDACTED]

Re: FTA Complaint No.00-0212

Dear [REDACTED]

This letter responds to your complaint against the Dallas Area Rapid Transit (DART), of Dallas, Texas, alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be that on October 13, 1999, a DART bus operator refused to deploy a wheelchair ramp for you to board the bus. This was the last bus on the route for the evening, and you were left stranded for hours until your son arrived to transport you home.

We sent a data request to Mr. Roger Snoble, President/Executive Director, of DART, and received a response that addressed and provided relevant information regarding this incident.

Upon receiving your complaint, DART investigated and validated your allegation. The bus operator was counseled on his inappropriate behavior and additional measures were undertaken to monitor his daily work performance. DART sent you a letter of apology.

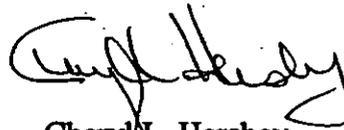
DART also provided documentation to us that it trains its employees in accordance with the DOT ADA regulations at 49 CFR section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

We acknowledge, and this incident demonstrates, that providing training does not ensure that the lessons taught are implemented. However, we believe that DART took appropriate action to address this unfortunate situation. Based on the facts presented, we do not find DART to be deficient under the DOT ADA regulations regarding this incident.

Based on the above, we will take no further action, and have administratively closed your complaint as of the date of this letter. If you have any questions regarding this letter, please call us on the FTA toll free ADA Assistance Line, 1-888-446-4511. You also may contact us at our e-mail address: ada.assistance@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: DART



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St. S.W.
Washington, D.C. 20590

FEB 4 2002



Re: FTA Complaint No. 00-0409

Dear 

This letter responds to your complaint against Regional Transportation Commission of Southern Nevada (RTC), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegations against RTC's ADA Complementary Paratransit service provider, ATC/VANCOM, to be as follows:

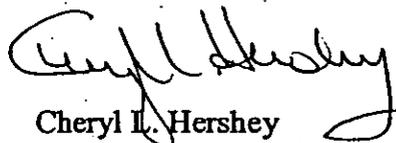
1. An ATC/VANCOM driver tried to force you to transfer to a seat from your wheelchair.
2. The driver only secured your shoulder harness after you insisted, and then he pulled it so tight, it choked you.
3. The driver was rude and disrespectful to you and others on the vehicle, drove recklessly, and seemed highly stressed because he was running behind schedule.

We sent a data request to Mr. Jacob Snow, General Manager of RTC, and received a response that addressed and provided relevant information to your complaint.

The transit provider reported that there were some differences between your account of the incident and the driver's; however, it is clear that they found your statements credible. The driver was counseled on each point about which you complained, and informed that "any interaction not founded on courtesy will not be tolerated." In addition, the DOT ADA regulations clearly state that the driver may ask, but not require, persons with disabilities to transfer from a mobility device to a seat. The driver has since left the employment of ATC/VANCOM, so there is no possibility of further monitoring of his performance.

As this appears to be an isolated incident, and as RTC and ATC/VANCOM took immediate and appropriate action upon receiving your complaint, we will take no further action at this time. We have administratively closed your complaint as of the date of this letter. If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. We sincerely appreciate you bringing this to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: RTC



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 4 2002

[REDACTED]

Re: FTA Complaint No. 01-0097

Dear [REDACTED]

This letter responds to your complaint against the Regional Transportation Commission (RTC), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

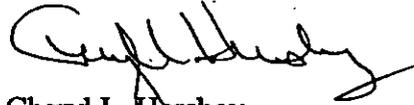
Specifically, your complaint alleged that on November 22, 2000, an ATC/Vancom driver with whom you were riding, threatened to hold you on the van, and was rude and insensitive toward you.

We sent a data request to Mr. Derek Morse, Executive Director, of RTC, and received a response (copy enclosed) that addressed and provided relevant information on your allegation noted above.

The transit provider explained that although there were some differences between your account of the incident and the driver's, there was no question that the driver responded in an inappropriate manner. The driver was counseled, issued a letter of warning, and required to attend sensitivity training. Our investigator received notice that the driver completed his sensitivity training on December 18, 2000. Based on the facts presented, we do not find RTC to be deficient under the DOT ADA regulations regarding this incident.

In light of the appropriate and immediate interventions that RTC undertook in response to your complaint, we will take no further action, and have administratively closed your complaint as of the date of this letter. If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: RTC



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 4 2002



Re: FTA Complaint No. 00-0238

Dear 

This letter responds to your complaint against the Orange County Transportation Authority (OCTA), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Our analysis of your complaint reveals two of your allegations that have relevance to the DOT ADA regulations. They are as follows:

1. You were denied eligibility for ADA Complementary Paratransit service by OCTA.
2. A bus driver would not ask persons sitting in the priority seating area for persons with disabilities and elderly persons to move so that you could sit down. Instead, he said that there were other seats where you could sit.

OCTA informed us that when you applied for ADA Complementary Paratransit eligibility in January 1999, you were granted a 6-month temporary eligibility to accommodate your disability while you are recovering from surgery. However, when you reapplied for eligibility in May 2000, you were denied based upon your ability to use fixed route service. You were given opportunity to appeal the denial, however, you elected not to pursue the appeal process. If your disability prevents you from using the fixed route service, you should reapply for ADA Complementary Paratransit eligibility with OCTA. We will take no further action on this allegation.

In response to your allegation that the bus driver would not request that the priority seating area be vacated, the following regulatory cite at section 37.167(j)(1) of the DOT ADA regulations states:

...the entity shall ask the following persons to move in order to allow the individual with a disability to occupy the seat or securement: (i) Individuals, except other individuals with a disability or elderly persons, sitting in a location designated as priority seating for elderly and handicapped persons (or other seat as necessary); ...

Section 137.167(j)(3) of the DOT ADA regulations states:

The entity is not required to enforce the request that other passengers move from priority seating areas or wheelchair securement locations.

OCTA does implement this requirement with its staff. According to the driver's account relating to this incident, another passenger offered you a seat, but you refused the offer. This, of course, does not relieve the driver of his responsibility to ask other customers to move. Regardless, in cases where the facts regarding a particular incident differ and cannot be independently substantiated, we cannot make a determination. By copy of this letter, we remind OCTA of its drivers' obligation to ask, but not require, persons to move from the priority seating area when it is needed by a person with a disability, or an elderly person.

After reviewing all of the submitted materials, we do not find OCTA to be in violation of the DOT ADA regulations with regards to your allegations. Based on the above, we have administratively closed your complaint as of the date of this letter. If you have any questions regarding this decision, please contact us at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at our electronic mail address: ada.assistance@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: OCTA



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 4 2002

[REDACTED]

Re: FTA Complaint No. 99298

Dear [REDACTED]

This letter responds to your complaint against the Coastal Rapid Public Transit Authority (CRPTA) of Conway, South Carolina, alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged the following:

1. You experienced several untimely (early) pickups for your trips to work;
2. You were verbally accosted, threatened and lunged at by a CRPTA vehicle operator on September 22, 1999, and;
3. After complaining to CRPTA, drivers retaliated against you by dropping you off in front of steps instead of a ramp.

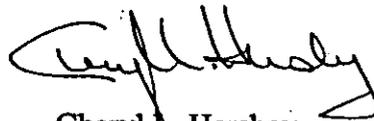
Regarding your allegation of untimely service, CRPTA explained that you receive service under the Job Training Partnership Act Program (JTPA). The DOT ADA regulations regarding timely service only apply to ADA Complementary Paratransit for which you are not an eligible participant. Consequently, we will take no further action on this issue.

In response to your allegation that a driver verbally accosted, threatened and lunged at you, CRPTA provided a copy of a statement from the other passenger on board that does not fully corroborate your allegation. Regardless, CRPTA counseled the driver and apologized to you. The driver also wrote you a letter of apology. We believe that CRPTA took appropriate corrective actions, and we will therefore take no further action.

CRPTA asserts that your allegations regarding retaliation are without merit in that neither you nor your case worker has informed CRPTA of the need to accommodate you on the basis of a disability. CRPTA states that its contract for JTPA transportation services requires only that CRPTA transport you to and from your destination. Further, in an attempt to alleviate any further difficulties, a special driver has been assigned to transport you.

After reviewing all of the submitted materials, we have not identified any violations of the DOT ADA regulations regarding the issues about which you complained. Based on the above, we have administratively closed your complaint. If you have any questions regarding this decision, please contact Linda Wood King, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: CRPTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 14 2002

[REDACTED]

Re: FTA Complaint No. 99186

Dear [REDACTED]

This letter responds to your complaint against Access Services, Inc. (ASI), of Los Angeles, California, alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand that MV Transportation (MVT), a paratransit provider for ASI, cancelled your subscription service for ADA Complementary Paratransit trips when it took over from Community Joint Ventures Partners (CJVP) in July of 1999.

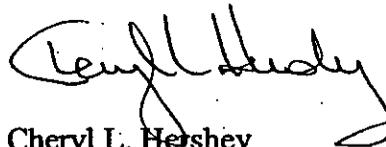
We sent a data request to Mr. Richard DeRock, Executive Director, ASI, and received a response (copy enclosed) that addressed and provided relevant information on your complaint.

ASI explained that MVT grandfathered many of the existing "standing rides" (subscription trips) from CJVP but was not obligated to continue providing the service, if the service proved to be an "inefficient use of resources." Apparently, your service fell into the latter category. As the DOT ADA regulations do not require ADA Complementary Paratransit providers to offer subscription service, we do not find this to be a deficiency.

You remain eligible for the Ready Access (demand responsive) service. Should you encounter any difficulties in using this service, Mr. John Fushman, Manager of Community Services, asks that you contact him at (213) 270-6000.

Based on the above, we have administratively closed your complaint as of the date of this letter. If you have any questions regarding this decision, please contact us at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at our electronic mail address: ada.assistance@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: ASI



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 13 2002

[REDACTED]

Re: FTA Complaint No. 010183

Dear [REDACTED]

This letter responds to your complaint you filed on behalf of [REDACTED] against the Bi-State Development Authority (Bi-State), of St. Louis, Missouri, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

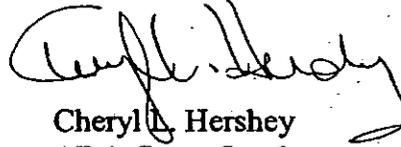
In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In November 2000, Bi-State contracted with Multisystems, Inc. (Multisystems), to conduct an on-site system-wide compliance assessment of Bi-State's fixed route service and ADA Complementary Paratransit service. The compliance assessment, conducted in December 2000, was based in part on complaints submitted to both Bi-State and the FTA Office of Civil Rights. Where there were findings of deficiencies, FTA will monitor activities with Bi-State until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

Accordingly, we have administratively closed your complaint based on the above findings. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-202-366-0792 or at her email address: mary-elizabeth.peiers@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl Hershey
ADA Group Leader
Office of Civil Rights

cc: Susan Stauder
Acting Executive Director
Bi-State Development Authority
707 North First Street
St. Louis, Missouri 63102-2595



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 13 2002

Thomas DiBiagio
United States Attorney
District of Maryland
Northern Division
6625 United States Courthouse
101 West Lombard Street
Baltimore, Maryland 21201-2692

Re: FTA Complaint No. 00017

Dear/Mr. DiBiagio:

This letter responds to a complaint Ms. Battaglia, former United States Attorney, filed on behalf of [REDACTED] against the Maryland Transit Authority (MTA), of Baltimore, Maryland, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

On March 13, 2000, we had faxed [REDACTED], then Civil Rights Coordinator, for contact information on [REDACTED]. We never received contact information nor were we able to obtain contact information from any other source. Because we were unable to speak with [REDACTED], we were unable to proceed on this individual complaint. However, we were able to proceed on a

number of cases with similar allegations on MTA's ADA Complementary Paratransit service and make determinations concerning the issues.

FTA plans to conduct an on-site compliance assessment of MTA's ADA Complementary Paratransit service in the near future. The decision to perform this compliance assessment was based in part on [REDACTED] complaint and others submitted to the FTA Office of Civil Rights. The specific issues regarding MTA's ADA Complementary Paratransit service in [REDACTED] complaint and the others we received will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor MTA's activities until we determine that the deficiencies noted are corrected.

For the reasons discussed above, we have administratively closed this complaint. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist at 1-703-366-0792 or at her email address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 13 2002

[REDACTED]

Re: FTA Complaint No. 00-0267

Dear [REDACTED]

This letter responds to your complaint against the Eastern Tennessee Human Resource Agency (ETHRA), of London, Tennessee and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

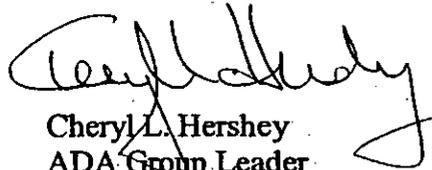
Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be that ETHRA refused to provide rides for you because of your weight. We sent a data request to Ms. Melinda Britton, Administrator, of ETHRA, and received a response that addressed and provided relevant information on your allegation.

Ms. Britton provided information with supporting documentation that ETHRA did transport you during December 1999, and January 2000. Further, Ms. Britton described a safety net wherein if ETHRA could not provide service to you, you would be scheduled with another transportation provider. She claims that no clients under the TennCare system are denied service. It appears that you were either given incorrect information, or possibly misunderstood the information you were given. Although this is unfortunate, it does not constitute a violation of the DOT ADA regulations. Based on this information, we have administratively closed your complaint.

If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist, on our toll free FTA ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: ETHRA Transportation



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 19 2002

[REDACTED]
Memphis Center for Independent Living
163 N. Angelus
Memphis, Tennessee 38104

Re: FTA Complaint No. 00-0401

Dear [REDACTED]

This letter responds to the complaint filed by [REDACTED] on behalf of others, against the Memphis Area Transit Authority (MATA) of Memphis, Tennessee. We understand that [REDACTED] has left the Memphis Center for Independent Living and have addressed this letter to you as we have had recent contact from you via e-mail. [REDACTED] complaint alleged noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

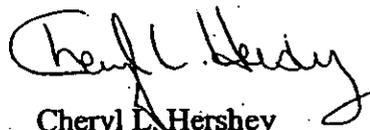
[REDACTED] complaint alleged that MATAPlus drivers force persons who use wheelchairs to exit backwards down a ramp.

In February 2000, FTA conducted an on-site compliance assessment of MATA's ADA Complementary Paratransit service, known as MATAPlus. The compliance assessment was based in part on complaints submitted to the FTA Office of Civil Rights. The specific issues regarding MATA's ADA Complementary Paratransit service in [REDACTED] complaint were addressed from a broader perspective by this compliance assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with MATA until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the compliance assessment findings. A copy of the compliance assessment report is enclosed for your review.

We thank you for sending us via e-mail, several recent complaints received by your office. They serve as notification to us of current difficulties that some MATAPlus customers have experienced. However, because we are currently in the midst of addressing compliance issues at MATA and MATAPlus, we will not take individual action on these new complaints. Instead, we will insert these allegations into the open compliance file for information purposes to be used in our monitoring efforts.

Accordingly, we have administratively closed Mr. Wheat's complaint based upon the assessment findings. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

Cc: MATA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 19 2002

[REDACTED]

Re: FTA Complaint No. 00-0319

Dear [REDACTED]

This letter responds to your complaint against the Chatham Area Transit Authority (CAT), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegations to be that: on March 28, 2000, you were not picked up for a return trip by Teleride, CAT's ADA Complementary Paratransit service; Teleride drivers are permitted to play AM/FM radios while driving; and fixed route bus drivers do not properly restrain your wheelchair and are sometimes discourteous to you.

We sent a data request to Mr. Scott Lansing, Executive Director, of CAT, and received a response (copy enclosed) along with other information that provided relevant information on each of your allegations noted above.

According to the description of the events contained in CAT's May 31, 2000, letter to you, the driver encountered circumstances beyond his control and could not help being late in reaching you. This is not a deficiency under the DOT ADA regulations.

Your second allegation that Teleride drivers are allowed to play radios on paratransit vehicles while driving is not covered by the DOT ADA regulations.

In response to your remaining allegation about discourteous and inadequately trained fixed route bus drivers, CAT provided documentation that it trains its employees as required by the DOT ADA regulations at 49 CFR section 37.173:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

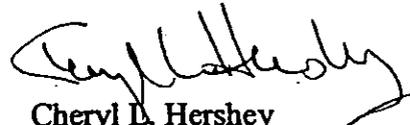
CAT has monitoring activities in place to ensure ADA compliance, and when needed, operators are retrained in their weak areas, and in some instances, disciplined.

We understand that the lift and tie down locations on CAT's older buses are not very compatible with your wheelchair and that this has caused some technical difficulties for drivers who transport you. We also understand that CAT has addressed each of your complaints and has provided feedback to you in each case.

After reviewing all of the submitted materials, we do not find any violations of the DOT ADA regulations in regard to your allegations. Based on the above and the fact that CAT appears to be very willing to work with you on any difficulties that you encounter, we have administratively closed your complaint as of the date of this letter.

If you have any questions regarding this decision, please contact Eugene Jenkins, Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: eugene.jenkins@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: CAT



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 19 2002

[REDACTED]

Re: FTA Complaint No. 98251

Dear [REDACTED]

This letter responds to your complaint you filed against the Tri-County Metropolitan Transportation District (Tri-Met) Complementary Paratransit service, of Portland, Oregon, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

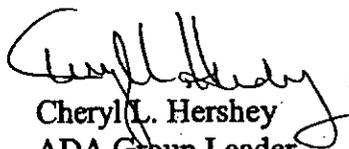
In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In June 1999, FTA conducted an on-site compliance assessment of Tri-Met's ADA Complementary Paratransit service, known as LIFT Program. The compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding Tri-Met LIFT Program, in your complaint was addressed from a broader perspective by this compliance assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with Tri-Met, until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

Accordingly, we have administratively closed your complaint based upon the above findings. If you have any questions regarding this letter, please contact Linda Wood King, Equal Opportunity Specialist at 1-888-446-4511 or at her email address: linda.king@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Mr. Tom Walsh, General Manager
Tri-County Metropolitan District of Oregon
4012 Southeast 17th Avenue
Portland, Oregon 97202-3993



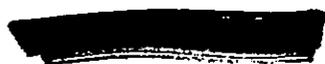
U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 19 2002



Re: FTA Complaint No. 99084



This letter responds to your complaint you filed against the Southeastern Pennsylvania Transit Authority (SEPTA), of Philadelphia, Pennsylvania alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

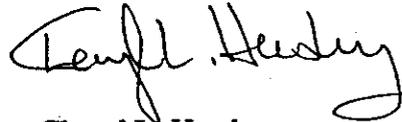
In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In August, 2001, FTA conducted an on-site compliance assessment of SEPTA's fixed route bus service. The compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding difficulty with driver attitude in your complaint were addressed from a broader perspective by this compliance assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with SEPTA until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

Accordingly, we have administratively closed your complaint based upon the above findings. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: roberta.wolgast@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: John K. Leary Jr.
General Manager
SEPTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 25 2002

[REDACTED]

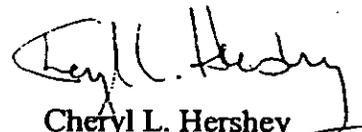
Re: FTA Complaint No. 00-0323

Dear [REDACTED]

This letter is a follow-up to the Americans with Disabilities Act of 1990 (ADA) complaint against Access Services, Inc., (ASI) of Los Angeles, California, that you filed on behalf of your mother, [REDACTED]. It has come to our attention that the Western Law Center for Disability Rights filed a lawsuit, "Nadine Flores, et al vs. Los Angeles County Metropolitan Transit Authority, et al," alleging similar violations to those you allege in your complaint. This lawsuit affects our action on your complaint as it alleges, among other issues that "MTA and ASI, in their provision of complementary paratransit, have limited the availability of paratransit to ADA paratransit-eligible individuals by imposing capacity constraints." The allegations specifically include late pick-ups. As this issue is the subject of pending litigation, and in accordance with our complaint resolution procedures, we have administratively closed this complaint.

You may re-file the complaint with us within 60 days following the termination of the lawsuit if there has been no decision on the merits or settlement of the complaint allegations. If you wish to obtain additional information on the lawsuit, we suggest that you contact the Pacific Area Disability and Business Technical Assistance Center in Berkeley, California, at 510-848-2980, or the Western Law Center of Disability Rights. If you have any questions, please contact us at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at our electronic mail address: ada.assistance@fta.dot.gov.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: ASI



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 28 2002

[REDACTED]

Re: FTA Complaint No. 00-0373

Dear [REDACTED]

This letter is a follow-up to the Americans with Disabilities Act of 1990 (ADA) complaint against Access Services, Inc., (ASI) of Los Angeles, California. It has come to our attention that the Western Law Center for Disability Rights filed a lawsuit, "Nadine Flores, et al vs. Los Angeles County Metropolitan Transit Authority, et al," alleging similar violations to those you allege in your complaint. This lawsuit affects our action on your complaint as it alleges, among other issues that "MTA and ASI, in their provision of complementary paratransit, have limited the availability of paratransit to ADA paratransit-eligible individuals by imposing capacity constraints." The allegations specifically include late pick-ups. As this issue is the subject of pending litigation, and in accordance with our complaint resolution procedures, we have administratively closed this complaint.

You may re-file the complaint with us within 60 days following the termination of the lawsuit if there has been no decision on the merits or settlement of the complaint allegations. If you wish to obtain additional information regarding the lawsuit, we suggest that you contact the Pacific Area Disability and Business Technical Assistance Center in Berkeley, California, at 510-848-2980, or the Western Law Center of Disability Rights. If you have any questions, please contact us at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at our electronic mail address: ada.assistance@fta.dot.gov.

Sincerely,

Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: ASI (Identity of Complainant Withheld)



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 25 2002

[REDACTED]

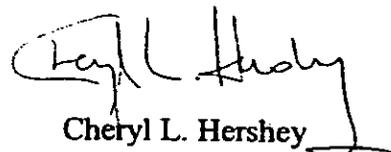
Re: FTA Complaint No. 00-0375

Dear [REDACTED]

This letter is a follow-up to the Americans with Disabilities Act of 1990 (ADA) complaint against Access Services, Inc., (ASI) of Los Angeles, California, that you filed on behalf of your husband, [REDACTED]. It has come to our attention that the Western Law Center for Disability Rights filed a lawsuit, "Nadine Flores, et al vs. Los Angeles County Metropolitan Transit Authority, et al," alleging similar violations to those you allege in your complaint. This lawsuit affects our action on your complaint as it alleges, among other issues that "MTA and ASI, in their provision of complementary paratransit, have limited the availability of paratransit to ADA paratransit-eligible individuals by imposing capacity constraints." The allegations specifically include late pick-ups. As this issue is the subject of pending litigation, and in accordance with our complaint resolution procedures, we have administratively closed this complaint.

You may re-file the complaint with us within 60 days following the termination of the lawsuit if there has been no decision on the merits or settlement of the complaint allegations. If you wish to obtain additional information regarding the lawsuit, we suggest that you contact the Pacific Area Disability and Business Technical Assistance Center in Berkeley, California, at 510-848-2980, or the Western Law Center of Disability Rights. If you have any questions, please contact us at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at our electronic mail address: ada.assistance@fta.dot.gov.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: ASI



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 25 2002

[REDACTED]

Re: FTA Complaint No. 00-0229

Dear [REDACTED]

This letter is a follow-up to the Americans with Disabilities Act of 1990 (ADA) complaint against Access Services, Inc., (ASI) of Los Angeles, California, on behalf of your mother, [REDACTED]. It has come to our attention that the Western Law Center for Disability Rights filed a lawsuit, "Nadine Flores, et al vs. Los Angeles County Metropolitan Transit Authority, et al," alleging similar violations to those you allege in your complaint. This lawsuit affects our action on your complaint as it alleges, among other issues that "MTA and ASI, in their provision of complementary paratransit, have limited the availability of paratransit to ADA paratransit-eligible individuals by imposing capacity constraints." The allegations specifically include late pick-ups. As this issue is the subject of pending litigation, and in accordance with our complaint resolution procedures, we have administratively closed this complaint.

You may re-file the complaint with us within 60 days following the termination of the lawsuit if there has been no decision on the merits or settlement of the complaint allegations. If you wish to obtain additional information regarding the lawsuit, we suggest that you contact the Pacific Area Disability and Business Technical Assistance Center in Berkeley, California, at 510-848-2980, or the Western Law Center of Disability Rights. If you have any questions, please contact us at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at our electronic mail address: ada.assistance@fta.dot.gov.

Sincerely,

Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: ASI



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 25 2002

[REDACTED]

Re: FTA Complaint No. 98288

Dear [REDACTED]

This letter responds to your complaint against the Dallas Area Rapid Transit (DART), of Dallas, Texas, alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be that despite doctors' orders to the contrary, DART ADA Complementary Paratransit providers will not allow you to always occupy the front securement location in vehicles.

The requirement for ADA Complementary Paratransit is for the trip to be provided to an eligible person from an "origin to a destination" and in keeping with the service criteria outlined in the DOT ADA regulations at 49 CFR section 37.131. ADA Complementary Paratransit is meant to be a "safety net" for those persons with disabilities who, because of their disabilities, cannot use

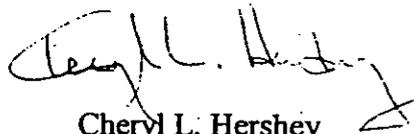
the fixed route service for the general public. It is not a medical service, and it is not an ambulance type service. It is not meant to serve all persons with disabilities for all of their needs all of the time.

We understand that DART implemented a policy in December 1998, that stated the following:

... It is the rider's choice of whether to be secured in the front or rear securement location, if both are unoccupied at the time of boarding. Paratransit operators cannot encourage or demand the use of a specific securement location if there is a preference on the part of the rider.

Please note that this policy exceeds the regulatory requirements. Therefore, any violation of this policy should be reported directly to DART. We, as a federal government agency, will take no action to enforce it. Based on the above, we will take no further action, and have administratively closed your complaint as of the date of this letter. If you have any questions regarding this letter, please call us on the FTA toll free ADA Assistance Line, 1-888-446-4511. You also may contact us at our e-mail address: ada.assistance@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: DART



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 25 2002

[REDACTED]

Re: FTA Complaint No. 99197

Dear [REDACTED]

This letter responds to your complaint against the Miami Valley Regional Transit Authority (RTA), of Dayton, Ohio, alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at

issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your complaint to be that some RTA bus routes do not have buses equipped with wheelchair securement devices, and that a bus in which you were riding on October 27, 1998, did not have adequate securement devices to properly secure your particular wheelchair. As a result, your wheelchair tipped over when the bus turned a corner, and you were injured.

In response to your complaint, we sent a request for data regarding your allegations to Ms. Minnie Fells Johnson, the Executive Director of RTA. We received a response from RTA that addressed and provided relevant information on your allegations noted above.

RTA reported that all of its bus fleet is equipped with wheelchair restraint systems, including the bus on which you were riding when the accident occurred. The report written by the supervisor who was at the scene of the accident states the following:

- The operator stated that she tried to secure your wheelchair, but that because of its design, she was unable to do so.
- You confirmed that the operator attempted to secure your wheelchair without success. You also informed the supervisor that during the six weeks that you had owned your wheelchair, most operators had had difficulty in securing it.

The following DOT ADA regulations at 49 CFR section 37.165(d) are applicable to this situation:

The entity may not deny transportation to a wheelchair or its user on the ground that the device cannot be secured or restrained satisfactorily by the vehicle's securement system.

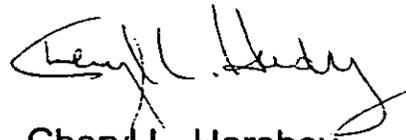
Apparently, the structure of your wheelchair prevents securement by the wheelchair restraint system in use on RTA buses. We see no apparent deficiencies under the DOT ADA regulations regarding this issue. As required by the DOT ADA regulations, the bus was equipped with a restraint

system, and the operator attempted to secure your wheelchair. When she was unable to do so, she did not deny you transportation, but transported you anyway as required by the citation above.

In addition, your claim for the injury you sustained as a result of this incident is not an issue that we address under the complaint investigation procedures of this office. However, from the documentation provided by RTA, it appears that it has made significant efforts to reach a settlement with you. We trust that this issue has been long since resolved.

In view of the above, we have administratively closed your complaint as of the date of this letter. If you have any questions regarding this decision, please contact us at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at our electronic mail address: ada.assistance@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: RTA



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 26 2002

Mr. Lawrence G. Reuter
President
MTA New York City Transit
370 Jay Street
Brooklyn, New York 11201-3878

Re: FTA Complaint No. 010142

This letter transmits a complaint submitted by [REDACTED] against the MTA New York City Transit, New York, New York alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA). The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

The FTA Office of Civil Rights is authorized under the DOT regulation, 49 CFR Part 27, Subpart C to pertinent Sections 27.121-123 to investigate discrimination complaints against providers of public transportation. Please respond to the following allegations made by the complainant, [REDACTED]

- 1. You experienced bus lift failures because of MTA's poor bus lift maintenance and bus lift securement problems;**
- 2. MTA subways are not accessible as "out of order" elevators to token booths or at the platforms at various stations specifically the 42nd Street 4, 5, 6 station failed to function; and,**
- 3. MTA bus operators need sensitivity training to operate bus lifts, and on assisting persons with disabilities.**

Please see the enclosed complaint (Enclosure 1) for specific details.

By forwarding this complaint to you, we have initiated our investigative process. Please review the enclosed complaint for specific details and reply to our inquiry within 30 days of the date of this letter. With your response, please also provide the items that are checked on enclosure 2 of this letter.

As the complaint investigator assigned to this complaint file, please contact me at (202) 366-0805 or at my electronic mail address: linda.king.fta@dot.gov, should you have any questions regarding this inquiry. Please include the FTA complaint number in any correspondence regarding this complaint. Thank you for your assistance.

Sincerely,


Linda Wood King
Equal Opportunity Specialist
Office of Civil Rights

Enclosure (2)



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 26 2002

[REDACTED]

Re: FTA Complaint No. 000228

Dear [REDACTED]

This letter responds to your complaint you filed against the Milwaukee County Transit System (MCT), of Milwaukee, Wisconsin, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

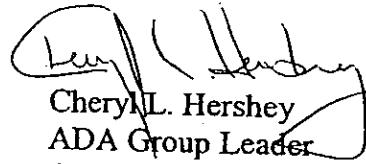
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In July 2001, FTA conducted an on-site compliance assessment of MCT's ADA Complementary Paratransit service, known as Transit Plus. The compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding late pickups and excessive trip lengths in your complaint were addressed from a broader perspective by this compliance assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with MCT until we determine that the deficiencies noted in the report are corrected.

We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Thomas P. Kujawa
Milwaukee County Transit System

Michael Bachhuber
Wisconsin Coalition for Advocacy

Pam Edyburn
Creative Employment



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 27 2002

[REDACTED]

Re: FTA Complaint Number 010158

Dear [REDACTED]

This letter acknowledges our receipt of your complaint on behalf of [REDACTED] against the Metropolitan Evansville Transit System (METS), in Evansville, Indiana, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

If the FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

I'm sorry that the Department of Justice Technical Assistant misinformed you about whether there were guidelines concerning your allegations. The DOT ADA regulations are contained in Code of Federal Regulations at 49 CFR 27, 37, and 38. They can be accessed on the Internet at: <http://www.fta.dot.gov/library/legal/adar.htm>. The DOT ADA regulations at 49 CFR 37.3 define a wheelchair as:

a mobility aid belonging to any class of three or four-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered. A "common wheelchair" is such a device which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied.

The DOT ADA regulations at 49 CFR 37.165(b) state:

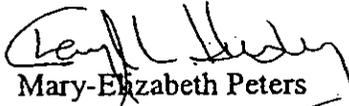
All common wheelchairs and their users shall be transported in the entity's vehicles or other conveyances.

If [REDACTED] wheelchair exceeds the 30"x48" envelope, then the transit provider would not be required to transport [REDACTED]. There is also nothing in the DOT ADA regulations to force a transit provider to leave another space open behind a passenger, in order to accommodate an oversized wheelchair.

In reviewing all of the information contained in your letter, we find no facts to support an alleged deficiency under the ADA or the DOT ADA regulations. Based on this, we have administratively closed your complaint.

If you have any questions regarding this letter, please call us on the FTA toll free ADA Assistance Line, 1-888-446-4511. You also may contact us at our e-mail address: ada.assistance@fta.dot.gov.

Sincerely,


Mary-Elizabeth Peters
Equal Opportunity Specialist
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 28 2002

[REDACTED]

Re: FTA Complaint No. 000230

Dear [REDACTED]

This letter responds to your complaint against Fresno Area Express (FAE), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. FAE bus operators did not properly operate the lift; and
2. You were treated rudely by the bus operators.

We investigated your allegations, and sent a data request to Mr. Charles R. Hayes, Director Transportation, FAE. We received a response from FAE that addressed and provided relevant information on each of your allegations noted above.

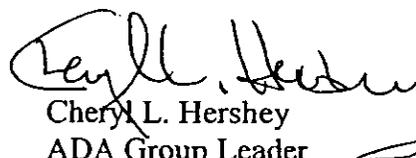
FAE responded to the allegations and submitted documentation and witness statements. The documentation supporting your allegations states that you were using the lift, as a standee, and as you were walking off of the lift, the lift's front barrier raised up and struck your foot.

The documentation supporting the driver's allegations states there were a number of people present at that moment and that you asked for a medic who responded, but then you refused to go to the hospital. In situations such as this, it is not possible to conclusively decide what occurred. However, we have verified that FAE has training in place and in particular, training to address the use of lifts and customer service. In addition, supporting documentation verifies that the driver in question participated in that training each year for the past several years.

We recognize that training does not always ensure proper treatment on a daily basis. We encourage FAE to provide what training is necessary, in an on-going basis, to ensure proper treatment of persons with disabilities. Based on the above, we are administratively closing your complaint as of the date of this letter.

If you have any questions regarding this decision, please contact Linda Wood King, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: linda.king@fta.dot.gov.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Charles R. Hayes
Director of Transportation
Fresno Area Service
2223 "G" Street
Fresno, California 93706



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 28 2002

[REDACTED]

Re: FTA Complaint No. 00006

Dear [REDACTED]

This letter responds to your complaint you filed against the Metropolitan Atlanta Regional Transit Authority (MARTA), of Atlanta, Georgia, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

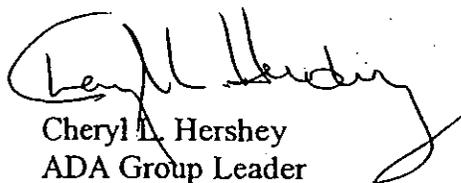
In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In September 2001, FTA conducted an on-site compliance assessment of MARTA's ADA Complementary Paratransit service. The compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding MARTA's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this compliance assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with MARTA until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

Accordingly, we have administratively closed your complaint based upon the above findings. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 28 2002

Ms. Allison Scharf
Maryland Disability Law Center
1800 N. Charles Street, Suite 202
Baltimore, Maryland 21201

Re: FTA Complaint No. 01-0007

Dear Ms. Scharf:

This letter responds to the complaint you filed against the Maryland Mass Transit Administration (MTA), on behalf of your client, [REDACTED], alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

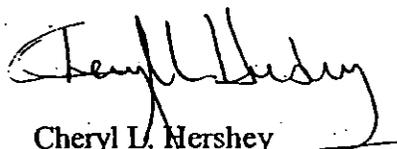
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA contacted MTA regarding Mr. Fitzpatrick's complaint and provided a copy for its response. We have included a copy of MTA's response as an enclosure to this letter.

FTA plans to conduct an on-site compliance assessment of MTA's ADA Complementary Paratransit service in the near future. The decision to perform this compliance assessment was based in part on complaints submitted to the FTA Office of Civil Rights. In addition, FTA has already performed a compliance assessment of MTA's Lift Reliability and Maintenance. That report is not yet final. The specific issues regarding MTA's ADA Complementary Paratransit service and wheelchair lifts in this complaint will be addressed from a broader perspective by these compliance assessments. FTA will monitor MTA's activities in response to any findings until we determine that the deficiencies noted are corrected. We will make every effort to contact you when the ADA Complementary Paratransit compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy.

For the reasons discussed above, we have administratively closed your complaint. If you have any questions regarding this letter, please contact us at 1-888-446-4511 or at our email address: fta.assistance@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

Cc:



MTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 28 2002

[REDACTED]

Re: FTA Complaint No. 98267

Dear [REDACTED]

This letter responds to your complaint you filed against the Milwaukee County Transit System (MCT), of Milwaukee, Wisconsin, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

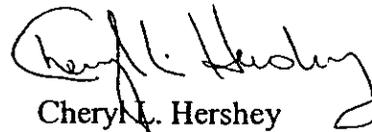
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In July 2001, FTA conducted an on-site compliance assessment of MCT's ADA Complementary Paratransit service, known as Transit Plus. The compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding scheduling and cancellations in your complaint were addressed from a broader perspective by this compliance assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with MCT until we determine that the deficiencies noted in the report are corrected.

We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Thomas P. Kujawa
Milwaukee County Transit System

Michael Bachhuber
Wisconsin Coalition for Advocacy

Pam Edyburn
Creative Employment



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 28 2002

[REDACTED]

Re: FTA Complaint No. 99080

Dear [REDACTED]

This letter is a follow-up to the complaint you filed against the Long Island Rail Road of New York, New York, alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. On November 4, 1998, you attempted to disembark an eastbound train in Islip, New York. The train apparently was very long and some of the cars went past the platform. The doors that were past the platform did not lock and there were no announcements to warn riders of the situation. In addition, you nearly stepped off the train car and could have fallen onto the tracks

2. During the week of January 4, 1999, you and your guide dog were crushed in the doors while attempting to disembark an eastbound train in Islip.
3. On March 2, 1999, an LIRR employee accidentally placed you on the wrong train causing you to miss the last train to Islip for the day. The employee engaged in angry, loud and almost threatening behavior toward you. In addition, the employee refused to give his name.

We investigated your allegations, and sent a data request to Mr. Thomas F. Pendergast, President MTA/LIRR. We received a response from LIRR that addressed and provided relevant information on each of your allegations noted above.

LIRR explained that the incidents were investigated and the employee in question (an Assistant Conductor) was reprimanded and his performance was closely monitored for a period of time. In addition, the Superintendent thereafter, personally reviewed with the conductor applicable safety procedures and operating rules.

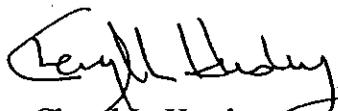
LIRR explained that you were contacted and given an apology for the unfortunate incidents that occurred to reassure you that precautionary measures would be taken to prevent a recurrence. We understand that since the incident with the door, LIRR has replaced the entire fleet of diesel trains with a new fleet of cars equipped with a central door control mechanism, therefore, preventing a recurrence of this incident.

LIRR stated that during a May 1999 meeting, you offered a number of observations and suggestions that were instrumental in their development of a training program that would address your concerns. Based on that meeting, LIRR informed us that efforts were made to expand and accelerate employee-training programs to provide safe, professional and courteous service.

After reviewing all of the submitted materials, it appears that the facts leading to the particular circumstances experienced by you were the result of temporary deficiencies. However, the information provided by LIRR shows that there is procedures in place as required by the DOT ADA regulation and that LIRR is ensuring these procedures are followed. As we have not heard from you regarding any continued problems, we are administratively closing your complaint as of the date of this letter.

If you have any questions regarding this decision, please contact Linda Wood King, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at his electronic mail address: linda.king@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Thomas F. Prendergast
President
MTA Long Island Rail Road
Jamaica Station
Jamaica, New York 11435



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 28 2002

Ms. Pam Edyburn
Program Manager
Creative Employment Opportunities
219 North Milwaukee
Milwaukee, Wisconsin 53202

Re: FTA Complaint No. 99137-99140

Dear Ms. Edyburn:

This letter responds to your complaint filed on behalf of your clients against the Milwaukee County Transit System (MCT), of Milwaukee, Wisconsin, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

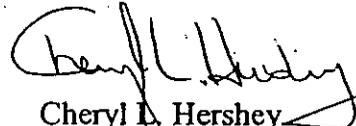
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In July 2001, FTA conducted an on-site compliance assessment of MCT's ADA Complementary Paratransit service, known as Transit Plus. The compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding late pickups, excessive trip lengths, and dispatcher errors in your complaint were addressed from a broader perspective by this compliance assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with MCT until we determine that the deficiencies noted in the report are corrected.

We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we have administratively closed your complaint.

If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Thomas P. Kujawa
Milwaukee County Transit System

Michael Bachhuber
Wisconsin Coalition for Advocacy

Pam Edyburn
Creative Employment



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Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 28 2002

[REDACTED]

Re: FTA Complaint No. 00-0309

Dear [REDACTED]

This letter responds to your complaint against Access Services, Inc. (ASI), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint

investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleges that some ASI drivers purposely refuse to transport individuals with disabilities who use service animals, and improperly report them as "no-shows."

We sent a data request to Mr. Richard DeRock, Executive Director, ASI, and received a response from ASI (copy enclosed) that addressed and provided relevant information on your allegations noted above.

The DOT ADA regulations at 49 CFR 37.167(d) state:

The entity shall permit service animals to accompany individuals with disabilities in vehicles and facilities.

Based on the information provided by ASI, we understand that a Service Animal Subcommittee was formed in November 1999, that consists of ASI staff and service animal users, including you, as the Chairperson. The subcommittee meets quarterly to discuss service animal related issues. The subcommittee has designed and distributed a flyer to all certified ASI drivers who were required to read and sign the flyer that was then placed in each employee's personnel file. According to ASI, the subcommittee has taken other proactive steps to improve service to service animal users as well as persons with visual impairments. Apparently, based on the reduction in the number of complaints that ASI has received, this has resulted in a reduction of difficulties encountered by these

two groups. ASI indicated that you had no valid no shows assessed to you as of the date of its response. ASI does acknowledge that "inappropriately assessed no shows have been and will continue to be addressed by Access Services. This is an ongoing and fundamental issue not specific to Access Paratransit users, rather an issue faced by any visually impaired individual using a curb-to-curb paratransit service."

ASI stated that should you experience any future service problems, you should immediately contact the Operations Monitoring Center (OMC) at 1-(800)-827-0829. OMC has access to other resources to provided needed service when the intended service provider has failed for any reason.

Based on the corrective actions implemented by ASI, we are administratively closing your complaint as of the date of this letter. If you have any questions regarding this decision, please contact us at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at our electronic mail address: ada.assistance@fta.dot.gov. Thank you for bringing this to our attention.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: ASI



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 28 2002

[REDACTED]

Re: FTA Complaint No. 94016

Dear [REDACTED]

This letter responds to your complaint you filed against the Capital Area Transit Authority (CATA), of Lansing, Michigan, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

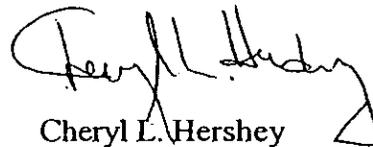
Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In April 2000, FTA conducted an on-site compliance assessment of CATA's stop announcement and route identification efforts on its fixed route service. The compliance assessment was based in part on complaints submitted to the FTA Office of Civil Rights. In response to the assessment findings, CATA has taken significant corrective actions, which FTA continues to monitor through quarterly reports submitted by CATA.

The specific issues regarding CATA's fixed route service in your complaint were addressed from a broader perspective by this compliance assessment. As such, we have combined our monitoring efforts on your complaint with those addressing the assessment findings. We have enclosed a copy of the final compliance assessment report for your information.

Based on the above, we have administratively closed your complaint. If you have any questions regarding this letter, please contact us at 1-888-446-4511 or at our email address: ada.assistance@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: CATA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR - 7 2002

[REDACTED]

FTA Complaint No. 010280.

Dear [REDACTED]

This letter responds to your complaint against the City of Loveland Transit (COLT), Loveland, Colorado, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be that COLT does not provide ADA Complementary Paratransit at the same hours and days as fixed route service.

We informed the City of Loveland Transit of your allegations, requested information relating to your complaint and reviewed the information presented by COLT and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

The DOT ADA regulations at 49 CFR 37.131(e) states:

The complementary paratransit service shall be available throughout the same hours and days as the entity's fixed route service.

The information provided by COLT indicated that the ADA Complementary transit is provided during the hours of 6:38 AM to 6:38 PM, Monday through Saturday. However, the website information is different and states:

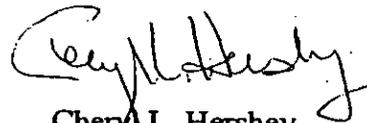
The C.O.L.T. Paratransit Service offers door-to-door transportation services within Loveland's city limits for individuals who cannot use regular bus service. This service is available 7:30 a.m. - 4:30 p.m., Mon.-Fri. to anyone over the age of 60, and to disabled individuals of any age. Our goal is to provide independence and mobility for those who might otherwise be socially isolated. For information about the C.O.L.T. Paratransit, call (970) 962-2700

When the investigator called the transit agency and asked what the hours were for paratransit service on Saturday, the response was from 7:00 AM to 5:00 PM.

As the information seems to be inconsistent, FTA will write a letter to COLT stating that if the hours and days of ADA Complementary Paratransit service differ from the hours and days of fixed route service, that COLT will correct schedule. COLT will be asked to provide copies of all corrected policies and procedures within 30 days.

Based on the above, your case is administratively closed. If you have any questions about this determination, contact Mary-Elizabeth Peters at (202) 366-0792 or at her email address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Caroline Schmiedt
Assistant City Attorney



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 8 2002

[REDACTED]

Re: FTA Complaint No. 97252

Dear [REDACTED]

This letter responds to your complaint against Metro Regional Transit Authority (SCAT), Akron, Ohio, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be as follows;

SCAT fails to pick you up on time for your trips to and from your dialysis center.

We informed SCAT of your allegations, requested information relating to your complaint and reviewed the information presented by SCAT and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information.

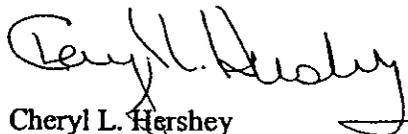
SCAT's response stated:

METRO bid on a contract, Enhanced Medicaid Transportation (EMT) for the Summit County Department of Human Services (DHS). We began servicing clients of the EMT on Sept. 1, 1997. The service is for individuals or Medicaid eligible for trips to dialysis, chemotherapy, and outpatient physician appointments.

The DOT ADA regulations cover ADA Complementary Paratransit service, not trips contracted by Human Services agency. We have attached information from the Department of Health and Human Services on how to file a complaint with that agency.

Based on the information cited above, we are administratively closing your complaint. If you have any questions about this determination, contact Mary-Elizabeth Peters at 1-888-446-4511 or at her email address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Robert K. Pfaff
General Manager
SCAT



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 8 2002

[REDACTED]

Re: FTA Complaint No. 01-0066

Dear [REDACTED]

This letter responds to your complaint against Brazos Transit District (BTD), which provides commuter bus service between The Woodlands and Houston, Texas. Your complaint was forwarded to us from the U.S. Department of Transportation Office of Inspector General as matters of this nature fall under our jurisdiction. We interpret your complaint to allege noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Part 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, the majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

The allegation in your complaint over which we have jurisdiction is as follows:

- **BTD does not provide lift-equipped buses for service on its commuter route between The Woodlands and Houston, Texas.**

We previously investigated a similar complaint against BTD and will use the information we gathered in that investigation to respond to your complaint. Our decision was on an analysis of the compiled information in relation to the DOT ADA regulations. Our determination follows.

As we understand the facts, BTD service is provided under a contract with a private entity, Coach USA, which was executed in 1993. The DOT ADA regulations at 49 CFR section 37.23(b) states that:

A private entity which purchases or leases new, used, or remanufactured vehicles, or remanufactured vehicles, for use, or in contemplation of use, in fixed route or demand responsive service under contract or other arrangement or relationship with a public entity, shall acquire accessible vehicles in all situations in which the public entity itself would be required to do so by this part.

According to BTD, the over-the-road buses used to fulfill the previous contract were existing vehicles in the Coach USA fleet. When the contract began in 1993, there was no requirement that over-the-road buses purchased by private transportation providers for their own use had to be lift-equipped. However, BTD awarded a new contract for services to Coach USA on April 26, 2000, that requires all vehicles to be in compliance with the DOT ADA accessibility requirements. Service was supposed to have begun on September 1, 2000; however, Coach USA was not able to procure accessible vehicles in time to meet that start date. We have learned that BTD began using accessible buses to The Woodlands on April 2, 2001.

We hope that this new accessible service fits your needs. If you have any questions regarding this letter, please contact Roberta Wolgast, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address, roberta.wolgast@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Brazos Transit District
(Name of Complainant Withheld)

The Goodman Corporation
(Name of Complainant Withheld)



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 15 2002

[REDACTED]

Re: FTA Complaint No. 99117

Dear [REDACTED]

This letter responds to your complaint of discrimination against the San Diego Metropolitan Transit Development Board (MTDB), San Diego, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegations to be as follows:

1. You have anxiety attacks, and fixed route bus drivers will not allow you to open the window on the bus.

2. Drivers are rude to you, and in one incident a bus driver responded to you with, "Well, don't take the bus."
3. You applied for paratransit service and were improperly denied.

We informed MTDB of your allegations, requested information relating to your complaint and reviewed the information presented by MTDB and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determinations, below:

1. **You have anxiety attacks, and fixed route bus drivers will not allow you to open the window on the bus.**

MTDB stated in its response:

...[A]ll public transit buses in the MTDB area are equipped with heating, ventilation, and air-conditioning (HVAC) systems for the comfort of our passengers. It is imperative that the HVAC systems are used properly to maintain a comfortable temperature for passengers, many of whom are seniors and/or disabled, and have conditions that are temperature (especially heat) sensitive. Many customers consider the climate control system to be a safety item, especially in the summer, when some individuals become susceptible to heatstroke and other climate-related conditions. Unfortunately, when a passenger opens the window, it negates the benefit of the HVAC system. Ambient air is drawn into the vehicle through the open window and the conditioned air is pulled outside. To prevent this scenario, our bus drivers often request passengers to keep the windows in the closed position when the HVAC system is being operated on a warm day.

MTDB's fixed route system is shared ride public transportation. As such, conditions must be maintained for all passengers riding on a bus. In this particular instance, we do not find MTDB to be in violation of DOT ADA regulations.

2. **Drivers are rude to you, and in one incident a bus driver responded to you with, "Well, don't take the bus."**

The DOT ADA regulations at 49 CFR 37.173 state:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

MTDB provided documentation that all employees are trained according to DOT ADA regulations. However, we recognize that proper training does not always ensure proper application by those trained. Thomas Larwin, General Manager of MTDB, stated the following in his response:

Since [REDACTED] did not cite any specific details of this incident, I am unable to identify the driver involved to provide actual documentation of training received. We appreciate a more detailed account of any such problem, as it allows us to follow through with a specific driver. We do not consider the response that the complaint received from the driver to be acceptable or in accordance with our training.

Should you encounter similar problems in the future, we would suggest that you contact MTDB directly with the details so that the transit provider can follow through with any drivers who are rude and insensitive towards you. Because of the response that Mr. Larwin has given, we will take no further action on this allegation.

3. You applied for paratransit service and were improperly denied.

The DOT ADA regulations at 49 CFR 37.123(e) define who is eligible for ADA Complementary Paratransit service:

- (1) Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable individuals with disabilities.
- (2) Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time, or within a reasonable period of such time, when such a vehicle is not being used to provide designated public transportation on the route. . . .

MTDB stated in its response:

[REDACTED] initially filed an application for ADA certification in 1999. [REDACTED] claimed to be eligible for ADA paratransit service on the grounds that he suffers from panic attacks when the windows are closed on the fixed-route buses. This assumes that he would not encounter this problem on our ADA paratransit vehicles because he would be able to open the windows, if necessary. [REDACTED] belief that ADA paratransit vehicles would offer an increased opportunity to open the vehicles' windows is inaccurate. The requirement to maintain conditioned air

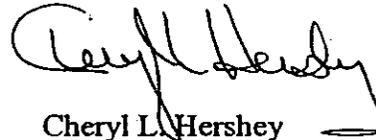
for the safety and comfort of all passengers would apply to our paratransit, as well as our fixed-route, vehicles.

MTDB further stated regarding your certification that you were given in an in-person assessment and determined to have a functional ability to ride fixed route buses. You appealed the denial and received a Functional Appealed Assessment, an interview in which a separate evaluator, unassociated with the initial decision, evaluated your application and appealed. On June 2, 1999, this Appeal Specialist upheld the decision to deny paratransit eligibility.

Based on this information, it appears that you were not denied due process rights with regard to your paratransit certification. Therefore, it does not appear that MTDB violated DOT ADA regulations.

Based on the determinations, we are administratively closing your complaint. If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, at (202) 366-0792, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: MTDB



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

APR 22 2002

Lauren Young, Legal Director
Allison Scharf, Staff Attorney
Maryland Disability Law Center
1800 North Charles Street, Suite 400
Baltimore, Maryland 21201

Re: FTA Complaint No. 02-0015

Dear Mses. Young and Scharf:

This letter is in response to your letter of complaint on behalf of individuals with disabilities, alleging that the Mass Transit Administration of Maryland (MTA) is in violation of the Americans with Disabilities Act of 1990 (ADA) by failing to provide adequate ADA Complementary Paratransit service. We understand that the Maryland Disability Law Center has submitted over 1000 complaints to MTA, and that this complaint is a compilation of those complaints.

In reviewing the individual letters of complaint, we note a large number of allegations regarding on-time performance, carrier "no-shows," and difficulties in accessing telephone service -- all of which combined, may indicate that MTA is experiencing capacity constraints. To address this concern, the Federal Transit Administration plans to conduct a compliance assessment of MTA's ADA Complementary Paratransit service from June 17-21, 2002. The assessment will focus on MTA's compliance with the six service criteria required by the Department of Transportation ADA regulations at 49 CFR section 37.131, with an emphasis on capacity constraints. The assessment also takes an in-depth look at related issues that sometimes reveal a direct link to service deficiencies, such as: MTA's budget, contract agreements with service providers, the eligibility process, telephone capacity, and policies and procedures. We anticipate that the findings from the compliance assessment will address the allegations contained in this complaint.

We have provided a complete copy of your complaint to the contractor, Planners, Inc., of Boston, Massachusetts, that will be conducting the compliance assessment. They will be in touch with you in advance of the assessment.

As you are aware, my staff and I recently met with Virginia White, the MTA Acting Director, and her staff to discuss ADA issues. At the meeting, I offered to meet with MTA and the MDLC to further the conversation, and they agreed. My offer is open to you. Please let me know if you are interested. I am available to travel to Baltimore to facilitate the meeting.

I hope that this letter has been helpful. If you have questions or require further information regarding this matter, please do not hesitate to contact me at (202) 366-4018 or Roberta Wolgast, Equal Opportunity Specialist, at (202) 366-0802.

Sincerely,



Michael A. Winter
Director, Office of Civil Rights

Cc: MTA



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 3, 2002

[REDACTED]

Re: FTA Complaint No. 01-0138

Dear [REDACTED]

This letter responds to your complaint regarding the Metro Regional Transit Authority, SCAT Akron, Ohio, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

Because of the limitation in resources, complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be that:

- **The Metro RTA denied you full ADA eligibility service, when the service takes you to a bus stop rather than directly to your destination, which causes you difficulty because of your asthma and respiratory disabilities.**

The DOT ADA regulation at Section 37.123 appendix D, ADA Paratransit Eligibility Standards, states:

Category 3 Eligibility, the third eligibility criterion concerns individuals who have a specific impairment-related condition, which prevents them from getting to or from a stop or station.

As to the actual determination of eligibility, in complaints of this nature, unless the facts of the particular circumstance appear to be egregious or substantively violate the regulation, we consider only the appeals process to determine if it comes within the requirements of the DOT ADA regulations. Our review of the facts does not warrant accepting this allegation of eligibility denial as egregious or substantively violative. We accept for investigation the allegation regarding the propriety of the appeal process.

We informed the Metro RTA of this complaint allegation; reviewed the information presented by both Metro RTA and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation.

The DOT ADA regulation at Section 37.125(g) states that:

The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial. (1) The entity may require that an appeal be filed within 60 days of the denial of an individual's application. (2) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it. (3) The entity is required to provide paratransit service to the individual pending the determination on appeal.

- In November 2000, you applied for ADA Complementary Paratransit services.
- On December 4, 2000, we note that you were initially evaluated and underwent a functional assessment by an orthopedic Specialist at Cuyahoga Falls General Hospital at Easy Street. According to the Cuyahoga Falls General Hospital evaluation, you did not demonstrate a functional impairment, and the hospital recommended that you use the regular fixed route bus line service.
- On December 11, 2000, you requested an appeal and the Metro's ADA Appeals Committee conducted the appeal on January 9, 2001. The appeals decision determined that you were "unable, due to impairment-related conditions, to get to and from a regular Metro bus stop during ADA hours (weekends, before and after SCAT hours)."

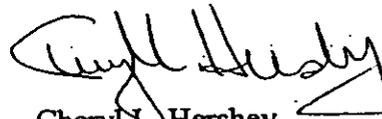
Metro explained that your certification under the ADA Complementary Paratransit service is, "to and from the fixed route bus stop." Metro advised that this means you will be picked up at your residence and taken to the nearest bus stop to complete your trip, and returned.

- On December 13, 2000, Metro RTA explained that you were notified that your eligibility for full ADA Complementary Paratransit Service was denied. You did, however, retain temporary SCAT eligibility (curb-to-curb service for older adults and individuals with disabilities Monday through Friday, 6 a.m. to 6 p.m.) until November 15, 2001.

A review of the information and documentation indicates that Metro RTA established an appropriate administrative appeals process. Based on the information provided, the Metro RTA did not violate the DOT ADA regulations with regard to its eligibility certification process.

If you have any questions regarding this decision, please contact Linda Wood King, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: Linda.King@fta.dot.gov Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Mr. Alan R. Smith, Director of SCAT
Mr. David Thornton, EEO Officer



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 3 2002

[REDACTED]

Re: FTA Complaint Number 000345

Dear [REDACTED]

This letter responds to your complaint filed against the Southeastern Pennsylvania Transit Authority (SEPTA), Philadelphia, Pennsylvania, alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If we cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider who may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of resolution or letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. You and your wife have experienced late pickups, sometimes exceeding one hour.
2. You and your wife have experienced no shows on return trips.

We informed SEPTA of your allegations, requested information relating to your complaint and reviewed the information presented by SEPTA and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determinations, below:

1. **You and your wife have experienced late pickups, sometimes exceeding one hour. AND**
2. **You and your wife have experienced no shows on return trips.**

The DOT ADA regulations at 49 CFR 37.131(f) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:

- (1) Restrictions on the number of trips an individual will be provided;
- (2) Waiting lists for access to the service; or
- (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.
 - (i) Such patterns or practices include, but are not limited to, the following:
 - (A) Substantial numbers of significantly untimely pickups for initial or return trips;
 - (B) Substantial numbers of trip denials or missed trips;
 - (C) Substantial numbers of trips with excessive trip lengths.

SEPTA's response included a table titled "Summary of Correspondence From Complainant to John K. Leary, Jr., Respondent General Manager for the Period January 1998 through March 2001." It showed that SEPTA apologized, for a number of late pickups and no shows for the period of February 12, 1998, through March 30, 2000.

FTA conducted an on-site compliance assessment of SEPTA's ADA Complementary Paratransit service, in March 2000. The specific issues arising out of your complaint, late pick ups and no-shows, were areas addressed from a broader perspective by this compliance assessment. Where findings of deficiencies were made, FTA will monitor SEPTA until we determine that the deficiencies noted are corrected. We have attached a copy of the Final SEPTA compliance assessment report for your reference.

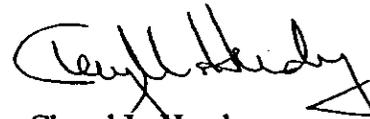
In addition, on January 4, 2001, Judge Lowell Reed, Jr., issued a District Court decision:

It is hereby **DECLARED** that Septa violated the ADA and Section 504 by failing to provide next-day service to all ADA-eligible patrons and constraining paratransit service by operating in a pattern or practice that significantly limits the availability of rides to ADA-eligible patrons by issuing a substantial number of trip denials and operating a system that fails to attempt to provide rides to all disabled riders.

Since the filing of your complaint, the conducting of the compliance assessment, and the issuance of the court decision, SEPTA has taken steps to improve their service and has made significant strides towards reaching that goal. As a result of the above we are closing your complaint. FTA will monitor SEPTA until we determine that the deficiencies identified by the compliance assessment are corrected.

Thank you for bringing this matter to our attention. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions, please contact Mary-Elizabeth Peters, at (202) 366-0792, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: John K. Leary, Jr.
General Manager
SEPTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY - 9 2002

[REDACTED]

Re: FTA Complaint Number 010033

Dear [REDACTED]

This letter responds to your complaint against Southeastern Pennsylvania Transit Authority (SEPTA), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

- On October 5, 2000, your son was left stranded at the Cardinal Krol Center in Springfield, Pennsylvania.

We investigated your allegations, and sent a data request to Mr. John K. Leary, Jr., General Manager, and SEPTA. We received a response from SEPTA (enclosed) that addressed and provided relevant information on each of your allegations noted above.

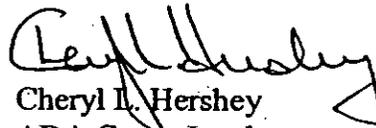
The transit provider explained that SEPTA has no record of a trip on October 5, 2000. SEPTA did have a record of a trip on October 12, 2000, for your son to be picked up at the Cardinal Krol Center. The driver was late and did not arrive until 4:24 p.m. The driver was told that your son had left at 2:00 p.m.

In cases such as this, where the material facts are disputed, we have no way to establish what actually occurred. However, King Paratransit ceased being a service provider for SEPTA on August 17, 2001, and a new contractor has taken over. You may want to consider trying the service again with the new contractor.

FTA conducted an on-site compliance assessment of SEPTA's ADA Complementary Paratransit service, in March 2000. The specific issue in your complaint, no shows by SEPTA, was an area addressed from a broader perspective by this compliance assessment. Where findings of deficiencies, were made FTA will monitor SEPTA until we determine that the deficiencies noted are corrected. We have attached a copy of the Final SEPTA compliance assessment report for your reference. For the reasons discussed above, we are administratively closing your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: John K. Leary, Jr.
General Manager
SEPTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY - 9 2002

[REDACTED]

Re: FTA Complaint No. 99093

Dear [REDACTED]

This letter responds to your complaint against Metro-North Railroad (MNR), New York City, New York, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

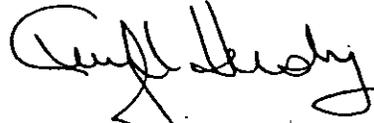
If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be that you have been denied a parking permit for parking for people with disabilities in a permitted parking lot for MNR at the Peekskill station. The circumstances you describe do not appear to raise an issue that we are able to address under any civil rights laws for which this office has jurisdiction. The enforcement of the parking spaces in the lot is a matter of local jurisdiction.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at (202) 366-0792, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Peter A. Canito, President
Metro-North Railroad



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

MAY - 9 2002

[REDACTED]

Re: FTA Complaint No. 00007

Dear [REDACTED]

This letter responds to your complaint regarding the Los Angeles County Metropolitan Transportation Authority, Access Service, Inc. (ASI), and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U S. Department of Justice for enforcement.

Because of the limitation in resources, complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property

We understand your allegation to be that:

- **ASI denied you ADA Complementary Paratransit disability certification eligibility for transportation services. ASI stated in a letter during your evaluation that you had the ability to stand or walk, although you are paraplegic and have not been able to stand or walk for five years.**

As to the actual determination of eligibility, in complaints of this nature, unless the facts of the particular circumstance appear to be egregious or substantively violate the regulation, we consider only the appeals process to determine if it comes within the requirements of the DOT ADA regulations. Our review of the facts does not warrant accepting this allegation of eligibility denial as egregious or substantively violative. We accept for investigation the allegation regarding the propriety of the appeal process.

We informed the ASI ADA Complementary paratransit service of this complaint allegation; reviewed the information presented by both ASI and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation.

The DOT ADA regulation at Section 37.125(g) states that:

The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial. (1) The entity may require that an appeal be filed within 60 days of the denial of an individual's application. (2) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it. (3) The entity is not required to provide paratransit service to the individual pending the determination on appeal. However, if the entity has not made a decision within thirty days of the completion of the appeal process, the entity shall provide paratransit service from that time until and unless a decision to deny the appeal is issued.

- We note that you were initially evaluated for ADA Complementary Paratransit service on January 2000 and were found temporarily eligible for Access Paratransit service based on your inability to push your wheelchair to the bus stops because of your elbow surgery. You were provided six months of eligibility to allow for your participation in physical therapy.
- On October 2, 2001, you participated in a recertification transit evaluation that indicated that you were able to use your wheelchair to go to and from the bus stops. During the evaluation process, ASI found that you appeared to possess the transit skills and abilities necessary to use accessible public transportation and therefore, you were no longer eligible for Access Paratransit service.
- You filed an appeal of the October 2, 2001 decision, as you felt you were eligible for Access Paratransit because you have a B1-Polar condition that causes you to feel uncomfortable around people. Access Eligibility Services referred you to one of their contracted Appeals Specialist who is a licensed clinical psychologist, to evaluate how this condition affects your ability to use accessible public transportation. She met with you in person and based on her observations, prepared a written report concluding that you should be able to use the bus and recommended that your appeal be denied.

You indicated that in the letter of denial you received, one of the reasons given for the denial of eligibility was that you could walk. You pointed out that you can't walk and stated, "I am paraplegic, and haven't been able to stand or walk for almost five years. I consider that statement to be very offensive!"

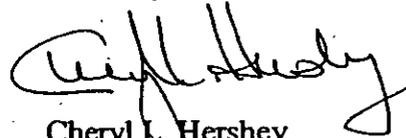
A copy of the letter sent to you by The Office of Access Eligibility Services, shows as one of the reasons given to you, an inappropriate misstatement indicating that you had the ability to stand or walk. However, the actual evaluation was done in-person and the reports in support of that evaluation acknowledge that you use a manual wheelchair.

While we recognize this clerical error was upsetting it does not undermine the appeal determination. In your letter to us you point out that Access Services apologized to you for this mistake and in ASI's response to us during this investigation they also acknowledged their error and informed us that they apologized to you for the misstatements.

Based on the above we do not find a violation of 37 125(g) and accordingly, we are closing this complaint.

If you have any questions regarding this decision, please contact Mary Elizabeth Peters, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: Mary-elizabeth.peters@fta.dot.gov Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: W Joe King, Jr., ASI
Richard DeRock, Executive Director, ASI



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 15 2002

[REDACTED]

Re: FTA Complaint No. 000333

Dear [REDACTED]

This letter responds to your complaint against the County of Lebanon Transit Authority (COLT) in Lebanon, Pennsylvania, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Part 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be that:

- 1. Reservations are accepted between the hours of 8 AM to 2 PM on weekdays only;**
- 2. Reservations are accepted one day in advance of the trip;**
- 3. Hours of operation are substantially limited, especially on weekends.**

The DOT ADA regulation at 49 CFR 37.131 b (1)(4) states that:

- (1) The entity shall make reservation service available during at least all normal business hours of the entity's administrative offices, as well as during times comparable to normal business hours, on a day when the entity's offices are not open before a service day
- (4) The entity shall permit advance reservations to be made up to 14 days in advance of an ADA paratransit eligible individual's desired trip

We informed COLT of your allegations, requested information relating to your complaint and reviewed the information presented by COLT and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determination below:

1. **Reservations are accepted between the hours of 8 AM to 2 PM on weekdays only;**

The investigation confirms your allegation that COLT accepts reservations for ADA Complementary Paratransit rides during the hours of 8 AM to 2 PM Monday through Friday and the business hours are from 8 AM to 4 PM Monday through Friday. After a conversation with FTA, COLT General Manager agreed and promptly corrected the problem and submitted written correspondence to show that reservations will be taken during the same hours that the business office is open Monday through Friday and on the weekend prior to the next day service. While COLT was not meeting its obligation under 49 CFR 37.131 (h) (1), their immediate corrective action has resolved this matter.

2. **Reservations are accepted one day in advance of the trip;**

An examination of the information submitted shows that 49 CFR 37 131 states:

An entity may permit advance reservations to be made up to 14 days in advance of an ADA paratransit eligible individual's desired trips. When an entity proposes to change its reservation system, it shall comply with the public participation requirements equivalent to those of section 37.131. (b) and (c).

Please note that previously this section required that 14 days advance reservation service be offered. However, the regulation was amended, still requiring next day service, but leaving the decision whether to provide more expansive reservation service up to the transit property to be determined through the local public participation process.

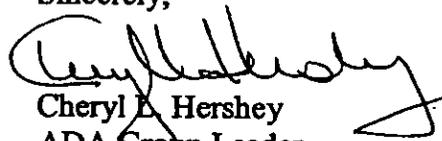
COLT allows reservations to be taken up to 14 days in advance of the trip. This is in accord with the above-cited regulation.

3. Hours of operation are substantially limited, especially on weekends

The Federal Transit Administration (FTA) is the agency of the U.S. Department of Transportation (DOT) that provides funds to state and local public bodies to assist with the provision of public transportation. However, although we are sensitive to and concerned about COLT's hours of operation being substantially limited, FTA is prohibited by the Federal Transit Laws, as codified under 49 U.S.C., Section 5324(c) "Prohibitions Against Regulating Operations and Charges," from becoming involved in local decisions regarding transit operations. FTA Office of Civil Rights is responsible for civil rights compliance and monitoring as it relates to discrimination in providing mass transportation to customers on an equal basis. With this in mind, we are unable to assist you in your attempt to persuade COLT to extend its hours of operation.

You have the right to file an appeal in this matter up to thirty days from the date of the letter to Michael Winter, Director Office of Civil Rights, Federal Transit Administration. If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,


Cheryl A. Hershey
ADA Group Leader
Office of Civil Rights

cc: County of Lebanon Transit Authority



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 15 2002

Mr. Robert J Raubach
Georgia Advocacy Office
100 Crescent Centre Parkway, Suite 520
Tucker, Georgia 30084

Re: FTA Complaint Nos. 00046 and 000304

Dear Mr. Raubach:

This letter responds to your complaints filed on behalf of Mr. [REDACTED] against the Columbus Metro Transit (METRA), in Columbus, Georgia, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

Because of the limitation in resources, complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be that:

- You experienced wheelchair lift failure and the METRA bus operators were untrained to operate the bus lifts.

We informed METRA of the complaint allegations; reviewed the information presented by both METRA and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation.

Accessible features issue:

The DOT ADA regulations at 49 CFR section 37.161(a) address this issue with the following guidance:

Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.

We note in previous correspondence to you, from METRA, submitted as part of METRA's response to these allegations, that METRA acknowledges that 95% of their fleet, at that time, was 10-12 years old and as such, at times, the lifts malfunctioned.

METRA informed us that they have 29 fixed route buses and 7 paratransit mini-buses. Of the 29 fixed route buses, 17 had operational lifts and 12 have been in various stages of repair, update or replacement. METRA is scheduled to receive 5 low floor buses that will aid with alleviating wheelchair lift issues. In 2003, METRA is scheduled to receive another 14 low floor buses.

They explained that to assure ADA compliance they have made every effort to make the buses operational. METRA provided information documenting that in January 2000, METRA hired Skyline Equipment to work on lifts that their maintenance personnel could not repair. Further, on March 14-15 2000, Lift-U Company provided four of METRA mechanics with intensive training on Lifts-U lifts due to prior maintenance issues. As a result of this training, METRA explained that they have enhanced its operational readiness as it relates to wheelchair lifts.

In addition, to ensure that vehicles are fully accessible, wheelchair lifts are inspected each night by maintenance and daily by bus operators. METRA states that its policy is to attempt to respond immediately to resolve and/or provide reasonable accommodations when necessary

Training issue:

The DOT ADA regulations state at 49 CFR section 37.173

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

METRA responded to your allegation of untrained bus operators using lift equipped buses, by stating that their policy provides six weeks of training to all new bus operators on various types of bus lifts. METRA explained that one-on-one training with all bus operators has been recently conducted. In addition, METRA informed us that periodically random tests are conducted to ensure that bus operators are efficient in operating all types of wheelchair lifts on the fleet.

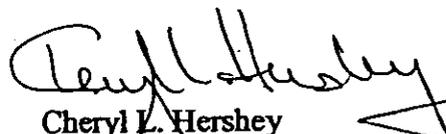
Our investigation reveals that problems have existed concerning the overall METRA bus lift system. However, it appears that METRA has taken considerable corrective actions to resolve various deficiencies in their wheelchair lift operations. In addition, we have reviewed the letter you sent to Ms. Lisa Goodwin, Director Columbus Metro Transit, stating that you found Mr. [REDACTED] bus service and maintenance of accessible buses dramatically improved.

In speaking with you recently, April 17th, 2002, I understand that the situation has greatly improved but is not completely remedied. Our mutual understanding and expectation is that the delivery of new low floor buses planned for 2003 by METRA will further resolve this matter.

Based on the above we are closing this complaint. You are entitled to file an appeal to Michael Winter, the Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding this decision, please contact Mary Elizabeth Peters; on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address, mary-elizabeth.peters@fta.dot.gov Please identify the FTA complaint number in any correspondence with this office.

If the delivery of vehicles in the near future and the above steps do not fully resolve the matter please contact us for further assistance. Thank you for bringing your concerns to our attention.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Lisa Goodwin, Director
DOT/METRA
P.O Box 1340
Columbus, Georgia 31902-1340

Mr. Willie Beasley
3700 Chapman Way, Apt. 201A
Columbus, Georgia 31903



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 23 2002

[REDACTED]

Re: Complaint No. 01-0146

Dear [REDACTED]

This letter responds to your complaint you filed against the Birmingham Jefferson County Transit Authority (BJCTA), Birmingham, Alabama, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

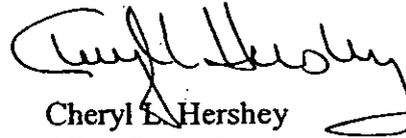
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

The FTA conducted an on-site compliance assessment of BJCTA's ADA Complementary Paratransit service from April 29 through May 2, 2002. The assessment was based in part on complaints, including yours, submitted to the FTA Office of Civil Rights. The specific issues

regarding BJCTA's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with BJCTA until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

We will be administratively closing your complaint based upon our intention to proceed as described above. If you have any questions regarding this letter, please contact us at 1-888-446-4511 or at our email address: ada.assistance@fta.dot.gov Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl E. Hershey
ADA Group Leader
Office of Civil Rights

cc: BJCTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.E.
Washington, D.C. 20590

MAY 23 2002



Re: FTA Complaint No. 99002

Dear [REDACTED]

This letter responds to your complaint of discrimination against the Los Angeles County Mass Transit Authority (LACMTA), Los Angeles, California, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegations to be as follows:

1. You applied for and never received your reduced fare card. AND
2. LACMTA bus drivers are rude and threatening to you. In one incident, a driver told you to put more money in the fare box, or he would make you get off the bus. (You were not able to be specific about dates.)

We have made a determination on the allegations based on our analysis of the information in relation to the DOT ADA regulations.

We understand from you that you lost your bus card and bus pass and that your reduced fare card had expired. During that time you boarded a bus attempting to pay the reduced fare. The driver required you to pay full fare and was rude to you. Under those facts the driver was not in error to require you to pay full fare and this was not an ADA violation.

In addition, the ADA does not cover the matter of the reduced fare card itself. However, in the response of March 23, 2000, Mr. Home stated that according to LACMTA records, your reduced-fare card expired on December 31, 1999, and MARTA never received a new application. He enclosed a new application with a return envelope.

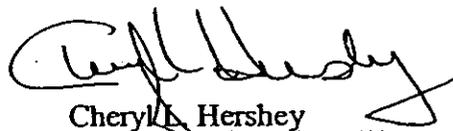
As to whether the driver treated you with courtesy and respect we contacted LACMTA. Tom Home, Manager of Customer Relations, advised that they sent you a letter dated March 23, 2000 (copy attached), stressing LACMTA's commitment to passengers with disabilities. He provided the telephone number for Customer Service should you have any additional problems.

We understand that having the commitment to the ADA and providing the training for employees does not always translate into transit employees behaving as trained or required. We recognize the importance of the requirement of the DOT ADA regulations that requires persons be trained to proficiency in working with persons with disabilities. This includes treating persons with disabilities with courtesy and respect and as appropriate to their particular disability. By copy of this letter we remind LACMTA of their ongoing obligation to ensure that this standard is met.

Based on the above we are closing this complaint. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at (202) 366-0792, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: LACMTA
Enclosure



U.S. Department
of Transportation
Federal Transit
Administration

MAY 23 2002

400 Seventh St., S.W.
Washington, D.C. 20590

[REDACTED]

FTA Complaint No. 00-0237

Dear [REDACTED]

This letter responds to your complaint on behalf of your daughter, [REDACTED], against the South Bend Public Transportation Corporation, Complimentary Paratransit service, Transpo ACCESS alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If we cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider who may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, the majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be that:

- **South Bend Public Transportation Corporation, Complimentary Paratransit service does not allow your daughter, Ms. [REDACTED] to have subscription service and must make reservations up to 14 days in advance; provides early/late pickups; and, bus operators need sensitivity training.**

- **Subscription service issue:**

The DOT ADA regulations at 49 CFR Section 37.133(b) & (c) states:

... (b) Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is non-subscription capacity (c) Notwithstanding any other provision of this part, the entity may establish waiting lists or other capacity constraints and trip purpose restrictions or priorities for participation in the subscription service only

In response to your allegation, ACCESS states that they attempted to explain to you how subscription service works and as a result, you would interrupt, yell, and curse at them. ACCESS states their subscription service availability was at the maximum level prior to your requesting and being granted eligibility status. In addition, Access states that they explained to you their subscription service guidelines and you were, subsequently added to the waiting list for the subscription service roster. They informed us that it is unfortunate that they are unable to add you to the subscription service without violating the fifty-percent maximum requirement as explained above.

- **14 Day reservation requirement issue:**

The DOT ADA regulations at 49 CFR Section 37.131 (b) (4) states:

The entity may permit advance reservations to be made up to 14 days in advance of the ADA paratransit eligible individual's desired trips. When an entity proposes to change its reservation system, it shall comply with the public participation requirements equivalent to those of 37.131 (b) and (c).

In response to your allegation that you are required to call 14 days in advance, South Bend Public Transportation explained that they have a policy that you may schedule a ride "up to" fourteen days in advance through the day before the ride requested. As such, this is in accordance with the above regulation.

- **Late/Early pick up issue:**

The DOT ADA regulations at 49 CFR Section 37.131(f)(3)(i)(A) states:

(f) Capacity constraints. The entity shall not limit the availability of complementary paratransit to ADA paratransit eligible individuals by any of the following: (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of significantly untimely pickups for initial or return trips.

In response to your allegation on experiencing early/late pickups, ACCESS explained that they have no evidence that this allegation happened. They explained that due to difficulty in dealing with you in the past that: "her trip requests are monitored by a second person who assists the ACCESS scheduler in ascertaining exactly what day and time is requested. Also every day(s) and

time(s) scheduled is repeated back to the customer while another staff person is witnessing the telephone transaction. There was no evidence, whatsoever, of [REDACTED] having a trip requested or scheduled with us on the day she called demanding to be picked up immediately." This additional step was taken in 1999, prior to the filing of this complaint, and has been in place since that time.

They informed us that on several occasions you have asked to be picked up and have not had a trip scheduled for that particular time. ACCESS states that their rule for operators is, if there is a cancellation or no show by a client, they are allowed to proceed to the next scheduled pickup site early. Once there, they wait until five minutes after the scheduled pickup time of that client. In addition, the ACCESS operators must radio a supervisor if they are at the designated pickup site and five minutes have passed beyond the scheduled pickup time.

ACCESS states that their supervisors monitor the ACCESS operators and the operator daily reports log arrival times at destinations, mileage and other data which would pinpoint any practice of arriving prior to scheduled times and leaving prior to the scheduled pickup time.

Driver training issue:

The DOT ADA regulations at 49 CFR Section 37.173 states:

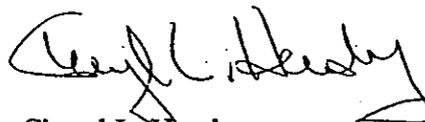
Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

In response to your allegation concerning ACCESS bus operators needing sensitivity training, ACCESS stated that their operators receive training as new hires, as well as refresher training as appropriate. They informed us that new hire and refresher training includes sensitivity training, driving skills training, mobility device training, as well as a review of their policy and practices. ACCESS provided for our review a course outline, along with documentation of such training by an employee. An additional training session has been offered by the local area metropolitan planning organization, and this additional training has been provided to employees. ACCESS explained that their practice is to have their scheduler undertake the full series of operator training, with the exception of the driving skills portions, so that they are equally familiar with the service provisions.

Based on the information provided during our investigation, we do not find a violation of the above DOT ADA regulations and therefore, we are closing this complaint. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Ms. Mary L. McLam
General Manager, South Bend Public Transportation Corporation, ACCESS



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 23 2002

[REDACTED]

Re: FTA Complaint No. 02-0017

Dear [REDACTED]

This letter responds to your complaint you filed against the Palm Tran Connection, in Palm Beach, Florida alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

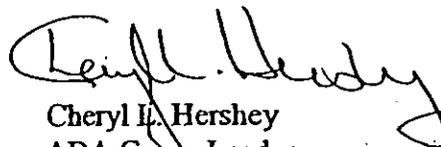
In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In April 2000, FTA conducted an on-site compliance assessment of Palm Tran Connection's ADA Complementary Paratransit service. The assessment was based in part on complaints, including yours, submitted to the FTA Office of Civil Rights. The specific issues regarding Palm Tran Connection's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with Palm Tran Connection until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings. We have attached a copy of the compliance assessment report. For the reasons discussed above, we have closed your complaint.

Thank you for bringing this matter to our attention. If you have any questions regarding this letter, please contact us on our toll free FTA ADA Assistance Line 1-800-446-4511 or our e-mail address: ada.assistance@fta.dot.gov Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

MAY 23 2002

400 Seventh St., S.W.
Washington, D.C. 20590

[REDACTED]

Re: FTA Complaint Number 00062

Dear [REDACTED]

This letter responds to your complaint filed against the Port Authority of Allegheny County (PAT), Pittsburgh, Pennsylvania, alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If we cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider who may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

You have been denied the choice of using ACCESS services and forced to ride the fixed route bus. We informed PAT of your allegations, requested information relating to your complaint and reviewed the information presented by PAT and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations

followed by our determinations, below:

- You have been denied the choice of using ACCESS services and forced to ride the fixed route bus.

The DOT ADA regulations at 49 CFR 37.123(e) state:

The following individuals are ADA paratransit eligible:

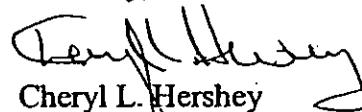
(1) Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable individuals with disabilities.

(2) Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time, or within a reasonable period of such time, when such a vehicle is not being used to provide designated public transportation on the route.

According to PAT's response, you originally applied for ACCESS services in 1979. At that time, PAT had no accessible buses in fixed route service. In 1996, when PAT's fleet was more than 75 percent accessible, a full-scale recertification was conducted. You were recertified in July 1999 and were determined to have the functional ability to use fixed route service under some conditions. Your request for reconsideration was reviewed and denied on August 31, 1999. In an appeal on September 8, 1999, that decision was upheld. In addition, there is no evidence that you were denied due process or that PAT violated any DOT ADA regulation.

Based on the above we are administratively closing your complaint. If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, at (202) 366-0792, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: PAT
ACCESS Services



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 11 2002



Re: FTA Complaint No. 010237

Dear 

This letter responds to your complaint against the City of Lawrence Transit, Lawrence, Kansas, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

- **On June 15th, 2001, the driver aboard bus #6 did not make stop announcements.**

We investigated your allegations, and sent a data request to Mike Wildgen, City Manager, City of Lawrence, Lawrence, Kansas. We received a response from him that addressed and provided relevant information on your allegation noted above.

The DOT ADA regulations at 49 CFR 37.167 (b) (1) (2) states:

On fixed route systems, the entity shall announce stops as follows:

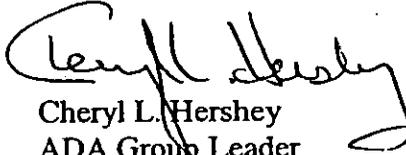
- (1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location.
- (2) The entity shall announce any stop on request of an individual with a disability

The driver in question was new to her job having been in the position less than two months. Based on this complaint, she was counseled and her performance since then, according to Mr. Wildgen, has been exemplary. In addition, the City of Lawrence has demonstrated their ongoing commitment to the ADA with a recent ADA training in January 2002 by the City of Lawrence Human Relations Department and Independence, Inc. an Independent Living Center. The City of Lawrence provided for our review numerous written documents that supported this ongoing effort including "ADA Announcements/Transfer Calling/Paratransit Fares" -Memorandum 1/25/01.

In reviewing all of the documentation contained in the file, we have determined that, although this incident was regrettable, the City of Lawrence has taken the necessary steps to ensure that this will not occur again. We are closing this matter having determined that it has been resolved. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Mike Widgen, City Manager
City of Lawrence
P O Box 708
Lawrence, Kansas 66044



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 11 2002

[REDACTED]

Re: FTA Complaint No. 00035

Dear [REDACTED]

This letter responds to your complaint against Suburban Mobility for Regional Transport (SMART), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

- 1 Lorraine Cab Company, operating for SMART, did not secure your scooter.
2. On January 11, 2000, Lorraine Cab Company did not secure your scooter, and when the driver turned left, your scooter tipped over.
3. When you called about the incident, you were told that SMART was not responsible because of a "Hold Harmless Clause" and told you to call the insurance company of the cab company.

We investigated your allegations, and sent a data request to Mr. Dan Dirks, General Manager, SMART. We received a response from SMART that addressed and provided relevant information on each of your allegations noted above.

The transit provider explained that the initial investigation seemed to indicate that a particular driver of Lorraine Cab was at fault for not securing your scooter. That cab driver was terminated. However, when our investigator contacted you to follow up, you reported that Lorraine Cab was still not securing your scooter and that there were no straps available for tie-downs. As a result of the continuing problem, in April 2001, SMART stopped using Lorraine Cab for its ADA Complementary Paratransit service.

The right to accessible transportation is a civil right. The DOT ADA regulations & the ADAAG provide for certain rights and obligations to ensure the carrying out of this civil right. These include, among others, the provision of securement systems; the obligation on the driver to assist with boarding, disembarking, and use of the securement systems; and the obligation on the public entity to ensure that the private entity meets the requirements of this part. See DOT ADA regulations at 49 CFR 37.23(a) that states:

When a public entity enters into a contractual or other arrangement or relationship with a private entity to operate fixed route or demand responsive service, the public entity shall ensure that the private entity meets the requirements of this part that would apply to the public entity if the public itself provided the service.

The right to accessible transportation and potential liability on the part of the transit property are two separate matters and should not be confused. The obligation to provide accessible transportation cannot be contracted away by the public entity, and the right to accessible transportation cannot be taken away from the person with the disability. We acknowledge the concerns of the transit properties in making provision as to liability, but that is a separate and distinct matter from right to accessible transportation and the requirements discussed above.

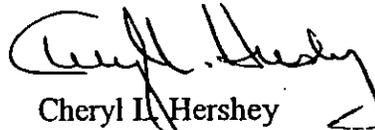
In addition, you advise that SMART personnel told you that SMART was not responsible, because of a "Hold Harmless Clause." If SMART was referring to an insurance policy clause, the DOT ADA regulations specifically at section 37.5 (g) prohibit insurance companies from placing conditions that undermine these rights. A fuller explanation of this section is found at 37.5 in the Appendix.

Based on the above we are closing this complaint as the matter has been resolved. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

-3-

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. For your future reference, we are enclosing FTA's FAQs sheet on wheelchair securement. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Dan Dirks
General Manager
SMART
660 Woodward Avenue
Detroit, Michigan 48226



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 12 2002



Re: FTA Complaint No. 00038

Dear 

This responds to your complaint against the Worcester Regional Transportation Authority (RTA), of Worcester, Massachusetts, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and the Department of Transportation's (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, the majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be that:

- The RTA bus operator named Rene, on bus number 9858, harassed you and your companion,  on Monday, February 28, 2000, at 9:30 a.m. and that when you complained, RTA did not respond to your complaint.

According to the DOT ADA regulation at Section 37.173

Each public or private entity that operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

RTA provided information that its ADA training program for its employees is ongoing and meets the requirements of the DOT ADA requirements. We are aware that providing training does not mean that the lessons taught would be properly implemented; therefore, we encourage you to immediately report to RTA any incidents in which its personnel exhibit unprofessional behavior toward persons with disabilities. RTA has a disciplinary process in place to address these problems. We recognize in this instance that you did immediately report it.

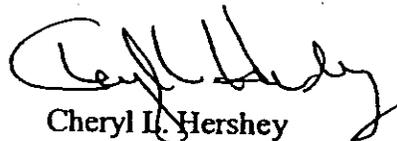
The RTA General Manager, Mr. Thomas R. Narrigan, stated that he personally reviewed this matter. RTA indicated that the incident described by you, which occurred on February 28, 2000, at approximately 9:30 a.m. was initiated by [REDACTED] actions when she boarded the bus and displayed her elderly identification card by placing it in the operators' face. Further, RTA stated that the operator's response to this incident was to restate the company policy concerning the use of elderly identification cards. They advised that this is consistent with company training regarding rule enforcement and conflict resolution.

RTA also denies your allegation that the operator touched you or [REDACTED] during this incident. They state that you left two voice mail complaints concerning the incident, which were reviewed by the Customer Service Manager and investigated by the Director of Bus Operations. There have been no subsequent reports of incidents between you and the operator nor have there been any reports of retaliation by the operator involved or any other employee.

In situations such as this where material facts are in dispute, we are unable to establish what actually occurred. Based on the above, we are closing your complaint as of the date of this letter. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing his matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Thomas R. Narrigan, General Manager
Worcester Regional Transportation Authority

Headquarters

U.S. Department
of Transportation
Federal Transit
Administration

AUG 12 2002

[REDACTED]

Re: FTA Complaint No. 99277

Dear [REDACTED]

This letter responds to your complaint against the Tri-County Metropolitan Transportation District, of Portland, Oregon, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If we cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider who may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, the majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. A finding of no violation of a particular allegation should be understood to apply specifically to the facts and circumstances at issue. Such a determination is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be as follows:

That the Tri-Met driver asked you to move to make room for a person who uses a wheelchair when you were seated in the priority seating area. You point out that you are a person with a disability, although it is not readily apparent.

We informed Tri-Met of your allegation and requested information relating to your complaint; reviewed the information presented by Tri-Met and you; and made a determination based on our analysis of the compiled information in relation to the DOT ADA regulations.

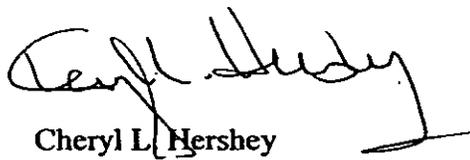
The DOT ADA regulation at 49 CFR 37.167 (j)(1) and (3) states, in summary, that when an individual with a disability enters the vehicle and needs to sit in the wheelchair location the entity shall ask to move, "Individuals sitting in or a fold-down or other movable seat in a wheelchair securement location." We note that this section, in particular, 37.167(j)(1)(ii) does not preclude the entity from asking persons with disabilities, who do not use wheelchairs, to move.

It is important to understand that the entity *is not required to enforce* that the person moves under the DOT ADA regulations. Further, it is Tri-Met's policy *not* to force the person to do so. So while you can be asked, you can't be forced or required to move. We find Tri-Met's actions consistent with the above regulations.

Based upon the above we consider this matter resolved and are closing the complaint. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Tri-Met

Cron



U. S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S. W.
Washington, D. C. 20590

AUG 12 2002

[REDACTED]

FTA Complaint No. 01-0085

Dear [REDACTED]

This letter responds to your complaint against the City of Phoenix Public Transit, Phoenix, Arizona, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In a conversation on February 5, 2002, you explained that the accessibility of the buses has greatly improved at Phoenix Public Transit, however, your current concerns and remaining allegations are as follows:

- The older buses on some routes are inaccessible because the lifts cannot accommodate your scooter;
- The bus drivers lack training and on occasions, they are rude and offensive.

We informed Phoenix Public Transit of your allegations, requested information relating to your complaint and reviewed the information presented by Phoenix Public Transit and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. Below, we have restated your allegations followed by our determinations.

- **The older buses on some routes are inaccessible because the lifts cannot accommodate your scooter.**

The DOT ADA regulations at Section 37.3 defines "common wheelchair"

A "common wheelchair" is such a device which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied.

Further it states under the definition for wheelchair at the same section:

Wheelchair means a mobility aid belonging to any class of three or four wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered.

The regulation also states that an entity shall allow common wheelchairs, which is inclusive of three-wheel scooter and other non-traditional mobility devices to board the vehicle using a lift that meets that Access Board guideline dimension of 30 inches wide and 48 inches long.

You advised in your complaint and again recently in a conversation with the investigator from this office, that the dimensions of your wheelchair are 24" by 47". However, in your signed eligibility application that you submitted for ADA Complementary Paratransit, you advised that your wheelchair dimensions were 31" by 47". The regulation is clear as to the obligation to transport a "common wheelchair" as defined. If your wheelchair is within the 30 by 48" definition outlined above there is an obligation under the DOT ADA regulations to transport you; if it exceeds these stated requirements there is not.

However, many lifts especially on the newer buses can transport persons who use mobility devices that exceed these requirements. The City of Phoenix can elect to serve those whose mobility devices exceed the stated dimension, however, the ADA DOT regulation does not require them to do so. From the response it appears that the City of Phoenix does make an effort, over and above what is required, to meet your needs. They advise when you use the ADA Complementary Paratransit service they have the file noted to send the larger Braun vehicle, instead of the mini-van, as this vehicle is able to better accommodate you.

The City of Phoenix responded that all buses are accessible and can accommodate a common wheelchair. The vehicle, the subject of your complaint, was one of the oldest in the fleet. This vehicle, that predated the passage of the ADA, was retrofitted and a lift added. (We note that retrofitting is not required) The dimensions of that lift were 31 ½ by 48 ½, one of the smallest in the fleet, and this vehicle is scheduled for replacement.

- **The bus drivers lack training and on occasions, they are rude and offense**

The DOT ADA regulations at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities

An analysis of the information shows that Phoenix Public Transit ADA Complementary Paratransit and fixed route drivers received comprehensive ADA sensitivity training as a part of their initial employee training. A refresher course on a continuing and as needed basis is also provided. The need for the training is identified through passenger complaints and monitoring of the system performance.

We note in the response from the City of Phoenix that you sent an e-mail to them praising their staff for their excellent assistance in training you to board the buses in your three-wheeled scooter. However, we acknowledge that training does not in and of itself ensure the application of what is taught. We emphasize that the training requirement is an ongoing one to ensure that such training is to proficiency

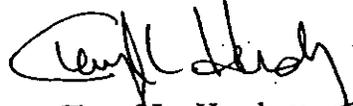
You also expressed concern about the inaccessibility of the bus stops. The DOT ADA regulation requires that where *new* bus stop pads are constructed they must be accessible. (See ADAAG 10.2.1) The bus stop pad you discuss does not fall into this category. The City of Phoenix however advised that they are taking proactive steps to ensure that their bus stops are accessible. In addition to ensuring that the new ones are accessible they are retrofitting 80 already established bus stops to make them accessible. To this end they advise they are working with a disability advocate in this area.

Also since the filing of your complaint, The City of Phoenix has worked with the City Council to ensure the accessibility of the 19th Avenue bus. The route was changed to avoid riders exiting next to the railroad tracks where there are no sidewalks.

Based upon the above we consider the matter resolved and are closing this complaint. You have the right to file an appeal in this matter within thirty (30) days of the date of this letter to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address, mary-elizabeth.peters@fta.dot.gov Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing these matters to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: City of Phoenix, Public Transit Director

U.S. Department
of Transportation
Federal Transit
Administration

AUG 12 2002

[REDACTED]

Re: FTA Complaint No. 01-0024

Dear [REDACTED]

This letter responds to your complaint against the New Orleans Regional Transit Authority (NORTA), New Orleans, Louisiana, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property

Specifically, your complaint alleged:

- 1 Late pickups;
2. Scheduled rides canceled without your knowledge;
- 3 Operators not knowing the area and getting lost;
- 4 Dispatchers refusing to identify their numbers and refusing to give information on where Stephanie is;
- 5 Excessive trip lengths.

We investigated your allegations, and sent a data request to NORTA. We received a response from NORTA and an update from NORTA dated June 5, 2002, that addressed and provided relevant information on your allegations noted above.

1. Late pickups

The DOT ADA regulations at 49 CFR 37 131(f) states:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:

- (1) Restrictions on the number of trips an individual will be provided;
- (2) Waiting lists for access to the service; or
- (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.
 - (i) Such patterns or practices include, but are not limited to, the following:
 - (A) Substantial numbers of significantly untimely pickups for initial or return trips
 - (B) Substantial numbers of trip denials or missed trips;
 - (C) Substantial numbers of trips with excessive trip lengths.

NORTA's response contained eight responses to [REDACTED] calls, so it is apparent that [REDACTED] called in about problems with late pickups at least eight times. While no standard for "substantial numbers" was set in the regulations, within the context of this complaint, knowing the complainant contacted the transit provider at least eight times is significant. The transit provider's response includes measures that were taken:

- Intensified street supervisors for quality assurance;
- Procuring new vehicles to ensure reliability;
- Updated ongoing training for staff;
- Recruiting experienced paratransit manager; and
- Increased discipline where appropriate.

The transit provider's update of June 5, 2002, does indicate that NORTA followed up on the measures: two street supervisors were hired for the paratransit service, 36 new lift vans were purchased in 2001, training was updated, a new paratransit

manager was hired, and a "No Nonsense" policy regarding rude, disrespectful or inappropriate behavior of employees was instituted in May 2001. Since NORTA undertook measures to correct problems they acknowledged, at this time, we do not find that NORTA is violating DOT ADA regulations.

1. Scheduled rides canceled without your knowledge.

This issue is referenced in the DOT ADA regulations at 49 CFR 37.131(f)(3)(i)(C), noted above. The street supervisors that NORTA hired are responsible for monitoring on-time performance, among other things. The second response from NORTA did not say that the training of dispatchers had been updated, so FTA's response will include a reference to including dispatchers in the updated training. In addition, we feel that NORTA's new policy with regard to employee behavior should assist with some of the problems you have experienced with dispatchers.

2. Operators not knowing the area and getting lost.

The DOT ADA regulations at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

NORTA has addressed this by including map reading in the updated training and has provided operators with maps of New Orleans, so they can research pick up locations prior to departure. The updated training, and in particular this aspect of it, should minimize this problem.

3. Dispatchers refusing to identify their numbers and refusing to give information on where Stephanie is.

The DOT ADA regulation on training noted above at 37.173 addresses the area of respect and courtesy. The new policy on employee behavior should assist with this problem. FTA, as noted, will address this in the response to NORTA by referencing updated training for dispatchers.

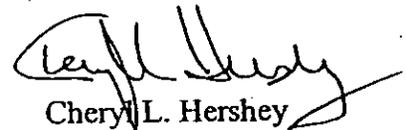
4. Excessive trip lengths

The DOT ADA regulations at 37.131(f)(3)(i)(C) noted above address excessive trip length. This problem should be addressed by the measures that NORTA has already taken.

After reviewing all of the submitted materials, it appears that NORTA has taken steps to correct the problems you encountered. Our follow up with NORTA is in fact following up on the measures stated in their original response. Therefore, we are closing your complaint as of the date of this letter. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc Dwight A. Ferrell
General Manager/CEO NORTA
6700 Plaza Drive
New Orleans, LA 70127



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 19 2002

[REDACTED]

Re: FTA Complaint No. 00023

Dear [REDACTED]

This letter responds to your complaint you filed against the City of Gainesville Regional Transit Authority (RTS), of Gainesville, Florida, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

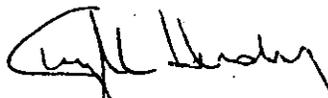
In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In December 2001, FTA conducted an on-site compliance assessment of the RTS ADA Complementary Paratransit service. The compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding RTS's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this compliance assessment. As we are following up on the issues identified through quarterly reporting and as Gainesville is cooperating in this effort, we are closing this complaint. We will continue to monitor Gainesville RTS to ensure resolution of these matters. We have enclosed a copy of the final report for your reference.

You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Jeff Logan
Transit Director
Regional Transit Director
Station 5, P O Box 490
Gainesville, Florida 32602-0490
(Identity of Complainant Withheld)



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 19 2002

[REDACTED]

Re: FTA Complaint No. 00-024

Dear [REDACTED]

This letter responds to your complaint you filed against the City of Gainesville Regional Transit Authority (RTS), of Gainesville, Florida, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

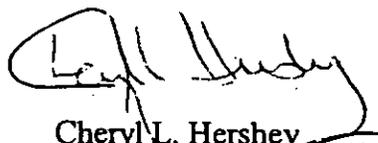
In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In December 2001, FTA conducted an on-site compliance assessment of the RTS ADA Complementary Paratransit service. The compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding RTS's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this compliance assessment. As we are following up on the issues identified through quarterly reporting and as Gainesville is cooperating in this effort, we are closing this complaint. We will continue to monitor Gainesville RTS to ensure resolution of these matters. We have enclosed a copy of the final report for your reference.

You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Jeff Logan
Transit Director
Regional Transit Director
Station 5, P O Box 490
Gainesville, Florida 32602-0490
(Identity of Complainant Withheld)

Chon



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 19 2002

[REDACTED]

Re: FTA Complaint No. 99220

Dear [REDACTED]

This letter responds to your complaint you filed against the City of Gainesville Regional Transit System (RTS), of Gainesville, Florida, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

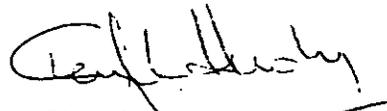
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In December 2001, FTA conducted an on-site compliance assessment of RTS' ADA Complementary Paratransit service. The compliance assessment was based in part on your complaint and others submitted to the FTA Office of Civil Rights. The specific issues regarding ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this compliance assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with RTS, until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

As we are following up on the issues identified through quarterly reporting and as Gainesville is cooperating in this effort, we are closing this complaint. We will continue to monitor Gainesville RTS to ensure resolution of these matters. We have enclosed a copy of the final report for your reference.

You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Jeff Logan
Transit Director
Regional Transit Director
Station 5, P O Box 490
Gainesville, Florida 32602-0490
(Identity of Complainant Withheld)



U. S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S. W.
Washington, D. C. 20590

AUG 22 2002

[REDACTED]

Re: FTA Complaint No. 97098

Dear [REDACTED]

This letter responds to your complaint against Tri-County Commuter Rail Authority (TCRA), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the termination of Federal funds. FTA also may refer the matter to the U. S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each administrative closure letter is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your specific allegation to be:

- **TCRA's Fort Lauderdale Airport Station lacks accessible restroom facilities.**

We reviewed the information provided by you and TCRA and made determination based on our analysis of the information in relation to the DOT ADA regulations. Our determination on your allegation is stated below

The DOT ADA regulations at 49 CFR 37.57 states:

An owner or person in control of an intercity or commuter rail station shall provide reasonable cooperation to the responsible person(s) for that station with respect to the efforts of the responsible person to comply with the requirements of this subpart.

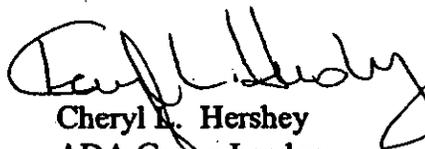
Our investigation revealed that the station that is the subject of your complaint, the Ft. Lauderdale airport station just off Broward Blvd, is now closed, and a new station airport station has been constructed. In light of the closure of this station this matter is moot. However, we provide you the results of the investigation for your use and reference.

The "old station" was owned by the State of Florida and leased by Amtrak. TCRA has an agreement only to use the facilities. As such, TCRA is neither an owner nor an entity in control of the station, and therefore the provisions of the DOT ADA regulations do not apply. Your concerns would have been more properly addressed by contacting the Florida Department of Transportation or the Department of Justice under Title II of the ADA.

In a recent conversation with TCRA in July 2002, they advise that they have constructed a new airport station. This station is open and just North of the old station that is now closed. The new station has no public restrooms. In previous correspondence in response to this complaint, TCRA explained that it is their policy to provide public restrooms on their trains, but not at the station site. The ADA provides for equal access, however, it does not mandate that a public restroom be included in the above new construction.

Based on the above we consider this matter resolved and are closing the complaint. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl A. Hershey
ADA Group Leader
Office of Civil Rights

cc: TCRA

chen



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 22 2002

[REDACTED]

Re: FTA Complaint No. 00-0380

Dear [REDACTED]

This letter responds to your complaint against the Central Florida Regional Transportation Authority (LYNX), Orlando, Florida, alleging potential violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that you were denied ADA Complementary Paratransit service.

We investigated your allegations, and sent a data request to LYNX. We did not reveal your identity as you requested. We received a response from LYNX that addressed and provided relevant information on your allegations noted above.

LYNX explained that you had originally applied for certification under Florida's Transportation Disadvantaged program (TD). That program is not ADA service and has different eligibility and

service requirements and procedures than ADA Complementary Paratransit service. LYNX agreed to review your certification under the requirements of ADA Complementary Paratransit service to determine your eligibility

LYNX's ADA Complementary Paratransit service requires that a passenger be completely unable to ride the fixed route bus system. LYNX's fixed route bus fleet is accessible to passengers in wheelchairs. Therefore, a passenger with a disability must be unable to ride an accessible fixed route bus to become eligible for ADA Complementary Paratransit service. The DOT ADA regulations at 49 CFR 37.123(e) set the three categories of eligibility

- Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities.
- Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time, or within a reasonable period of such time, when such a vehicle is not being used to provide designated public transportation on the route.
- An individual is eligible under this paragraph with respect to travel on an otherwise accessible route on which the boarding or disembarking location which the individual would use is one at which boarding or disembarking from the vehicle is precluded as provided in Sec. 37.167(g) of this part.

ADA Complementary Paratransit service, unlike the TD program, does not allow for trip caps or prioritization of rides. The DOT ADA regulations at 49 CFR 37.131(d) state:

The entity shall not impose restrictions or priorities based on trip purpose.

With regard to your issue of not being able to schedule rides for a week at a time, the DOT ADA regulations at 49 CFR 37.133 (a)-(c) state:

- (a) This part does not prohibit the use of subscription service by public entities as part of a complementary paratransit system, subject to the limitations in this section.
- (b) Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is non-subscription capacity
- (c) Notwithstanding any other provision of this part, the entity may establish waiting lists or other capacity constraints and trip purpose restrictions or priorities for participation in the subscription service only

Please note that the regulations do not require transit providers to offer subscription service, only that they may offer it. If a transit provider chooses not to offer subscription service, it is not a violation of the DOT ADA regulations.

In May 1999, FTA conducted an on-site compliance assessment of the LYNX ADA Complementary Paratransit service. The compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding LYNX's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this compliance assessment. As we are following up on the issues identified through quarterly reporting and as LYNX is cooperating in this effort, we are closing this complaint. We will continue to monitor LYNX to ensure resolution of these matters. We have enclosed a copy of the final report for your reference.

After reviewing all of the submitted materials, it appears that the facts do not support a finding of a violation of DOT ADA regulations. We are closing your complaint as of the date of this letter. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: W Kenneth Gordon
CEO
MAX
P.O. Box 10212
Birmingham, Alabama 35202



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 26 2002

[REDACTED]

Re: FTA Complaint No. 98250

Dear [REDACTED]

This letter responds to your complaint against the Birmingham-Jefferson County Transit Authority (BJCTA), Birmingham, Alabama, alleging potential violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. One of the bus stops on the fixed route service, at Green Spring and Oxmoor, is situated in the middle of the Kmart parking lot, making it necessary for passengers to walk in the middle of the parking lot. It is dangerous for people with visual impairments who may have problems negotiating traffic in the parking lot.
2. The ADA Complementary Paratransit service has vans that frequently come early, and you have been told that you have to leave when they arrive.

- 3 Instructions to the paratransit vans are inaccurate, and the drivers frequently come to the wrong side of the building and then leave without you.

We investigated your allegations, and sent a data request to BJCTA. We did not reveal your identity as you requested. We received a response from BJCTA that addressed and provided relevant information on your allegations noted above.

1. **One of the bus stops on the fixed route service, at Green Spring and Oxmoor, is situated in the middle of the Kmart parking lot, making it necessary for passengers to walk in the middle of the parking lot. It is dangerous for people with visual impairments who may have problems negotiating traffic in the parking lot.**

The DOT ADA regulations at 49 CFR 37.12(B) (3) state that a person is eligible for ADA Complementary Paratransit service if that individual:

with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from disembarking a location on such system.

BJCTA stated the following in its response:

The bus stop for the Kmart at Green Springs and Oxmoor is located on Oxmoor near the Kmart entrance and not in the middle of the parking lot. It is true, however, that passengers with disabilities would be required to travel through the Kmart parking lot to the bus stop located on Oxmoor to access the fixed route service.

BJCTA goes on to say that under the circumstances we presented, a person with a visual impairment needing public transportation to and from that stop would be eligible for ADA Complementary Paratransit service. Since you are already certified to use ADA Complementary Paratransit service, you would be able to call and get a ride when you want to get on or off at that bus stop.

We note that the ADA Accessibility Guidelines (ADAAG), 49 CFR for 37, Appendix A, discusses bus stops at 10.2.1, "Bus Stops and Terminals New Construction," and 10.2.2, "Bus Stop Sitting and Alterations." However, these sections apply to newly selected bus sites and new or replaced bus shelters, not an existing bus stop as you have indicated.

2. **The ADA Complementary Paratransit service has vans that frequently come early, and you have been told that you have to leave when they arrive.**

BJCTA operates its schedule with a window of 20 minutes before the scheduled pickup time. This means that the policy of BJCTA is that riders scheduled for the 10:00 AM pickup time, for example, should be ready to leave as early as 9:40 AM for pickup. The policy is stated in the BJCTA's *Riders Guide*, and the policy does not violate any DOT ADA regulations.

However, please note that FTA conducted an on-site compliance assessment of BJCTA's ADA Complementary Paratransit service, known as First Transit, Inc., on May 2, 2002. Where we make findings of deficiencies, FTA will monitor BJCTA's activities until we determine that the deficiencies noted are corrected. Timeliness of pickups was one of the areas that were reviewed. When the assessment report is final we will forward you a copy of the report.

- 3. Instructions to the paratransit vans are inaccurate, and the drivers frequently come to the wrong side of the building and then leave without you.**

Since you requested anonymity, we were limited in the amount of information we could provide BJCTA, and the transit provider could only respond to the general allegation. In its response, BJCTA stated:

Information regarding pick up location is provided to the operator on their daily manifest. That information is taken at the time of the reservation. If there are special instructions, that information is passed along to the operator as well. If an operator arrives at a location and they cannot find the passenger, they are to call the dispatcher. They are to wait 5 minutes past the scheduled pickup time. If no one shows, the driver contacts the dispatcher again, logs the trip as a no show, and departs for the next trip.

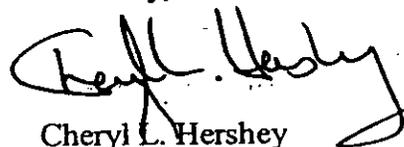
Again, since you requested that your identity be withheld, BJCTA could only respond in general terms. We suggest that you try to give the dispatcher specific information about the side of the building where you need the pickup. If that fails to resolve problem, BJCTA's ADA Complementary Paratransit service has a customer service number at (205) 521-0161

We do not find any specific information that would put BJCTA in violation of the DOT ADA regulations in this case.

After reviewing all of the submitted materials, it appears that the facts do not support a finding of a violation of DOT ADA regulations. We are closing your complaint as of the date of this letter. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

SEP 10 2002

[REDACTED]

Re: FTA Complaint No. 02-0016

Dear [REDACTED]

This letter responds to your complaint you filed against Bi-State Development Agency, of St. Louis, Missouri alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In December 2000 a contractor, Multi-systems, conducted an assessment of B1-State. While we were working with B1-State and made aware of this assessment it was conducted independently of this office and through the effort of the transit property. However, as a result we have a full picture of the conditions that exist at B1-State. The issues you raise re capacity constraints and availability of next day service were issues addressed from a broader perspective by this assessment.

We are currently conducting on going monitoring and follow up of B1-State through our Regional Civil Rights Officer in these areas. Follow-up will continue until we are assured that corrective action has been taken and these issues remedied.

As we are following up on the issues identified through quarterly reporting and as B1-State is cooperating in this effort, we are closing this complaint. We will continue to monitor B1-State to ensure resolution of these matters. We have enclosed a copy of the final report for your reference.

Please be assured that this administration and this Director take your civil rights very seriously. Please also note that you do have a right to next day service. The scheduling should include a discussion of other ride times that might be available where the time you requested is unavailable. Where the ride

time offered is outside of the one- hour window, one hour on either side of the requested time, it should be counted as a denial. This is so even if you were to accept the ride offered outside of that window

You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc. Bi-State Development Agency



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 10 2002

[REDACTED]

Re: FTA Complaint No. 00-0312

Dear [REDACTED]

This letter responds to your complaint you filed against Access Services (ASI) alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

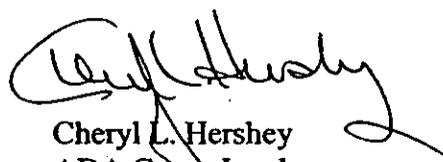
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of Los Angeles County Metropolitan Transit Authority (LACMTA) ADA Complementary Paratransit service, during this next year. As ASI administers and manages the delivery of ADA Paratransit services for LACMTA we will have the opportunity to review their operations and systems. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issue in your complaint regarding scheduling difficulties on ASI's ADA Complementary Paratransit service will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor LACMTA and ASI's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we are closing your complaint. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: ASI



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 10 2002

[REDACTED]

Re: FTA Complaint No. 01-0246

Dear [REDACTED]

This letter responds to your complaint you filed against Access Services (ASI) alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

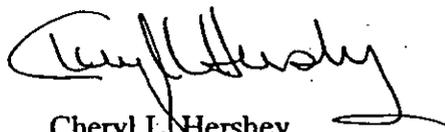
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of Los Angeles County Metropolitan Transit Authority (LACMTA) ADA Complementary Paratransit service, during this next year. As ASI administers and manages the delivery of ADA Paratransit services for LACMTA we will have the opportunity to review their operations and systems. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues in your complaint regarding late pickups, trip cancellations and no show policy, and discourteous driver treatment on ASI's ADA Complementary Paratransit service, will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor LACMTA and ASI's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we are closing your complaint. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: ASI



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 10 2002

[REDACTED]

Re: FTA Complaint No. 02-0019

Dear [REDACTED]

This letter responds to your complaint you filed against Chicago Transit Authority (CTA) alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA conducted an on-site compliance assessment of Chicago Transit Authority's ADA Complementary Paratransit service, in December 2000. The decision to perform this compliance assessment was based, in part, on complaints such as yours submitted to the FTA Office of Civil Rights. We note that your complaint was submitted following the date of the assessment.

The specific issue in your complaint regarding denial of service and capacity constraints were issues addressed by this assessment and were areas where findings were made. As such, follow-up through quarterly reporting is currently being conducted by FTA.

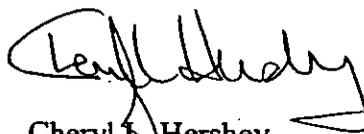
This monitoring of CTA will continue until we determine that the deficiencies noted are corrected. I am making the information contained in your complaint available for follow-up purposes. This will ensure that persons responsible for monitoring CTA and ensuring corrective is taken are fully aware of your current experiences in trying to use CTA ADA Paratransit.

This Administration and this Director take very seriously the protection of your civil rights, as evidenced by recent on-sites, among other locations, Chicago. I have enclosed a copy of the compliance assessment report for your reference.

For the reasons discussed above, we are closing your complaint. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St. S.W.
Washington, D.C. 20590

SEP 10 2002

[REDACTED]

Re: FTA Complaint No. 01-0179

Dear [REDACTED]

This letter responds to your complaint you filed against Broward County Transit, Pompano Beach, Florida, on behalf of your mother, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

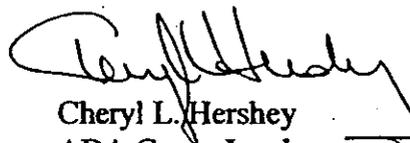
The FTA complaint investigation process involves contact with the transit provider and the complainant. Fully ascertaining the facts is a vital part of the investigation. Where we are precluded from doing so we cannot come to closure on a given complaint.

We previously requested you contact us so that we can more fully understand your claims by letter dated September 13, 2002. Unfortunately you have not responded. I tried to reach you by telephone on August 13, 2002, and found that the telephone had been disconnected and provided no forwarding contact information.

As we find we are unable to properly investigate your complaint, we are closing it administratively. You should note, however, that one of the many factors we rely upon in selection of sites to conduct compliance assessments at the various transit property's is the history of complaints at those property's. The number and types of complaints can serve as indicators of possible system wide problems. Your complaint file will be maintained and considered in this manner.

If you have any questions regarding our determination, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 10 2002

[REDACTED]

Re: FTA Complaint #02-0017

Dear [REDACTED]

This letter responds to your complaint you filed against the Toledo Area Regional Transit Authority (TARTA), Toledo, Ohio, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA conducted an on-site compliance assessment of TARTA's ADA Complementary Paratransit service, known as TARPS, in April 2001. The decision to perform this compliance assessment was based, in part, on complaints submitted to the FTA Office of Civil Rights. We note that your complaint was submitted after the completion date of the assessment. The specific issue in your complaint regarding late pickups on TARPS ADA Complementary Paratransit service, was addressed from a broader perspective by this compliance

assessment. Where findings of deficiencies were made, FTA will monitor TARTA's, ADA Complementary Paratransit activities to ensure resolution of these matters. We are currently doing so. In our recent conversation regarding your complaint you indicated that you had already received a copy of the compliance assessment report; as such we are not enclosing one. Please be advised that this Administration and this Director take the protection of your civil rights very seriously. We will continue to monitor until all areas identified are remedied. For the reasons discussed above, we are closing your complaint.

You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
FTA Office of Civil Rights

cc: Toledo Area Regional Transit Authority
1127 West Central Avenue, P O Box 792
Toledo, Ohio 43697-0792



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 10 2002

[REDACTED]

Re: FTA Complaint No. 01-0135

Dear [REDACTED]

This letter responds to your complaint you filed against Access Services (ASI) alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of Los Angeles County Metropolitan Transit Authority (LACMTA) ADA Complementary Paratransit service, during this next year. As ASI administers and manages the delivery of ADA paratransit services for LACMTA we will have the opportunity to review their operations and systems. The decision to perform this compliance assessment was based in part on your complaint submitted, on behalf of your son Shawn, to the FTA Office of Civil Rights. The specific issues in your complaint regarding numerous late pickups, and generally poor and unreliable service on ASI's ADA Complementary

Paratransit service, will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor LACMTA and ASI's activities until we determine that the deficiencies noted are corrected.

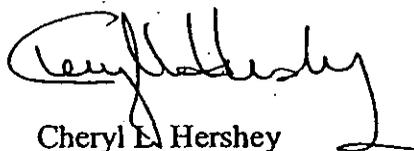
We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy.

We also note that we sent a data request to the Executive Director of ASI, at the time of this complaint, and received a response from them addressing your allegations and providing relevant information. He directly intervened in your complaint upon learning of the difficulties that your family had endured and apologized for the lack of response to your complaints. He required his staff to take action to remedy your untimely service. He advised that the ASI customer service person spoke to you directly following this and was advised that your son's transportation had improved greatly and that the issues as to on-time performance had been resolved.

For the reasons discussed above, we are closing your complaint. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl E. Hershey
ADA Group Leader
Office of Civil Rights

cc: ASI



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 10 2002

[REDACTED]

Re: FTA Complaint No. 99049

Dear [REDACTED]

This letter responds to your complaint against the Tri-County Rail Authority (Tri-Rail), Pompano Beach, Florida, alleging potential violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action.

Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. Tri-Rail issued you a fare evasion citation, because your ticket was improperly stamped.
2. Visually impaired riders have problems with Tri-Rail's ticket vending machines.

We investigated your allegations, and sent a data request to Tri-Rail. We withheld your identity as requested. We received a response from Tri-Rail that addressed and provided relevant information on your allegations noted above.

- 1. Tri-Rail issued you a fare evasion citation, because your ticket was improperly stamped.**

This allegation is a civil matter and not under the jurisdiction of FTA.

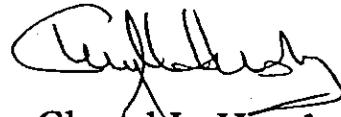
- 2. Visually impaired riders have problems with Tri-Rail's ticket vending machines.**

In March 1999, a key station assessment was conducted at Tri-Rail. One of the assessment findings was that the vending machines did not have instructions usable by persons with visual impairments. Tri-Rail's plan for corrective action was to install Braille and raised lettering on the instructions. This corrective action was completed in November 1999.

After reviewing all of the submitted materials, it appears that the deficiencies have been corrected. We are closing your complaint as of the date of this letter. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Joseph Giulietti (ID of complainant withheld)
Executive Director
Tri-Rail
800 NW 33rd Street
Suite 100
Pompano Beach, Florida 33064



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 18 2002

[REDACTED]

Re: FTA Complaint No. 02-0099

Dear [REDACTED]

This letter responds to your complaint you filed against the Toledo Area Transit Authority (TARTA), Toledo, Ohio, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

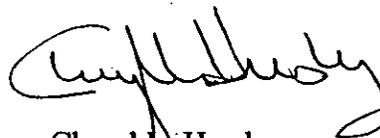
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In April 2001, FTA conducted an on-site compliance assessment of TARTA's ADA Complementary Paratransit service. The compliance assessment was based in part on complaints such as your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding TARTA's ADA Complementary Paratransit service in those complaints were addressed from a broader perspective by this compliance assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with TARTA, until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings. Since we received your

complaint after TARTA's assessment, we will provide a copy of your complaint to the staff person doing the follow up on TARTA's assessment. As the report of TARTA's assessment is final, we are sending you a copy of that report.

Accordingly, we are closing this complaint. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 16 2002

[REDACTED]

Re: FTA Complaint No. 00-0376

Dear [REDACTED]

This letter responds to your complaint against the Humboldt Transit Authority (HTA) and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Part 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each Letter of Resolution or Letter of Finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegation to be as follows:

- 1 HTA requires all passengers to have a ticket to ride the ADA Complementary Paratransit system, while riders on the fixed route are able to use cash;
- 2 Drivers restrict individuals with service animals to a specific area of the bus; and,
- 3 Drivers failed to make stop announcements.

We informed HTA of your allegations, requested information relating to your complaint, reviewed the information presented by HTA and you, and made a determination in relation to the DOT ADA regulations based on our analysis of the compiled information. We have restated your allegations followed by our determination below:

1. **HTA requires all passengers to have a ticket to ride the paratransit system, while riders on the fixed route are able to use cash.**

The DOT ADA regulations at 49 CFR 37.5(a) state:

No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

An examination of the information received from you and HTA revealed that you had a dispute with HTA regarding its fare (ticket) policy. HTA has an established policy that requires a passenger boarding an ADA Complementary Paratransit vehicle to have a ticket for the ride, but fixed route passengers can use cash. HTA's policy requiring a person with a disability to perform an additional task that is otherwise not imposed on a person without a disability is a violation of the general anti-discrimination provision of the DOT ADA regulations. Therefore, by cover of separate letter, we are notifying HTA that they must alter their policy and procedures regarding this practice within 60 days of receipt of FTA's letter requiring corrective action.

2. **Drivers restrict individuals with service animals to a specific area of the bus.**

The DOT ADA regulation at 49 CFR 37.167(d) states:

The entity shall permit service animals to accompany individuals with disabilities in vehicles and facilities.

HTA records show that all service animals are permitted on HTA vehicles to accompany individuals who need them to assist with their particular disabilities. Since the drivers are not knowledgeable of the extent to which the animals have been trained, HTA's practice is that when two or more individuals accompanied by service animals board the same bus, the driver will not seat them in close proximity as a precautionary measure to prevent any aggressive behavior that *might* be exhibited by one service animal to another.

HTA's practice of restricting persons with service animals to specific areas of the bus, if more than one service animal is on the bus, is prohibited under 49 CFR 37.5, which states:

No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

HTA may not separate service animals or require persons with service animals to be restricted to ride in specific areas of the bus. The Department of Justice Bulletin makes clear that one may not make assumptions about how a service animal "*might*" behave based on

one's experience with other animals, and that each situation should be considered individually. On the other hand, where you have a specific factual basis indicating that *this particular* service animal's behavior poses a direct threat to the health or safety of others, then you may take appropriate action. The Department of Justice has published a guide for service animals titled "Commonly Asked Questions about Service Animals in Places of Business," which FTA uses as guidance on issues regarding service animals. It states:

You may exclude any animal, including a service animal, from your facility when that animal's behavior poses a direct threat to the health or safety of others. For example, any service animal that displays vicious behavior towards other guests or customers may be excluded. You may not make assumptions, however, about how a particular animal is likely to behave based on your past experience with other animals. Each situation must be considered individually.

Although a public accommodation may exclude any service animal that is out of control, it should give the individual with a disability who uses the service animal the option of continuing to enjoy its goods and services without having the service animal on the premises.

Because HTA's policy and procedures are not in accord with the above, we are notifying HTA that the policy and procedures regarding this practice should be altered and that FTA should receive notice of HTA's action within 60 days of receipt of FTA's letter requiring corrective action.

3. The driver failed to make stop announcements.

DOT ADA regulation at 49 CFR 37.167(b) and (c) state:

(b) On fixed route systems, the entity shall announce stops as follows:

(1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location.

(2) The entity shall announce any stop on request of an individual with a disability.

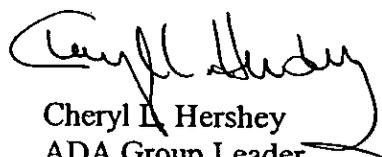
(c) Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

A review of the information shows that you did not give the date of the incident, nor did you identify the driver or the bus line where the incident occurred. It is difficult to investigate incidences of this nature absent specific identifying information. However, HTA's policy is to require drivers to make stop announcements. Drivers who do not observe the policy are subject to disciplinary actions. If you experience service in the

future where stop announcements are not made, we encourage you to contact HTA with specific information on the route and driver.

You have the right to file an appeal in this matter within thirty (30) days of the date of this letter to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration. If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, on FTA's toll free ADA Assistance Line at 1-888-446-4511, or at her electronic mail address, mary-elizabeth.peters@fta.dot.gov. Please identify the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Humboldt Transit Authority



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 16 2002

[REDACTED]

Re: FTA Complaint No. 00-004

Dear [REDACTED]

This letter responds to your complaint you filed against the Southeastern Pennsylvania Transit Authority (SEPTA), Philadelphia, Pennsylvania, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

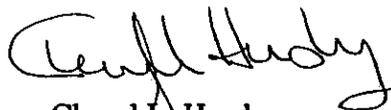
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

In March 2000, FTA conducted an on-site compliance assessment of SEPTA's ADA Complementary Paratransit service. The compliance assessment was based, in part, on complaints, such as yours, submitted to the FTA Office of Civil Rights. The specific issues regarding SEPTA's ADA Complementary Paratransit service in your complaint including next day service, no shows and late pick-ups were addressed from a broader perspective by this

compliance assessment. Findings of deficiencies were made in a number of areas and FTA is currently conducting follow-up through quarterly reporting to ensure that these deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings. We have enclosed a copy of the final report for your reference. Based upon the above, we are closing your complaint.

You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Faye Moore
General Manager
SEPTA
Tenth Floor
1234 Market Place
Philadelphia, Pennsylvania 19107



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 16 2002

[REDACTED]

Re: FTA Complaint No. 99223

Dear [REDACTED]

This letter responds to your complaint of discrimination against the Greater New Haven Transit District, of Hamden, Connecticut, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. GNHTD's ADA Complementary Paratransit service has provided late pickups on numerous occasions, the return rides are often 20 minutes or more early, and the driver will not wait for you.
2. On one occasion, GNHTD counted you as a "no show" even though the driver was informed that you were on the way

We informed GNHTD of your allegations and requested information relating to your complaint; reviewed the information presented by GNHTD and you; and made a determination on your allegations based on our analysis of the compiled information in relation to the DOT ADA regulations. We have restated your allegations followed by our determinations below:

1. **GNHTD ADA Complementary Paratransit service has provided late pickups on numerous occasions, the return rides are often 20 minutes or more early, and the driver will not wait for you.**

The DOT ADA regulation prohibits "capacity constraints" in ADA Complementary Paratransit service. Capacity constraints are defined as any operational pattern or practice that restricts the availability or service to eligible persons. The regulation at 49 CFR section 37.131(f) specifically states that:

Capacity Constraints: The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:

(3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.

(i) Such patterns or practices include, but are not limited to, the following:

(A) Substantial numbers of significantly untimely pickups for initial or return trips;

You did not provide us with specific dates or details on the late or early pick-ups. In reviewing the trip log provided by GNHTD for your trips from August through October of 1999, it shows only 12 instances out of 186 trips (counting each leg as an independent trip), or about 6% of the trips, outside of the 30-minute on-time performance window established by GNHTD

While the DOT ADA regulations do not specify, typical standards allow 20 or 30 minute "pick-up window" around the agreed upon time (e.g., plus or minus 15 minutes, or a 0, plus 30 window). The standard may also include an allowable drop-off window (e.g., 30 minutes before and zero minutes after the appointment/desired arrival time). Entities should strive for 100 % on-time performance. This is to say, entities should not purposefully schedule or carry out service in such a way that would mean a certain percentage or number of riders will not be picked up on time or arrive at their destination on time. Even with the best scheduling and service provision, however, actual performance will not be perfect. Systems that have good on-time performance typically experience late performance due to operational issues 5-10% of the time and evaluate and act on performance that is less than 90-95% on time.

Based on the information submitted, we do not find that GNHTD is in violation of the DOT ADA regulations.

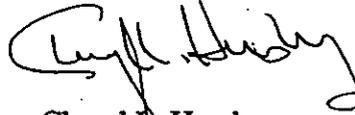
2. **On one occasion, GNHTD counted you as a "no show" even though the driver was informed that you were on the way.**

As you were unable to identify the driver or the specific date we were unable to investigate this specific allegation.

Based on the information provided during our investigation, we do not find a violation of the above DOT ADA regulations. Therefore, we are closing this complaint. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Donna K. Carter, Executive Director
Greater New Haven Transit District
2319 Whitney Avenue
Hamden, CT 06518



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 16 2002



Re: FTA Complaint No. 99305

Dear 

This letter responds to your letter of complaint against the Butte County Transit (BCT), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Your complaint alleged that there is a lack of adequate accessible public transportation in Butte County for people using wheelchairs. Specifically, you alleged that older buses in Butte County do not accommodate specialty wheelchairs.

We investigated your allegations, and sent a data request to the Butte County Public Works Department. We received a response from Butte County that addressed and provided relevant information on your allegations noted above.

The DOT ADA regulations at 49 CFR 37.3 define a "common wheelchair" as:

a device which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied.

Transit providers are not required to transport wheelchairs exceeding these dimensions. However, we encourage transit providers to do so when possible. Butte County stated in its response that at the time of your complaint, Butte County's bus fleet consisted of two buses manufactured in 1984, two manufactured in 1987, one manufactured in 1989, and one manufactured in 1992. The County stated that all the buses were ADA-compliant. However, under the DOT ADA regulations, only the 1992 bus would be required to be accessible. The DOT ADA regulation at 49 CFR 37.71(a) states:

Except as provided elsewhere in this section, each public entity operating a fixed route system making a solicitation after August 25, 1990, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

In addition, Section 37.73(a) states:

Except as provided elsewhere in this section, each public entity operating a fixed route system purchasing or leasing, after August 25, 1990, a used bus or other used vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

Butte County's response indicated that the county took delivery of seven new buses in 2001, and the County had tested the new buses to ensure that they would accommodate scooters and large wheelchairs. The response also indicated that someone from the county would contact you about the new buses.

After reviewing all of the submitted materials, it appears that the facts do not support a finding of a violation of DOT ADA regulations. We are closing your complaint as of the date of this letter. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,


Cheryl D. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 205

SEP 16 2002

[REDACTED]

Re: FTA Complaint #02-00013

Dear [REDACTED]

This letter responds to your complaint you filed against the Birmingham Jefferson County Transit Authority (BJCTA), Birmingham, Alabama alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

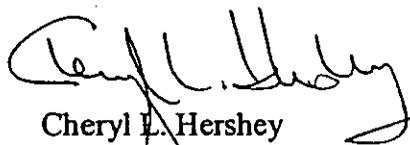
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA conducted an on-site compliance assessment of BJCTA's ADA Complementary Paratransit service, known as First Transit, Inc., in May 2002. The decision to perform this compliance assessment was based in part on complaints such as yours submitted to the FTA Office of Civil Rights. The specific issue in your complaint regarding late pickups, on BJCTA, First Transit Inc.'s ADA Complementary Paratransit service, was addressed from a broader perspective by this compliance assessment.

There were deficiency's noted in the area that is the subject of your complaint. Where findings of deficiencies were made, FTA will monitor BJCTA, ADA Complementary Paratransit activities to ensure resolution of these matters. We are currently doing so through quarterly reporting. Please be advised that this Administration and this Director take the protection of your civil rights very seriously. We will continue to monitor until all areas identified are remedied. For the reasons discussed above, we are closing your complaint.

You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
FTA Office of Civil Rights

cc: Judy Roy, filed on behalf of complainant
Birmingham Jefferson County Transit Authority



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 16 2002

[REDACTED]

Re: FTA Complaint No. 01-0143

Dear [REDACTED]

This letter responds to your complaint you filed against Access Services (ASI) alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of Los Angeles County Metropolitan Transit Authority (LACMTA) ADA Complementary Paratransit service, during this next year. As ASI administers and manages the delivery of ADA paratransit services for LACMTA we will have the opportunity to review their operations and systems. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues in your complaint regarding late pickups, and no shows on ASI's ADA Complementary Paratransit service, will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor LACMTA and ASI's activities until we determine that the deficiencies noted are corrected.

We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. For the reasons discussed above, we are closing your complaint. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: LACMTA/ASI



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 26 2002

[REDACTED]

Re: FTA Complaint No. 02-0092

Dear [REDACTED]

This letter responds to your complaint you filed against Access Services (ASI) alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

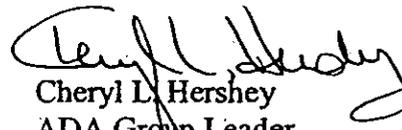
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA plans to conduct an on-site compliance assessment of Los Angeles County Metropolitan Transit Authority (LACMTA) ADA Complementary Paratransit service, during this next year. As ASI administers and manages the delivery of ADA Paratransit services for LACMTA we will have the opportunity to review their operations and systems. The decision to perform this compliance assessment was based in part on complaints such as yours submitted to the FTA Office of Civil Rights. The specific issue in your complaint regarding late pick-ups on ASI's ADA Complementary Paratransit service will be addressed from a broader perspective by this compliance assessment. If we make findings of deficiencies, FTA will monitor LACMTA and ASI's activities until we determine that the deficiencies noted are corrected. We will make every

effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. Based upon the above we are closing this complaint.

You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
FTA Office of Civil Rights

cc: Access Services, Inc./LACMTA



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 26 2002

[REDACTED]

Re: FTA Complaint No. 02-0094

Dear [REDACTED]

This letter responds to your complaint you filed against Access Services (ASI) alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

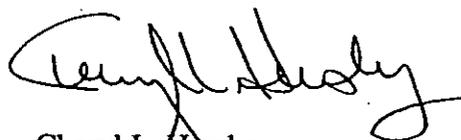
Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site actions. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property

FTA plans to conduct an on-site compliance assessment of Los Angeles County Metropolitan Transit Authority (LACMTA) ADA Complementary Paratransit service, during this next year. As ASI administers and manages the delivery of ADA Paratransit services for LACMTA we will have the opportunity to review their operations and systems. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issue in your complaint regarding late pick-ups on ASI's ADA Complementary Paratransit service will be addressed from a broader perspective by this

compliance assessment. If we make findings of deficiencies, FTA will monitor LACMTA and ASI's activities until we determine that the deficiencies noted are corrected. We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy. Based upon the above we are closing this complaint.

You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
FTA Office of Civil Rights

cc: Access Services, Inc./LACMTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 2 2002

[REDACTED]

Re: FTA Complaint No. 010152

Dear [REDACTED]

This letter responds to your complaint you filed against the Metropolitan Atlanta Regional Transit Authority (MARTA), of Atlanta, Georgia, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

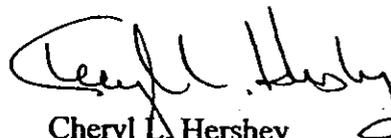
In September 2001, FTA conducted an on-site compliance assessment of MARTA's ADA Complementary Paratransit service. The compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding MARTA's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this compliance assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with MARTA, until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with

those addressing the assessment findings. As the assessment report is final, we have enclosed a copy for you.

Please note that this letter only covers the allegations against MARTA's ADA Complementary Paratransit service, and not the other allegations of your complaint. For the reasons discussed above, we are closing the ADA Complementary Paratransit portion of your complaint. The allegations pertaining to Fixed Route are still under investigation.

You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: mary-elizabeth.peters@fta.dot.gov
Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Nathaniel P. Ford, Sr.
General Manager
MARTA
2424 Piedmont Rd. NE
Atlanta, GA 30324-3311



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 2 2002

[REDACTED]

Re: FTA Complaint No. 97095

Dear [REDACTED]

This letter responds to your letter of complaint against the Washington Metropolitan Area Transit Authority (WMATA), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources, a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Your complaint alleged that:

1. A WMATA bus operator incorrectly told another bus driver that only people in wheelchairs could use the lift.
2. Transit police stopped you and said you could not use the disabled/senior pass without a system ID card.

We investigated your allegations, and sent a data request to the Washington Metropolitan Authority (WMATA) with regard to the first allegation. We received a response from WMATA that addressed and provided relevant information on your first allegation noted above.

1. **A WMATA bus operator incorrectly told another bus driver that only people in wheelchairs could use the lift. The driver was rude and threatened to have you arrested.**

The DOT ADA regulations at 49 CFR 37 165(g):

The entity shall permit individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle.

You state that you were allowed to use the lift by a bus operator for a ride to Washington Hospital Center. Upon arriving there, the driver deployed the lift for you. Another driver came and instructed the first driver incorrectly that only people using wheelchairs were allowed to use the lift. You allege that this second driver threatened to have you arrested.

WMATA responded that supervisory personnel interviewed both operators and were unable to confirm that the incident had occurred as alleged. The first driver confirmed that she had deployed the lift for you both times, consistent with WMATA operating procedure. As to the allegation of rudeness and threat, WMATA was unable to determine whether that occurred. Nevertheless, the driver was disciplined for becoming involved in an unnecessary conversation with a passenger and for becoming involved in a matter that was not a part of his duties.

2. **Transit police stopped you and said you could not use the disabled/senior pass without a system ID card.**

Although you have several disabilities, you state that when asked you supplied a Medicare card as proof of your eligibility to use the disabled/senior pass. Because you were using the pass on the basis of age, the DOT ADA regulations do not apply

Based upon the above, we are closing your complaint. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 2 2002

Ms. Marcie Gladson
Clients' Rights Advocate
Protection and Advocacy, Inc.
15400 Sherman Way, Suite 300
Van Nuys, California 91406

Re: FTA Complaint No. 98208

Dear Ms. Gladson:

This letter responds to the complaint you filed on behalf of [REDACTED] against Access Services, Incorporated (ASI), of Los Angeles County, California. It alleges potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973. In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider.

If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If we cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

We understand your allegations to be as follows:

1. ASI unfairly suspended [REDACTED] ADA Complementary Paratransit eligibility and did not inform him of his right to appeal the suspension, and
2. ASI personnel lack sensitivity in dealing with persons with speech impairments.

We informed ASI of your allegations and requested information relating to your complaint. We made a determination based on our analysis of the compiled information in relation to the DOT ADA regulation. We have restated your allegations, followed by our determinations, below:

1 ASI unfairly suspended [REDACTED] ADA Complementary Paratransit eligibility and did not inform him of his right to appeal the suspension.

We do not question ASI's decision to suspend [REDACTED] service. [REDACTED] has a documented past history of verbally abusing ASI personnel when he is unhappy with the service. This clearly constitutes disruptive behavior. However, in this case, we do not believe that [REDACTED] was afforded appropriate due process before his suspension was enforced. Access to public transportation under the American with Disabilities Act is a civil right, and, as such, an individual must be provided adequate safeguards before being deprived of that right

According to the documentation we received from ASI, [REDACTED] received a letter of warning dated May 30, 1997, after he verbally attacked a reservations clerk. You acknowledged this incident in your letter of complaint to us. Beginning in March 1998, [REDACTED] allegedly began a pattern of verbally attacking an ASI reservations clerk and drivers. We have copies of four complaints against [REDACTED] filed by that clerk. In addition there is a complaint from a driver alleging similar verbal abuse. Based upon "your [REDACTED] continual verbal abuse of both drivers and reservationists," ASI decided to suspend his privileges based upon section 37.5 (see above). [REDACTED] received a letter dated April 9, 1998, informing him that he was suspended from ASI service for thirty days. However, the letter did not contain a notice that he could appeal the suspension.

The DOT ADA regulation at 49 CFR Part 37.5(h) states that:

It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

Furthermore, Section 37.125(h) of the DOT ADA regulation provides for suspension of service for persons who establish a pattern or practice of missing scheduled trips. It states in part:

(2) Before suspending service, the entity shall take the following steps: (i) Notify the individual in writing that the entity proposes to suspend service, citing with specificity the basis of the proposed suspension and setting forth the proposed sanction. (ii) Provide the individual an opportunity to be heard and to present information and arguments. (iii) Provide the individual with written notification of the decision and the reasons for it.

(3) The appeals process of paragraph (g) of this section is available to an individual on whom sanctions have been imposed under this paragraph. The sanction is stayed pending the outcome of the appeal.

We recognize that the explicit language requiring the appeal process in 37 125(h) addresses no shows. However, implicit in the protection of any civil right is the concept of due process. Therefore, a transit property must afford an eligible rider adequate due process rights prior to any suspension or termination of service. This would include a written notice of pending adverse action, the opportunity to be heard and present information and arguments prior to the action, written notification of the final decision, and an opportunity to appeal an adverse decision.

(We note that while ASI suspended [REDACTED] right to ride under 37.5, they also have adopted a policy regarding appropriate and expected behavior by its customers. These "Rules of Conduct" are listed in the "Access Services Rider's Guide" that every new customer receives along with his/her notice of eligibility. The rules were adopted in 1997, prior to the filing of your complaint. Penalties are listed for violations of the rules and include a verbal warning, a written warning, and a suspension for a minimum of 30 days. This section also includes a notice that an appeal to any of the disciplinary actions may be made in writing within 30 days.)

We have informed ASI of the above due process requirements. Please note that ASI, subsequent to the filing of this complaint, changed its suspension letters by adding a notice of the rider's right to appeal.

2. ASI personnel lack sensitivity in dealing with persons with speech impairments.

The DOT ADA regulations at 49 CFR 37 173 require ASI personnel to be trained to interact with persons with disabilities in a courteous and respectful manner. This provision of the regulations states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

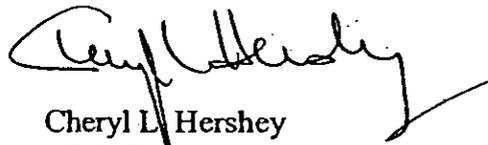
You allege in your letter that ASI personnel provide "less courteous and efficient paratransit services to [REDACTED] and [others] with speech and severe physical disabilities than to people who are more articulate and less severely physically disabled than [REDACTED]". The documentation in [REDACTED]'s file does not support this allegation. In 21 complaints that [REDACTED] filed against ASI between July 1996 and November 1998, none referred to an impatient reservations clerk or to any difficulty in his communications with ASI personnel.

ASI documented that all personnel are required to receive training as appropriate to the DOT ADA regulations. ASI alleges that [REDACTED] frustration in dealing with ASI reservations clerks stems from his repeated attempts to schedule rides that fall outside of his conditional eligibility status. To help alleviate this situation, ASI has granted [REDACTED] unconditional eligibility. This was not required and in our opinion shows a good faith effort on the part of ASI to resolve this issue. We will take no further action on this allegation.

Based on the information provided during our investigation, ASI has taken corrective action on the first allegation, and we do not find a violation of the DOT ADA regulations with regard to the second allegation. Therefore, we are closing this complaint. [REDACTED] has the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Mr. John Swicegood
6300 Owensmouth Avenue
Woodland Hills, California 91367

Access Services, Inc.



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 5 2002

[REDACTED]

Re: FTA Complaint No. 98283

Dear [REDACTED]

This letter responds to your letter of complaint against the Prince George's County Department of Public Works and Transportation (The Bus), alleging violations of Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property

Your complaint alleged that The Bus operators fail to announce stops on their routes.

We investigated your allegations, and sent a data request to Prince George's County. We received a response from (The Bus) that addressed and provided relevant information on your allegation noted above.

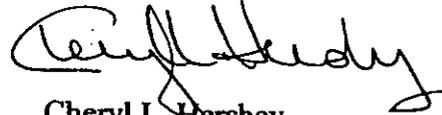
At the time of our original request for information from Prince George's County they indicated that the County would have its contractor monitored by both the contractor and the County to ensure that stop announcements were made. A recent update from the County stated that County inspectors found compliance was inconsistent. The County indicated that it entered into a new contract with Yellow Transportation Services and the County has notified Yellow Transportation about the necessity of stop announcements.

After reviewing all of the submitted materials, it appears that the facts leading to the particular circumstances experienced by you were the result of temporary deficiencies. However, the information provided by the Bus shows the County has made changes to ensure procedures in place as required by the DOT ADA regulation and that the procedures are followed.

We are closing your complaint as of the date of this letter. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.
mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Prince George's County Department
of Public Works and Transportation



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 13 2002

[REDACTED]

Re: FTA Complaint No. 01-0176

Dear [REDACTED]

This letter responds to your letter of complaint against the San Joaquin Regional Transit District (SJRTD), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property

Your complaint alleged one no show, late pickups and excessive trip lengths.

We investigated your allegations, and sent a data request to the SJRTD. We received a response from SJRTD that addressed and provided relevant information on your allegations noted above.

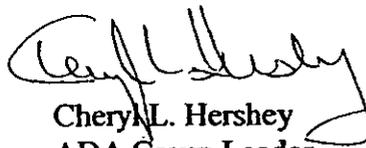
In May 2002, our investigator contacted you and asked the status of your service. You indicated you were still having problems. The investigator contacted the General Manager about the problems. The investigator received information related to your paratransit trips from July 9-September 8, 2002. Out of 72 trips, there were 6 late pickups between 5 minutes and 63 minutes. Our investigator was advised that due to ongoing performance problems with Lairdlaw, the contractor for ADA Complementary Paratransit, SJRTD did not renew the final year of Lairdlaw's contract. November 1, 2002, SJRTD took over the ADA Complementary Paratransit service

directly. The General Manager noted that after a transition period with the service, SJRTD expects the performance will be greatly improved.

After reviewing all of the submitted materials, it appears that the facts leading to the particular circumstances you experienced were the result of temporary deficiencies. However, the information provided by SJRTD shows they have procedures in place as required by the DOT ADA regulation and that they are ensuring they are followed.

Based on the above we are closing your complaint. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Donna Kelsay
General Manager
SJRTD



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 16 2002

Mr. Robert Tilley
Center for Independent Living
of North Central Florida
720 N.W. 23rd Avenue
Gainesville, Florida 32609

Re: FTA Complaint No. 00039

Dear Mr. Tilley:

This letter responds to your complaint you, on behalf, of [REDACTED] filed against the Regional Transit System (RTS), of Gainesville, Florida, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

One method of ensuring compliance is through conducting periodic compliance reviews as provided for in 49 CFR section 27.123. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

In December 2001, FTA conducted an on-site compliance assessment of Gainesville RTS ADA Complementary Paratransit service. The compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issues regarding RTS' ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this compliance assessment. Where we made findings of deficiencies, FTA will continue its monitoring activities with RTS until we determine that the deficiencies noted in the report are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

We have enclosed a copy of the Final Assessment Report for your use. We are currently monitoring Gainesville's performance on a quarterly basis to ensure that they correct the identified areas where findings were made.

Based on the information provided during our investigation, we do not find a violation of the above DOT ADA regulations and therefore, we are closing this complaint. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding this letter, or remaining concerns, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: mary-elizabeth.peters@fta.dot.gov Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 19 2002



Re: FTA Complaint No. 99050

Dear 

This letter responds to your complaint against Regional Transportation Commission of Southern Nevada (RTC) Citizens Area Transit (CAT), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property

Specifically, your complaint alleged that on the fixed route system:

1. The scheduling of the buses does not allow enough time for the drivers to load and unload passengers using wheelchairs. If the drivers have to take on two or more wheelchairs, they only have 10-20 minutes at the turnaround for using the restroom or getting something to drink, and they take it out on the passengers.
2. You had an incident with Bus No. 432 on Route 202 at 12:25 p.m. (no date given) at the stop at Koval and Flamingo. The driver improperly secured your wheelchair by wrapping the belt around your anti-tilt wheels. When you told him he was doing it incorrectly, he told you he was a supervisor trainee, and he was supposed to hook it there, and if you didn't like it, you could get off his bus and take the next one.

3. Lifts on the buses do not work 50 percent of the time.

Your allegations pertaining to CAT ADA Complementary Paratransit services are that:

4. CAT must be called three days in advance; the CAT dispatcher tells you the driver can only come to get you two hours before the appointment or one hour after the appointment.
5. Prior to your letter of March 1999, out of about a dozen calls you had placed for rides for your doctor visits, you had gotten only three rides. You also allege that if someone calls to go to a casino, the passenger gets a ride about 80 percent of the time.

We investigated your allegations, and sent a data request to the Jacob L. Snow, General Manager, RTC. We received a response from JTA that addressed and provided relevant information on each of your allegations noted above.

1. **The scheduling of the buses does not allow enough time for the drivers to load and unload passengers using wheelchairs. If the drivers have to take on two or more wheelchairs, they only have 10-20 minutes at the turnaround for using the restroom or getting something to drink, and they take it out on the passengers.**

RTC stated in its response that transit monitors and a contractor evaluate routes at different times of the day and take the needs of passengers with disabilities into account. RTC also stated that if either they or their contractor feel the route can't be performed in a timely manner it will be re-evaluated and another schedule created. If you are currently having problems, please advise RTC as to the route and time of day that is of concern so that they can try and evaluate the schedule with their contractor.

2. **You had an incident with Bus No. 432 on Route 202 at 12:25 p.m. at the stop at Koval and Flamingo (no date given). The driver improperly secured your wheelchair by wrapping the belt around your anti-tilt wheels. When you told him he was doing it incorrectly, he told you he was a supervisor trainee, and he was supposed to hook it there, and if you didn't like it, you could get off his bus and take the next one.**

RTC was not able to trace this incident, because no date was given nor name of driver. RTC advised though that the drivers are all trained in correct securement procedures. While without more specific facts we are precluded from investigating, we do recognize that providing training does not guarantee that the training is always followed. If this type of situation arises again please promptly contact RTC with full information so they can take appropriate steps.

3. Lifts on the buses do not work 50 percent of the time.

RTC responded that their fleet is accessible, and their lifts functional and maintained. They indicated that 100% of their fleet is ADA accessible with 109 having ramp style lifts and 109 having "Lift U" lifts. They have less than 1% fleet down for wheelchair lift repair at any time. Lift repairs on road or breakdowns are less than 1% of RTC's road calls.

RTC provided a substantial documentation to support their response. RTC provided documentation to show that lift maintenance is part of the pre-trip checks. The supporting records also showed there were only 38 roadside service calls for "elderly and disabled" that year. RTC indicated that this equates to operating over 16 million miles and averaging one roadside call for every 421,053 miles. They stated that the ramp style lifts are essentially trouble free and that no bus is allowed into service without a wheelchair lift that is working. Wheelchair lift maintenance is performed every 3,000 miles. The above is in accordance with what is required by the DOT ADA regulation.

4. CAT must be called three days in advance; the CAT dispatcher tells you the driver can only come to get you two hours before the appointment or one hour after the appointment.

CAT schedules rides *up to* three days in advance. Also please note that the DOT ADA regulations allow at 49 CFR 37.131(b)(2) for a negotiable window of up to one hour before and one hour after the requested time. This does not in any way limit your right to accept a ride outside of the one-hour window—it does require that RTC count as a denial a ride outside the window, even if you were to accept it. This is in accordance with the DOT ADA regulations.

In the course of looking into your second allegation RTC responded that they do have a policy that poses a two-hour limit between trips restriction. They advised this is for operational reasons allowing them to carry out their transit obligations over a large geographic area.

However, such a policy acts as a limitation on the right to next day service under section 37.131 (b). As such, we will request RTC by cover of separate letter to discontinue this policy and not impose the above limitation on next day service.

Prior to your letter of March 1999, out of about a dozen calls you had placed for rides for your doctor visits, you had gotten only three rides. You also allege that if someone calls to go to a casino, the passenger gets a ride about 80 percent of the time.

The DOT ADA regulations at 49 CFR 37.131(d) requires that transit providers not prioritize according to trip purpose. RTC responded that they schedule rides on a first come first served basis and that they don't inquire as to trip purpose. In addition at the time of your complaint RTC was experiencing denials and as a result instituted supplemental service to address this problem.

You also mentioned two other allegations in your letter: that a driver asked you to not take his bus because it cut down on his lunch break and that one of RTC's supervisors told you that you made more than a dozen calls in one month. We do not consider either of these allegations to be covered under the DOT ADA regulations.

Based upon the above we are closing your complaint. We will follow-up with RTC to ensure resolution of the matter outlined above. We are closing your complaint as of the date of this letter. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll-free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Jacob L. Snow
Regional Transportation Commission
of Southern Nevada



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 19 2002

[REDACTED]

Re: FTA Complaint No. 02-00012

Dear [REDACTED]

This letter responds to your complaint you filed against the Birmingham Jefferson County Transit Authority (BJCTA), Birmingham, Alabama alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

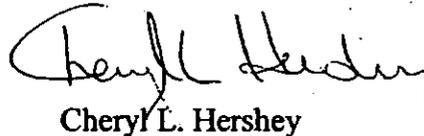
In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

FTA conducted an on-site compliance assessment of BJCTA's ADA Complementary Paratransit service, known as First Transit, Inc., in May 2002. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issue in your complaint regarding excessive trip lengths, on BJCTA, First Transit Inc.'s ADA Complementary Paratransit service, was addressed from a broader perspective by this compliance assessment. Where findings of deficiencies were made, FTA will monitor BJCTA, First Transit, Inc.'s activities through until we determine that the deficiencies noted are corrected. We intend to combine our monitoring efforts on the complaints with those addressing the assessment findings.

We have enclosed a copy of the Final Assessment Report for your use. We will monitor BJCTA's ADA Complementary Paratransit service performance on a quarterly basis to ensure that they correct the identified areas where findings were made. Accordingly, we are closing your complaint.

You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: mary-elizabeth.peters@fta.dot.gov Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

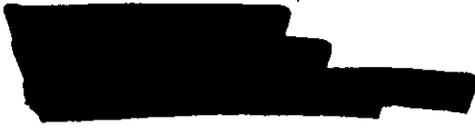
Cc: Birmingham Jefferson County Transit Authority (BJCTA)
Judy Roy ILC 206 13th Street South, Birmingham, Alabama 35233



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 19 2002



Re: FTA Complaint No. 01-0185

Dear 

This letter responds to your complaint against Jackson Transit Authority (JATRAM), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property

Specifically, your complaint alleged that:

- JATRAM requires you to travel with a Personal Care Attendant (PCA).

We investigated your allegations, and sent a data request to the General Manager, JATRAM. We received a response from JATRAM that addressed and provided relevant information on each of your allegations noted above.

- **JATRAN requires you to travel with a Personal Care Attendant.**

The DOT ADA regulations at 49 CFR 37.5(e) state:

An entity shall not require that an individual with disabilities be accompanied by an attendant.

You state that you received an amended certification requiring a PCA after an incident of your wheelchair overturning due to improper securement.

JATRAN stated in its response that:

██████████ alleges an incident in which his chair turned over and caused him bodily harm. On August 18, 2000 [sic] such an incident did occur. The incident report and discipline issued to the operator are attached. The matter was turned over to our insurance company which has handled it with ██████████. There is no allegation from ██████████ that the insurance company did not handle this matter properly.

██████████ alleges that he is now required to have a personal care attendant when riding JATRAN. This would not have been necessary if [sic] not for the incident on August 18, 2001. It is true that JATRAN now requires ██████████ to have a personal care attendant. This is required because ██████████ has progressed from a walker to a wheelchair and he has insufficient bodily control to maintain himself in the wheelchair even when the vehicles not moving. The PCA requirement is for ██████████ safety. It is not true that he has "an amended application." A personal care attendant requirement was added in November 2000 when ██████████ was routinely recertified.

JATRAN first states that a personal care attendant attendant "would not have been necessary if [sic] not for the incident on August 18, 2001." Alternately, JATRAN states that the personal care attendant is now required "for ██████████ safety" and was added in November 2000.

The DOT ADA regulations prohibit requiring a person with a disability to be accompanied by a PCA. As such, neither of JATRAN's explanations justify imposing that requirement and are not in accordance with the DOT ADA regulations at the above cited section.

Under the DOT ADA regulations the only situation where a transit provider can require a PCA of the rider with a disability is where an entity can legitimately refuse service based on 37.5(h) where an individual has engaged in violent, seriously disruptive or illegal conduct.

We note in this instance that JATRAN acknowledged the incident occurred and resulted in bodily injury to you and disciplined the driver for, among other matters, failing to secure the wheelchair. We are addressing this matter under cover of separate letter with JATRAN.

We also note that, as a result, you allege JATTRAN denied you service on a number of occasions. This should not be an issue in view of FTA's determination in your case; however, please contact us if you encounter further problems in this area.

We are closing your complaint as of the date of this letter. We will place it in follow-up status to ensure that corrective action is taken by JATTRAN in regards to their policy on PCA's.

You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions or any further problems, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at (202) 366-0792 or by email at: mary-elizabeth.peters@fta.dot.gov

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Tyrone Parker
General Manager
JATTRAN



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 23 2002



Re: FTA Complaint No. 01-0034

Dear [REDACTED]

This letter responds to your complaint against Central Florida Regional Transportation Authority (LYNX), Orlando, Florida, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged the following:

1. LYNX will not allow you to bring your dog on board ADA Complementary Paratransit vehicles without a carrier, and LYNX refuses to have the driver carry the carrier.
2. You cannot ride any longer than 30-40 minutes, and LYNX will not accommodate you.
3. LYNX will not wait five minutes while you go in to get an injection at the doctor's office.
4. LYNX will not accommodate you by always putting you in the front seat of the van to help with claustrophobia.

We investigated your allegations, and sent a data request to LYNX. We received a response from LYNX that addressed and provided relevant information on each of your allegations noted above:

- 1. LYNX will not allow you to bring your dog on board ADA Complementary Paratransit vehicles without a carrier, and LYNX refuses to have the driver carry the carrier.**

The DOT ADA regulations at 49 CFR 37.167(d) states:

The entity shall permit service animals to accompany individuals with disabilities in vehicles and facilities.

The DOJ guidance in this area defines a service animal as:

any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

The FTA investigator called during the investigation and asked you if your dog is a service animal trained to do a specific task related to your disability. Your answer was no. Only service animals as defined above are covered by the DOT ADA regulations. LYNX is therefore not in violation of the regulations.

- 2. You cannot ride any longer than 30-40 minutes, due to your disability, and LYNX will not accommodate you.**

ADA Complementary Paratransit service is a shared ride service in the same manner as fixed route bus service. It is not a taxi service. Scheduling for shared ride service is complex and done for a number of people. There are no DOT ADA regulations that mandate that transit providers give special preference to certain individuals in the provision of that service. At the same time, the Department of Justice ADA regulations at 35.130(b)(7) state:

A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

However, in a letter of June 9, 2000, Ron Jones, Paratransit Manager, stated:

When possible, we will limit your travel time to under 30 minutes, keeping in mind the shared ride nature of our service and the length of trip you may be taking.

We believe that LYNX is accommodating you to the extent possible in a shared-ride service, within the perimeters outlined above.

3. LYNX will not wait five minutes while you go in to get an injection at the doctor's office.

ADA Complementary Paratransit service is a shared ride service that operates similar to fixed route buses. A fixed route bus would not stop five minutes for you to get an injection. Therefore, LYNX is not violating any DOT ADA regulations.

4. LYNX will not accommodate you by always putting you in the front seat of the van to help with claustrophobia.

The Department of Justice ADA regulations at 35.130(b)(7) state:

A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity

In the letter of June 9, 2000, Ron Jones stated:

If another passenger is not in the front seat, you can sit in the front seat, but we cannot displace another passenger to accommodate this request.

We recognize that based upon the above Lynx's has made some efforts to assist you. However, a reasonable modification in practice and procedure based upon the above section, may also include asking, but not requiring, the person/s who is/are seated at the front location to see if s/he is willing to move to accommodate your particular disability We will address this by cover of separate letter with LYNX.

Based upon the above we are closing your complaint. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 27 2003

[REDACTED]

Re: FTA Complaint No. 01-0239

Dear [REDACTED]

This letter responds to your complaint you filed against Access Services (ASI) alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of resolution or finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA is scheduled to conduct an on-site compliance assessment of Los Angeles County Metropolitan Transit Authority (LACMTA) ADA Complementary Paratransit service, January 27th-31th, 2003. As ASI administers and manages the delivery of ADA Paratransit services for LACMTA we will have the opportunity to review their operations and systems. The decision to perform this compliance assessment was based in part on your complaint submitted to the FTA Office of Civil Rights. The specific issue in your complaint regarding late pick-ups on ASI's ADA Complementary Paratransit service will be addressed from a broader perspective by this compliance assessment.

If we make findings of deficiencies, FTA will monitor LACMTA and ASI's activities until we determine that the deficiencies noted are corrected. We will make every effort to contact you when the compliance assessment is scheduled. Upon completion of the final compliance assessment report, you will be provided a copy.

You also raise concerns over ASI's use of the side-facing position of securement; you have advised ASI that you do not wish to be transported in this manner but to no avail.

ASI in its response stated that all Access Services vehicles (except non-accessible taxis) meet all Part 38 requirements. ASI further stated that the difficulty arose where one of their contractors was using some of their own vehicles, accessible taxi minivans, to provide service on behalf of ASI indicating that these particular vehicles have 14" less floor space and a Kinedyne securement system.

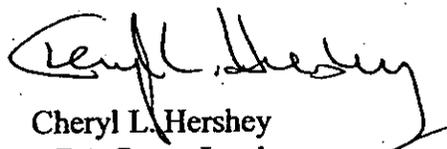
The position of the Department, FTA and the Architectural and Transportation Barriers Compliance Board (Access Board) has been made clear on this issue. The Access Board and the Department at the time the regulation was drafted considered the side-facing method of transport. The Access Board when considering the side-facing issue, drafted Part 36 CFR Part 1192 - Accessibility Specifications for Transportation Vehicles, and the Department incorporated this into the DOT ADA regulations. Part 38 Section 38.23 (d) (4) provides for forward or rearward facing position, but does not provide for side-facing.

The Federal Transit Administration (FTA) also considered side-facing in a request for equivalent facilitation in its October 22, 1993 "Determinations of Equivalent Facilitation for Accessibility of Transportation Vehicles and Facilities: Notice". This Notice stated: "The FTA responded, explaining the origin of the standard: To date, no one has provided test data indicating that side facing wheelchair or mobility aid securement is as safe as forward or rearward facing securement positions...." This request for equivalent facilitation was denied due to the lack of test data to support side-facing securement as being safe.

It is unclear from the general nature of ASI's response whether or not [REDACTED] was, in this instance, transported in a side-facing position. We ask ASI to respond in writing within 30 days as to their practice and policy as to side-facing, in particular, where an oversized wheelchair is transported, a driver calls in for direction, or where a contractor utilizes smaller vehicles from their existing fleet.

We will close this file, however place it in follow-up status to ensure satisfactory resolution of the matter. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
FTA Office of Civil Rights

cc: Access Services, Inc.
P.O. Box 71684
Los Angeles, California 90071-0684



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 27 2003

[REDACTED]

Re: FTA Complaint No. 98259

Dear [REDACTED]

This letter responds to your complaint you filed against the Metropolitan Transportation Commission (MTC), Oakland, California, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Your allegations were:

1. MTC's website is not accessible by people who use screen reader programs.
2. Public documents on MTC's website are not accessible.
3. Job information is not accessible.
4. There is no information on the website on how to obtain documents in accessible formats.
5. MTC has implemented "Smart Card" technology for its fixed route system, but is not providing it for ADA Complementary Paratransit service.

We investigated your allegations, and sent a data request to MTC. We received a response from MTC that addressed and provided relevant information on each of your allegations noted above.

1. **MTC's website is not accessible by people who use screen reader programs.**
2. **Public documents on MTC's website are not accessible.**

MTC's response stated that MTC had solicited the assistance of its Elderly and Disabled Advisory Committee to identify improvements to the website to assist people with visual impairments. A recent review of the website showed that the site was changed to provide documents in HTML format, and the site was made accessible.

3. **Job information is not accessible.**

Job postings are posted on a page in HTML format. However, the employment application is in Adobe Acrobat format. Complaints about the accessibility of the employment application should be addressed to the Equal Employment Opportunity Commission at the Oakland, California Regional Office:

1301 Clay Street
Suite 1170-N
Oakland, California 94612-5217
Phone: 510-637-3230
TTY: 510-637-3234

4. **There is no information on the website on how to obtain documents in accessible formats.**

A notice has been added to the home page website on how to contact MTC for alternative formats.

5. **MTC has implemented "Smart Card" technology for its fixed route system, but is not providing it for ADA Complementary Paratransit service.**

You contacted the ADA Assistance Line on August 24, 2000, and we previously provided a response to this allegation as follows:

The DOT ADA regulations cover comparability in 49 CFR 37.121, stating:

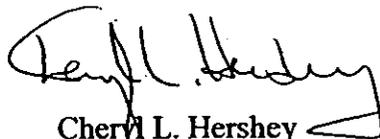
- (a) Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

- (b) To be deemed comparable to fixed route service, a complementary paratransit system shall meet the requirements of Secs. 37.123-37.133 of this subpart. The requirement to comply with Sec. 37.131 may be modified in accordance with the provisions of this subpart relating to undue financial burden.

There is nothing in 37.123-133 that would require the use of smart card technology in order to fulfill the comparability requirement.

You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact us on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at the electronic mail address: ada.assistance@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Steve Heminger
Executive Director
Metropolitan Transportation Commission
101 Eighth Street
Oakland, California 94607



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 28 2003

[REDACTED]

Re: FTA Complaint No. 01-0250

Dear [REDACTED]

This letter responds to your letter of complaint against the McAllen Express (MAE), McAllen, Texas, a contractor for ADA Complementary Paratransit service for the Lower Rio Grande Valley Development Council (LRG), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Your complaint alleges:

1. You have to call in for a reservation 24 hours in advance.
2. You had an appointment around 3:15 and needed to be home before 4:00 p.m. You had to walk several miles to a public phone to call a taxi. The driver showed up at 6:45 p.m.
3. Another time, you waited at the library for an hour and a half before call a taxi.
4. You have experienced other late pickups.
5. The drivers only wait for five minutes before leaving.

We investigated your allegations, and sent a data request to LRG. We received a response from LRG that addressed and provided relevant information on each of your allegations noted above.

1. You have to call in for a reservation 24 hours in advance.

The DOT ADA regulations at 49 CFR 37.131(b) states:

Response time. The entity shall schedule and provide paratransit service to any ADA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day. Reservations may be taken by reservation agents or by mechanical means.

Lower Rio Grande Valley Development Council's response states that they require a twenty-four (24) hour in advance call in for scheduling a pickup for next day service. Requiring 24 hours in advance for reservations, is an incorrect application of this section. A letter will be sent to LRG indicating that this policy must be revised to accepting reservations for next day service at any time on the previous day.

- 2. You had an appointment around 3:15 and needed to be home before 4:00 p.m. You had to walk several miles to a public phone to call a taxi. The driver showed up at 6:45 p.m.**
- 3. Another time, you waited at the library for an hour and a half before call a taxi.**
- 4. You have experienced other late pickups.**

LRG/MAE were unable to investigate these problems, because you did not include dates and times. In the future if you continue to experience late pickups, you should make a note of the date and time, and if possible the driver's name or number, and provide to us for investigation. Without the specifics, it is impossible to determine what may have happened.

5. The drivers only wait for five minutes before leaving.

The transit provider provided information that they do in fact only wait for five minutes after the scheduled pick up time. This is in accordance with the DOT ADA regulations.

After reviewing all of the submitted materials, it appears that the facts leading to the particular circumstances experienced by you were the result of a deficiency that we will address with LRG/MAE by cover of separate letter. LRG/MAE will be directed to correct the deficiency and ensure that they have procedures in place as required by the DOT ADA regulations and that those procedures are followed. We are closing your complaint as of the date of this letter.

You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Richard M. Hinojosa
Director
Regional Planning & Services
Lower Rio Grande Valley Development Council
311 N. 15th Street
McAllen, Texas 78501-4705



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 28 2003

[REDACTED]
**National Association for Accessible Transportation
90 Summit, Apartment 8
Pawtucket, Rhode Island 02860**

Re: FTA Complaint No. 01-0225

Dear [REDACTED]

This letter responds to your complaint against the Rhode Island Transit Authority (RIPTA), Providence, Rhode Island, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that RIPTA bus operators are not making stop announcements. We investigated your allegations and sent a data request to MBTA. We received a response from MBTA that addressed and provided relevant information on your allegation noted above.

- **RIPTA's bus operators are not making stop announcements.**

The DOT ADA regulations at 49 CFR 37.167(b) and (c) state:

(b) On fixed route systems, the entity shall announce stops as follows:

- (1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location.
- (2) The entity shall announce any stop on request of an individual with a disability.

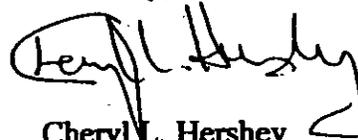
(c) Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

Examination of RIPTA's response indicated that RIPTA hired a contractor to develop a program to train and monitor operators with regard to stop announcements. The contractor did a survey and found that stops were called less than five percent of the time. Since the date of that response, RIPTA has implemented its calling stops program and has seen an improvement to 41 percent. This information was provided to the FTA's Civil Rights Director, Michael Winter, and Peggy Griffin, Region 1 Civil Rights Officer, when they recently met with RIPTA officials.

The management of RIPTA has stated that it will continue to monitor progress with drivers and work with the disability community in the ongoing implementation of its stop announcement program. By cover of separate letter, FTA will request quarterly updates to monitor RIPTA's progress until such time as it is determined that RIPTA is in compliance with the DOT ADA regulations.

We are closing your complaint as of the date of this letter. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 14 2003



Re: FTA Complaint No. 010134

Dear 

This letter responds to your complaint filed against the East Bay Paratransit Consortium (EBPC), of Oakland, California, and AC Transit, Oakland, California, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Your allegations were:

1. Late pickups,
2. Late arrivals in Pinole,
3. Being stranded in Oakland.
4. Overbooked with other passengers,
5. Overcrowded, too many wheelchairs on board,
6. Faulty equipment, lifts that are unsafe,
7. Verbally abusive drivers who threaten to not show you,
8. Tie-downs left on the floor making it difficult to operate a power wheelchair; a person has to really maneuver the wheelchair in order for the tires so as not to damage them, and,
9. Riding with passengers who are emotionally challenge.

We investigated your allegations, and sent a data request to EBPC. We received a response from EBPC that addressed and provided relevant information on your allegations noted above.

1. Late pickups

2. Late arrivals in Pinole

The DOT ADA regulations at 49 CFR 37.131(f) states:

Capacity constraints. The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:

- (1) Restrictions on the number of trips an individual will be provided;
- (2) Waiting lists for access to the service; or (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.
 - (i) Such patterns or practices include, but are not limited to, the following:
 - (A) Substantial numbers of significantly untimely pickups for initial or return trips;
 - (B) Substantial numbers of trip denials or missed trips;
 - (C) Substantial numbers of trips with excessive trip lengths.
 - (ii) Operational problems attributable to causes beyond the control of the entity (including, but not limited to, weather or traffic conditions affecting all vehicular traffic that were not anticipated at the time a trip was scheduled) shall not be a basis for determining that such a pattern or practice exists.

EBPC submitted on-time performance data for FY 2000-2001 that shows a yearly percentage of 87.9 percent. In EBPC's response, it was indicated that the transit property was undertaking a number of initiatives to improve on-time performance. By cover of separate letter, we are asking for a summary report from EBPC regarding late pickups and drop-offs. We will monitor progress to ensure any deficiencies are corrected.

3. Being stranded in Oakland

Because you did not supply a specific date, we could not discuss specifics with EBPC or ACT. However, on the general allegations, EBPC's response indicated that you had left the location due to a late pickup, rather than being stranded. We will address this issue in the letter to EBPC, in relation to your allegation of late pickups and arrivals.

4. **Overbooked with other passengers**
5. **Overcrowded, too many wheelchairs on board**

ADA Complementary Paratransit service is a shared ride complement to fixed route bus or rail service. As such, passengers share the vehicle with others similar to the way passengers on a fixed route bus share the bus with other passengers. Therefore, there will usually be other passengers aboard the paratransit vehicle. The scheduling of paratransit service involves scheduling pick-ups and drop offs according to where the paratransit vehicle is at various points of time. Therefore, it is not necessarily "first-picked-up-first-dropped-off." If a passenger is picked up last but has a drop off only two blocks away, that person may be dropped off right away. This is comparable to a fixed route bus dropping off passengers according to fixed stops on its route.

In addition, your situation is complicated by the fact that EBPC has to coordinate your trips between two paratransit systems, East Bay Paratransit and WestCAT paratransit, which is not a part of EBPC. The coordination between the two services is difficult; at the same time, we also realize that part of the difficulty arises out of the late pick up and drop off issue already noted. In our letter to EBPC, we will address this issue.

6. **Faulty equipment, lifts that are unsafe**

The DOT ADA regulations require that accessible features be maintained in operative condition. See 49 CFR 37.161 Maintenance of Accessible Features: General, and that the transit property should establish a system of regular and frequent maintenance checks, also outlining the time frame within that the lift should be repaired. See 49 CFR section 37.203 Lift Maintenance.

EBPC's response to this allegation was insufficient, and we will address this in the letter to EBPC. We will ask EBPC to send a report to FTA with current information regarding lift failures. As you did not identify any faulty equipment other than lifts we are limiting our report request to this area.

7. **Verbally abusive drivers who threaten to no show you**

The DOT ADA regulations at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

In its response, EBPC stated:

We have audited the driver training programs at the service providers a number of times and have determined that they are complying with the requirement.

At the same time, driver training alone does not always ensure that drivers will actually behave according to the training. In our letter to EBPC, we will ask what procedures are in place for monitoring driver behavior on the road.

8. **Tie-downs left on the floor making it difficult to operate a power wheelchair; a person has to really maneuver the wheelchair in order for the tires so as not to damage them.**

This relates to driver training, and we have noted the regulation related to driver training previously. In addition 49 CFR 38.23(d)(6) states:

When not being used for securement, or when the securement area can be used by standees, the securement system shall not interfere with passenger movement, shall not present any hazardous condition, shall be reasonably protected from vandalism, and shall be readily accessed when needed for use.

We will address this issue with EBPC.

9. **Objecting to riding with passengers who are "emotionally challenged"**

The DOT ADA regulations at 49 CFR 37.5(h) state:

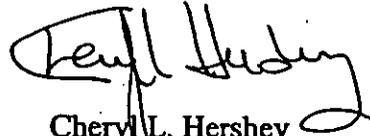
It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

Under the above cited DOT ADA regulation it is discrimination for the transit agency to prohibit individuals "who are emotionally challenged", unless a particular individual has engaged in behavior that is "violent, seriously disruptive, or illegal." EBPC's actions are in accord with the above referenced section.

We will address the issues noted above under cover of separate letter and monitor progress to ensure any deficiencies are corrected. Accordingly, we are closing your complaint as of the date of this letter.

You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at (202) 366-0792 or at her email address at, at (202) 366-0792 or at her email address at mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number in any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Rick Fernandez
General Manager
AC Transit



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 5 2003

[REDACTED]

Re: FTA Complaint No. 00-048

Dear [REDACTED]

This letter responds to your complaint against the Massachusetts Bay Transportation Authority (MBTA), Boston, Massachusetts, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that MBTA's THE RIDE ADA Complementary Paratransit service does not guarantee you service for medical appointments, as you were denied service on January 17, 2000, but were only notified of the denial the day before the trip.

We investigated your allegations and sent a data request to MBTA. We received a response from MBTA that addressed and provided relevant information on your allegation noted above.

- **MBTA's THE RIDE ADA Complementary Paratransit service does not guarantee you service for medical appointments as you were denied service on January 17, 2000, but were only notified of the denial the day before the trip.**

The DOT ADA regulations at 49 CFR 37.131(b) state:

Response time. The entity shall schedule and provide paratransit service to any ADA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day. Reservations may be taken by reservation agents or by mechanical means.

In addition, The DOT ADA regulations at 49 CFR 37.131 state:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:

- (1) Restrictions on the number of trips an individual will be provided;
- (2) Waiting lists for access to the service; or
- (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.
 - (i) Such patterns or practices include, but are not limited to, the following:
 - (A) Substantial numbers of significantly untimely pickups for initial or return trips;
 - (B) Substantial numbers of trip denials or missed trips;
 - (C) Substantial numbers of trips with excessive trip lengths.

The MBTA responded to your allegation, stating:

Given that there are no limits on the demand for service, [REDACTED] is correct in stating that THE RIDE Program is not a guaranteed service. However, thus far in FY2000, the four private firms contracted to operate MBTA's paratransit have been able to honor over 97% of all trip requests.

In addition, MBTA's response goes on to state:

In regard to your question as to whether the MBTA's paratransit program is experiencing capacity constraints, the MBTA's goal is to limit trip denials between 0% to 1%.

ADA Complementary Paratransit service is not a medical service; it is a shared ride service, where trip purpose cannot be considered.

The DOT has consistently advised transit providers that they must design, fund, and implement their programs to meet 100% of projected demand. A joint letter from the DOT and the Department of Justice to the United States Court of Appeals for the Second Circuit, dated October 25, 2002, reconfirmed this position.

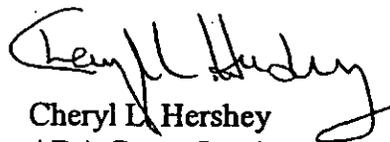
Based upon the information provided by MBTA's at the time of their response, the contractors fulfilled approximately 97% of the trip requests. As such, approximately 3% of the trips were denied, absent operational problems attributable to causes beyond their control, not 0-1%.

This is not in accord with the above referenced letter or regulations; as such we will address this with MBTA by cover of separate letter.

We are closing your complaint as of the date of this letter. However, we will place this in follow-up status to ensure that these matters are fully addressed.

You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Michael H. Mulhern
General Manager
MBTA



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 17 2003



Re: FTA Complaint No. 01-0248

Dear 

This letter responds to your complaint against the Washington Metropolitan Transit Authority (WMATA), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. When you request a lap and a shoulder belt on Metro Access, when drivers secure your wheelchair, drivers frequently tell you that one or both are broken or missing, and
2. Your pickups are frequently late, sometimes an hour or more.

We investigated your allegations, and sent a data request to the General Manager, WMATA. We received a response from WMATA that addressed and provided relevant information on each of your allegations noted above.

1. **When you request a lap and a shoulder belt on Metro Access, when drivers secure your wheelchair, drivers frequently tell you that one or both are broken or missing.**

WMATA responded to our inquiry in saying that all vehicles [REDACTED] cited were inspected and all securement systems were found to be operational. Further, all operators were tested in securements, including seat belts and shoulder belts, and that one operator was retrained.

The DOT ADA regulations at 49 CFR 37.165 (b) states:

All common wheelchairs and their users shall be transported in the entity's vehicles or other conveyances. The entity is not required to permit wheelchairs to ride in places other than designated securement locations in the vehicle, where such locations exist.

In addition, Section 37.165(c)(1) states:

For vehicles complying with part 38 of this title, the entity shall use the securement system to secure wheelchairs as provided in that Part.

Section 37.165(f) states:

Where necessary or upon request, the entity's personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts. If it is necessary for the personnel to leave their seats to provide this assistance, they shall do so.

Section 38.23(d) Securement devices, 38.23 (d)(7) states:

Seat belt and shoulder harness: For each wheelchair or mobility aid securement device provided, a passenger seat belt and shoulder harness, complying with all applicable provisions of 571 of this title, shall also be provided for use by wheelchair or mobility aid users. Such seat belts and shoulder harnesses shall not be used in lieu of a device which secures the wheelchair or mobility aid itself.

Section 37.161 (a) and (b) states:

(a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.

(b) Accessibility features shall be repaired promptly if they are damaged or out of order...

In summary, there is an obligation to provide a passenger seatbelt and shoulder harness, as well as an obligation to maintain it in operative condition, and to repair it promptly, if does not function properly. In addition, upon request, the operator should assist the rider with the use of the securement system.

By cover of separate letter, we will ask WMATA to address the issue of maintenance of lap belts and shoulder harnesses, and that if your problems continue we will revisit the matter at that time.

2. Your pickups are frequently late, sometimes an hour or more.

The DOT ADA regulations at 49 CFR 37.123(f) states:

Capacity constraints. The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following:

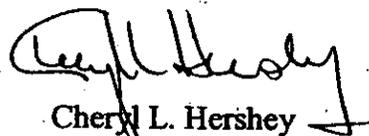
- (1) Restrictions on the number of trips an individual will be provided;
- (2) Waiting lists for access to the service; or
- (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit-eligible persons.
 - (i) Such patterns or practices include, but are not limited to, the following:
 - (A) Substantial numbers of significantly untimely pickups for initial or return trips;
 - (B) Substantial numbers of trip denials or missed trips;
 - (C) Substantial numbers of trips with excessive trip lengths.
 - (ii) Operational problems attributable to causes beyond the control of the entity (including, but not limited to, weather or traffic conditions affecting all vehicular traffic that were not anticipated at the time a trip was scheduled) shall not be a basis for determining that such a pattern or practice exists.

In a letter of October 18, 2001, to you, WMATA acknowledged that the late pickups occurred as you described. WMATA monitored your rides for 30 days to correct the problem. As a result, it is our understanding that the situation was resolved.

Based upon the above we will close this complaint. You have the right to request reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you continue to have problems please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Richard White
General Manager
WMATA
600 Fifth Street, NW
Washington, DC 20001

Glenn Millis
Director, ADA Program
WMATA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 12 2003

[REDACTED]
Independent Living Resource Center
of North East Florida
2709 Art Museum Drive
Jacksonville, Florida 32207

Re: FTA Complaint No. 02-0084

Dear [REDACTED]

This letter responds to your complaint filed against the Jacksonville Transportation Authority (JTA), of Jacksonville, Florida, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Because of the limitation in resources a majority of complaint investigations are conducted by telephone and written inquiry. In a few circumstances, where time and resources permit, investigations may be complemented by other means, such as compliance reviews or other on-site action. Each letter of findings is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Your allegations on behalf of the Independent Living Resource Center of Northeast Florida were with regard to ADA Complementary Paratransit:

1. Poor trip scheduling,
2. Untimely pick ups and drop offs,

3. Inadequate training of schedulers and customer service representatives,
4. Complaints not addressed in a timely manner or not responded to at all,
5. No specific entity with which to file complaints,
6. No shows,
7. Sedans sent for people in wheelchairs resulting in delays or denied trips, due to the sedans not being accessible to persons in wheelchairs,
8. Excessive hold times on telephones,
9. Inaccurate inputting of information by reservationists,
10. Lack of sensitivity and courtesy on the part of drivers and reservationists,
11. *Schedulers hang up on [REDACTED] when she uses her Dynavox voice-assisted technology,
12. *Driver threatened [REDACTED] and tried to take control of her wheelchair and raised his hand in a threatening manner,
13. Drivers not familiar with the area, resulting in delays,
14. *Vehicles not in good repair with bad shocks causing [REDACTED] pain in her back and requiring her to get pain shots in her spine.

With regard to fixed route service, you had the following allegations:

1. About 25 percent of buses are without lifts,
2. Inaccessibility of stops,
3. Lack of alternate formats for bus schedules,
4. Stop calling announcements not consistent.

In June 1999, FTA conducted an on-site compliance assessment of JTA's ADA Complementary Paratransit service. The compliance assessment on the ADA Complementary Paratransit service assessment covered elements contained in your complaint with the exception of those * above. These issues will be addressed below. The specific issues regarding JTA's ADA Complementary Paratransit service were addressed from a broader perspective by this compliance assessment. Where we made findings of deficiencies, FTA is and will continue its monitoring activities with JTA's, until we determine that the deficiencies noted in the report are corrected. We will advise our staff person who monitors the assessment as to the nature of your concerns so she is aware that the problems are ongoing and can address your allegations with JTA.

Fixed route service was not covered in that assessment. Therefore, we will send the complaint to Regional Civil Rights Officer Frank Billue for further investigation of the fixed route allegations.

The below issues were not specifically addressed by the ADA Complementary Paratransit assessment and are addressed below.

11. As to the issues you raise on behalf of [REDACTED] schedulers hang up on Sheila Cole when she uses her Dynavox voice-assisted technology;

12. A driver threatened [REDACTED] and tried to take control of her wheelchair and raised his hand in a threatening manner; and

14. Vehicles are not in good repair and have bad shocks causing [REDACTED] pain in her back and requiring her to get pain shots in her spine.

- **Schedulers hang up on [REDACTED] when she uses her Dynavox voice-assisted Technology**

The DOT ADA regulations 49 CFR 37.173 require that "personnel are trained to proficiency". It further states that persons with disabilities who use the service should be treated respectfully "with appropriate attention to the difference among persons with disabilities". Under this section there clearly exists an obligation to train personnel to communicate with persons with all types of disabilities including a person who uses voice-assisted technology.

Based upon JTA's response they have taken action to ensure the ability of [REDACTED] to be able to communicate with their staff to schedule her rides. They advise that they have designated a person who will effectively communicate with [REDACTED] in the taking of her reservations. They have also indicated that they are in the process of trying to locate appropriate training to be given to all employees on the voice-assisted dynavox.

We find based upon the above these actions are consistent with the above section. However, we will follow-up with JTA to determine what if any training has occurred since the date of their last response.

- **A driver threatened [REDACTED] and tried to take control of her wheelchair and raised his hand in a threatening manner, and**

The DOT ADA regulations 49 CFR 37.173 require that "personnel are trained to proficiency...and properly assist and treat individuals who use the service in a respectful and courteous way..."

JTA advised: "...appropriate action was taken to promptly remove the driver from service pending an investigation. Following investigation, we [JTA] were informed by the State's Attorney's office that they would not prosecute the driver due to insufficient evidence that a battery occurred. However, the JTA did determine the driver's conduct was inappropriate. The driver's employer took appropriate disciplinary action and returned the driver to work. The driver is no longer employed by CTC contractors."

Based upon the above, the driver's actions were not in accord with the above regulations. However, JTA took appropriate action to correct the deficiency.

- Vehicles are not in good repair and have bad shocks causing [REDACTED] pain in her back and requiring her to get pain shots in her spine.

JTA responded regarding this allegation that "The state of disrepair of the CTC vehicles has been one of the major focuses of the JTA since we first began preparations in August 2000 to become the CTC. To date, we have purchased and received 45 new lift-equipped vans and we have 25 wide body lift-equipped vehicles on order for delivery by July [2002] Should [REDACTED] be scheduled to ride in a van that has ineffective shocks, she should immediately report it to the JTA Connexion at MV Transportation at 265-6999."

It appears based upon the above response that JTA has taken substantial steps to remedy the condition of their fleet. In addition, however, The Department of Justice ADA regulations at 35.130(b)(7) state:

A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

JTA writes: "Except for the requirement to provide lift-equipped buses, forward facing wheelchair tie-down positions, and priority seating at the front of the large city buses (fixed route), there are no other requirements nor intent of the ADA to give preferential seating to accommodate a disability."

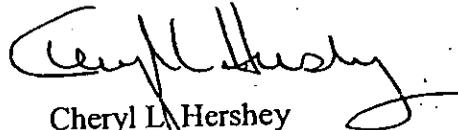
We recognize that the ADA intends ADA Complementary Paratransit to be a shared ride and does not permit prioritizing rides based on trip purpose. However, the above regulations do require reasonable modifications in policies, practices and procedures to permit a person with a disability access to participation in the public service or program. This is so unless such a modification would fundamentally alter the program.

A reasonable modification in practice and procedure based upon the above section, may also include asking, but not requiring, the person/s who is/are seated at the front location to see if s/he is willing to move to accommodate [REDACTED] particular disability. We will address this by cover of separate letter with LYNX.

Accordingly, we are closing the portion of your complaint regarding ADA Complementary Paratransit service. As noted above, the complaint will be transferred to the regional office for investigation of your allegations concerning fixed route service. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within

thirty (30) days from the date of this letter. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at 1-888-446-4511 or at her email address: mary-elizabeth.peters@fta.dot.gov. Please include the FTA complaint number on any correspondence with this office. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 24 2003

[REDACTED]

Re: FTA Complaint No. 99202

Dear [REDACTED]

This letter responds to your complaint against the Sun Tran, Tucson, Arizona, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. Sun Tran insists on two tie-downs for every wheelchair.
2. Bus operators insist on knowing the destination of a person in a wheelchair at boarding.
3. Bus operators and administrators constantly and consistently refer to wheelchair users as "wheelchairs."
4. Operators bypass people in wheelchairs at the stops.
5. Sun Tran will not allow you to place your own restraints on your chair.
6. Maintenance on ADA mandated equipment is terrible.

1. Sun Tran insists on two tie-downs for every wheelchair.

The DOT ADA regulations do not specifically address the number of tie-downs to be used for each securement location. The regulations at 49 CFR 37.165(c)(1) state:

For vehicles complying with part 38 of this title, the entity shall use the securement system to secure wheelchairs as provided in that Part. (Emphasis added.)

The regulations at 49 CFR 38.23(d)(5) state:

When the wheelchair or mobility aid is secured in accordance with manufacturer's instructions, the securement system shall limit the movement of an occupied wheelchair or mobility aid to no more than 2 inches in any direction under normal vehicle operating conditions. (Emphasis added.)

Additionally, the regulations at 49 CFR 37.165 (c)(3) state:

The entity may require that an individual permit his or her wheelchair to be secured.

By cover of separate letter, we will ask Sun Tran to provide the manufacturer's instructions for the securement devices of its buses, and FTA will review Sun Tran's policy in relation to the number of securement points in the manufacturer's instructions. We do not anticipate that the manufacturer's instructions will consider one securement point as being adequate. If, however, the manufacturer's instructions do allow for only one securement point, we will notify you and Sun Tran of that fact.

Sun Tran's policy does extend to as little as two securement points for a wheelchair. We do not find that this requirement violates the DOT ADA regulations.

2. Bus operators insist on knowing the destination of a person in a wheelchair at boarding.

The DOT ADA regulations at 49 CFR 37.5(a) state:

No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

Bus operators who ask for persons with disabilities to provide information regarding their destination, the same information not being asked for or required of persons without disabilities, can give rise to a violation of the above stated section.

In addition, the regulations at 49 CFR 37.173 state:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Based upon the above DOT ADA regulations, persons with disabilities must be treated equitably and with respect.

The introductory paragraph to Appendix D states: "This appendix explains the Department's construction and interpretation of provisions of 49 CFR part 37. It is intended to be used as definitive guidance concerning the meaning and the interpretation of these provisions." It states that while there is no specific requirement for recurrent training, there is an obligation to ensure at any given time employees are trained to proficiency, and that "the training requirement goes both to technical tasks and human relations."

Sun Tran personnel who require persons with disabilities to provide information regarding their destination and not that of persons without disabilities are not demonstrating an understanding of either of the above sections of the DOT ADA regulations. We will address this matter with Sun Tran by cover of separate letter.

3. **Bus operators and administrators constantly and consistently refer to wheelchair users as "wheelchairs."**
4. **Operators bypass people in wheelchairs at the stops.**

The DOT ADA regulations at 49 CFR 37.173 state:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Both of these allegations relate to driver training. In our letter to Sun Tran, we will request that the staff ensure that training includes cautions on objectifying people in wheelchairs, as well as the issue regarding passing by waiting riders with disabilities. The DOT ADA regulations provide at section 37.163 that if a bus is unable to transport a person due to an inoperable lift, and the headway to the next accessible vehicle exceeds thirty minutes, alternative transportation should be provided.

5. Sun Tran will not allow you to place your own restraints on your chair.

In a letter of January 6, 2003, Acting General Manager George Caria stated:

The operator is trained to secure every wheelchair or scooter that boards his or her bus. On very rare occasions, a passenger, including Mr. Olson, will tell the operator that they prefer to secure their own wheelchair or scooter. The operator allows them to secure the wheelchair themselves but will stand by in case they need help and ensure that the passenger and wheelchair are properly secured. The policy allowing passengers to secure themselves has been in force since 1999, as stated in our response dated August 14, 2000.

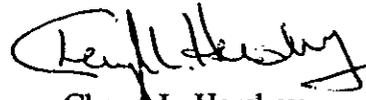
If there are specific drivers that are not following this policy, we again suggest that you let Sun Tran know which drivers are not complying. In addition, we will ask Sun Tran to include this in the training of its operators.

6. Maintenance on ADA mandated equipment is terrible.

The generality of this allegation makes it difficult to investigate. However, we will address this by cover of separate letter with Sun Tran and request the transit agency's response as to current policies and procedures for inspection and operation of lifts and securements.

We are closing your complaint; however, we are placing it in follow up to ensure that the matters identified are appropriately addressed. You have the right to file a request for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: George G. Caria
General Manager
Sun Tran
P. O. Box 26765
Tucson, Arizona



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 15 2003

[REDACTED]

Re: FTA Complaint No. 01-0026

Dear [REDACTED]

This letter responds to your letter of complaint against the Metropolitan Transit Authority (MTA), Nashville, Tennessee, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Your complaint alleged that:

1. MTA provides no notice to the disability community regarding public hearings. When services are to be changed, two Public Hearings are required in order to seek the public's input on the effect of the proposed changes. No effort is made to notify the disability community of these hearings.
2. ADA Call Points are not being announced. In a recent performance audit, it was noted that on approximately 85% of the routes, the ADA Call Points were not being announced. The Director in his statement to the Board stated that this was a problem difficult to correct and possibly could be corrected by reducing the number of call points.

3. MTA is running a significant number of non-wheelchair accessible buses. If a rider is in a wheelchair, he/she is left until next bus comes along that is wheelchair accessible. On some routes, this can be an hour or longer.
4. The paratransit system, known as Access Ride, has severe problems. They manipulate their statistics by dropping individuals off of their routine ride waiting list. They inflate their percentage of met rides by telling callers that they will have to ride around for as much as 2 1/2 hours before being dropped off at their destination, thus forcing most people not to schedule a ride.
5. In at least one daily occurrence, the Access Ride van is being used in lieu of fixed route service. MTA cut service and now has a van meet the bus to deliver individuals to their final destination. This would be an efficient use of resources if the needs of the handicapped community were being serviced, but this is denying service to the handicapped community. MTA claims that they do not have enough funds to adequately serve all of the requests for Access Ride service but with them using the resources of Access Ride for fixed service, the needs of the handicapped community will never be met.

We investigated your allegations, and sent a data request to MTA. We received a response from MTA that addressed and provided relevant information on your allegations noted above. In addition, in November 2002, we sent you a letter asking for more specific information and did not receive a response. We will therefore rely on MTA's response.

1. **MTA provides no notice to the disability community regarding public hearings. When services are to be changed, two Public Hearings are required in order to seek the public's input on the effect of the proposed changes. To the best I can determine, no effort is made to notify the disabled community of these hearings.**

MTA's response stated that public hearing notices are advertised in the legal section of the local newspaper, along with the title and phone number of the ADA Coordinator if an individual needs transportation to the hearings, or needs special or auxiliary aids during the hearings. This procedure does not violate DOT ADA regulations. However, if you know of advocacy organizations in the Nashville area that might be sent a notification, we would suggest you send them to Pat Downs, MTA's ADA Coordinator, at 130 Nestor Street, Nashville, Tennessee 37210-2124, or call her at (615) 862-5969, and provide her contact information for any organizations you feel would want to receive notice of any hearings.

2. **ADA Call Points are not being announced. In a recent performance audit, it was noted that on approximately 85% of the routes, the ADA Call Points were not being announced. The Director in his statement to the Board stated that this was a problem difficult to correct and possibly could be corrected by reducing the number of call points.**

MTA's response indicated that they have been carrying out measures to ensure stop announcements are made. The response included several notices to operators mandating stop announcements. MTA's response indicated that stop calling compliance was at 85 percent. While this actually a relatively high compliance rate, it is still not fulfilling the provisions of the DOT ADA regulations. We will address this area with MTA in a separate letter.

3. **MTA is running a significant number of non-wheelchair accessible buses. If a rider is in a wheelchair, he/she is left until next bus comes along that is wheelchair accessible. On some routes, this can be an hour or longer.**

The DOT ADA regulations at 49 CFR 37.71(a) state:

Except as provided elsewhere in this section, each public entity operating a fixed route system making a solicitation after August 25, 1990, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

In addition Section 37.73(a) states:

Except as provided elsewhere in this section, each public entity operating a fixed route system purchasing or leasing, after August 25, 1990, a used bus or other used vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

It is possible for a transit provider to have vehicles that were purchased before August 25, 1990, that could still be in service. MTA indicated that its fleet is 61 percent accessible. FTA at this time has no evidence to indicate that MTA purchased inaccessible vehicles after the August 25, 1990, deadline. What would indicate MTA's compliance or noncompliance with the DOT ADA regulations would be what procedures are in place for passengers with disabilities who need accessible buses to ride to their destinations.

In a follow up response to FTA, MTA provided the following information:

Are buses that are wheelchair accessible designated on schedules for the fixed route system?

- Yes

What are the procedures in place when a lift goes out of service while a bus is on its route?

- An accessible bus assigned to an accessible run will be road-called if the lift should malfunction while in service. The bus will be replaced with a bus that does have a working lift.

What procedures are in place if a passenger in a wheelchair is unable to board a bus designated as accessible if the lift is out of service? What happens if the headway to the next accessible bus will be greater than 30 minutes?

- Should a lift become inoperable while a wheelchair passenger is attempting to board, the Operation Supervisor is notified. The Operation Supervisor will use a number of different tactics to accommodate the passenger: (a) he will attempt to use an available ACCESSRIDE vehicle to pick up the passenger, depending on proximity and availability; (b) he will attempt to locate an out-of-service bus that may be in the

vicinity; and (c) he will ensure that the following bus is wheelchair accessible even if this requires a road call.

The Supervisor will use his discretion as to which of these options is most feasible for the passenger. That is, if the passenger has a long wait for the next bus, than option 1 or 2 will be exercised.

What are the lift maintenance procedures for the fixed route bus fleet?

- The driver is required to cycle the lift during the daily pre-trip inspection, if the lift has any defects; the bus is replaced before leaving the yard. The Preventive Maintenance inspection includes a lift inspection and service. Any defects noted during the inspection would be repaired before the bus is assigned to an accessible run. Fixed route buses are inspected every six thousand miles.

You did not include any specific dates or details that either MTA or FTA could investigate. It does not appear that MTA is violating the DOT ADA regulations. If you have problems in the future, we suggest that you contact Pat Downs at MTA with the specifics.

4. **The paratransit system, known as Access Ride, has severe problems. They manipulate their statistics by dropping individuals off of their routine ride waiting list. They inflate their percentage of met rides by telling callers that they will have to ride around for as much as 2 1/2 hours before being dropped off your destination, thus forcing most people not to schedule a ride.**

FTA is unable to investigate unsubstantiated generalized allegations. In November 2002, we sent you a letter asking for specifics and did not receive a response. Therefore, we cannot find any evidence of MTA violating any DOT ADA regulations.

5. **In at least one daily occurrence, the Access Ride van is being used in lieu of fixed route service. MTA cut service and now has a van meet the bus to deliver individuals to their final destination. This would be an efficient use of resources if the needs of the handicapped community were being serviced, but this is denying service to the handicapped community. MTA claims that they do not enough funds to adequately serve all of the requests for Access Ride service but with them using the resources of Access Ride for fixed service, the needs of the handicapped community will never be met.**

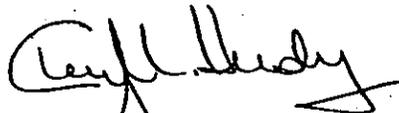
Again, FTA cannot investigate generalized allegations with no specifics. MTA's response indicated that the agency uses shuttles for operators relieving other operators at MTA's exchange point in downtown Nashville, but that shuttle service does not interfere with any of MTA's regular services.

As previously stated, FTA will address the stop announcement issue with MTA under cover of separate letter. With regard to the other allegations, after reviewing all of the submitted materials, it appears that the facts do not support a finding of a violation of DOT ADA regulations. We are closing your complaint as of the date of this letter. You have the right to file

for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Pat Downs
ADA Compliance Officer
MTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 28 2003

[REDACTED]

Re: FTA Complaint No. 97113

Dear [REDACTED]

This letter responds to your complaint against the Fresno Area Express (FAX), Fresno, California, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged:

1. FAX and Handy Ride subscription service is over 50 percent of its ridership and subscription riders are given preference for trips over non-subscription riders.
2. Handy Ride reservations personnel put you on hold for over 30 minutes and have denied your reservations regularly.
3. Some Handy Ride drivers are not properly certified and others are rude to passengers.
4. FAX did not allow you to attend its ADA meetings.
5. FAX did not supply you with tapes of the ADA meetings, as you requested.

We investigated your allegations and sent a data request to FAX. We received a response from FAX and later requested a follow up that addressed and provided relevant information on your allegations noted above.

- 1. FAX and Handy Ride subscription service is over 50 percent of its ridership and subscription riders are given preference for trips over non-subscription riders.**

The DOT ADA regulations at 49 CFR 37.133(b) states:

Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is non-subscription capacity.

In February 2002, an investigator sent an inquiry to FAX about the percentage of its subscription service at that time. FAX responded with the data for two months of percentages on subscription service that indicated that its percentage of subscription service at that time was well below 50 percent. FAX also indicated that it had begun using a new software program for reservations in February 1999. The data would seem to indicate that this assisted in correcting any deficiencies.

- 2. Handy Ride reservations personnel put you on hold for over 30 minutes and have denied your reservations regularly.**

The information regarding this allegation was from the original complaint from 1997. Due to the dated nature of this information, FTA will initiate a follow up with FAX to determine whether issues of hold times and denials of reservations have been resolved. FTA will monitor these issues until such time as it has been determined that they are resolved.

- 3. Some of the Handy Ride drivers are not properly certified and others are rude to passengers.**

The DOT ADA regulations at 49 CFR 37.173 state:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

You allege that the drivers are not "certified." The DOT ADA regulation cited above at the Appendix provides clarifying guidance in saying: "The Department is not requiring a specific course of training or the submission of a training plan for DOT approval."

At the time of the original complaint, FAX provided FTA with the copy of its ADA training material and a list of the training dates for all FAX Handy Ride operators and other personnel. In addition, in its updated response of February 2002, FAX indicated that they had a sensitivity training committee for establishing training criteria. FAX also indicated that most of their paratransit drivers have been through training. Without specific incidents or names of operators not in compliance, FTA was unable to investigate particular persons who may not have been abiding by the regulations.

If you continue to have problems with specific operators, we suggest you contact FAX with the names of those operators. If they are unable to resolve problems, please contact Mary-Elizabeth Peters of this office for further assistance. Her contact information is included at the bottom of this letter. FTA will then determine if further action is necessary.

4. FAX did not allow you to attend its ADA meetings.

The DOT ADA regulations and the Appendix for 49 CFR 37.137 state:

The final general requirement of the section specifies that efforts at public participation must be made permanent through some mechanism that provides for participation in all phases of paratransit plan development and submission. The Department is not requiring that there be an advisory committee established, although this is one method of institutionalizing participation. The Department is not as interested in the specific structure used to ensure public participation as we are interested in the effectiveness of the effort.

That section at the Appendix also states:

The Department believes that public participation is a key element in the effective implementation of the ADA. The ADA is an opportunity to develop programs that will ensure the integration of all persons into not just the transportation system of America, but all of the opportunities transportation makes possible. This opportunity is not without tremendous challenges to the transit providers. It is only through dialogue, over the long term, that usable, possible plans can be developed and implemented.

The above sections provide for and demonstrate the intention of the DOT ADA regulations for on-going public participation and input from persons with disabilities into the transit systems. Having said that, FAX provided the bylaws for the ADA Advisory Committee in its response of 2002. Under Article II, it states: "All meetings of the FAX ADA Advisory Committee shall be open to the public [...]." Further, we note in your response to FTA you state you did attend a number of FAX meetings. The fact that you attended the ADA Advisory Committee meetings seems to indicate that this issue was resolved. The Department of Justice has jurisdiction over matters such as public hearings. We note for your reference in the next section that regulation.

5. FAX did not supply you with tapes of the ADA meetings, as you requested.

The Department of Justice has jurisdiction over matters such as public hearings. We note for your reference that regulation.

The Department of Justice regulations at 28 CFR 35.160 state:

(a) A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.

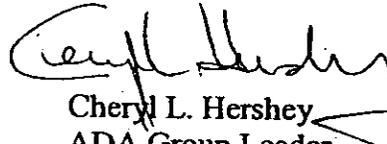
(b)(1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity.
(2) In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities.

If you wish to pursue this matter further please contact the Department of Justice at 1-800-514-0301 or 1-800-514-0383 (TTY) or <http://www.ada.gov>

In view of the above determinations, FTA will send FAX a corrective action letter regarding the issues of hold times & denials, and monitor FAX until such time that FTA has determined that any deficiencies are corrected.

We are closing your complaint as of the date of this letter. You have the right to file for a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Bruce A. Rudd
General Manager
Fresno Area Express



U.S. Department
of Transportation
Federal Transit Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 21 2003

[REDACTED]

Re: FTA Complaint No. 010149

Dear [REDACTED]

This letter responds to your complaint against the Chicago Transit Authority (CTA), of Chicago, Illinois, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. The escalator was out of service for more than a month at the Jackson Station on the Red Line, with the elevator being out of service for four days during the same period.
2. No announcements regarding these outages were made on the train, and
3. When these outages occurred no shuttle service was provided.

We sent a data request to Frank Kruesi, President of CTA, and received a response from CTA that addressed and provided relevant information on each of your allegations noted above.

1. **The escalator was out of service for more than a month at the Jackson Station on the Red Line, with the elevator being out of service for four days during the same period.**

The DOT ADA regulations at 37.161 (a) require that facilities and vehicles be maintained to make them "readily accessible and usable by" individuals with disabilities. The ADA Accessibility Guidelines for Buildings and Facilities (ADAAG) at 4.3.2, adopted by the Department of Transportation, further define accessibility in saying that there must be at least one accessible path of travel available from an accessible entrance to those areas necessary for use of passengers accessing transportation.

According to the documentation supplied by CTA, this station has two sets of elevators and escalators, and the other set was in operation at the other end of the station at the time of the outage. In this instance, since there were two elevators, the one being out of service did not block your access to the station. While the actions of CTA comport with the regulation, we recognize the difficulty your disability causes you in making use of this other accessible route of travel.

The DOT ADA regulations at 37.161(b) states:

Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

"Promptly" is not defined by the regulation, but requires that reasonable steps be taken. CTA overhauled one escalator and repaired another due to water flooding problems during the time period you identified. The facts support that CTA made reasonable efforts to fix the problems.

2. **No announcements regarding these outages were made on the train.**

As noted above, Section 37.161(b) requires that reasonable steps be take to accommodate persons with disabilities who need an accessible feature. In addition, the Appendix section 37.161 states that:

The rule also requires that accommodations be made to individuals with disabilities who would otherwise use an inoperative accessibility feature. For example, when a rail system discovers that an elevator is out of order, blocking access to one of its stations, it could accommodate users of the station *by announcing the problem at other stations to alert passengers [emphasis added]* and offer accessible shuttle bus service around the temporarily inaccessible station. If the public address system were out of order, the entity could designate personnel to provide information to customers with visual impairments.

You express concern that CTA, knowing the escalator and elevator were out of service, did not announce these outages on the train. The DOT ADA regulations require that one must "take

reasonable steps to accommodate individuals with disabilities.” However, what constitutes “reasonable steps” is not defined by the regulation itself. The Appendix suggests that accommodations be made, in these instances, and provides examples, but does not specifically require that outages be announced on the train.

CTA responded that it provides notice about inoperative elevators on erasable boards located by the customer kiosks at the entrance to the stations. In addition, CTA maintains a toll-free telephone line for status of elevator/escalator outages, and the status line or a customer assistant can be called by dialing *1 on any pay phone at the station. These accommodations meet the “reasonable steps” standard.

3. When these outages occurred, no shuttle service was provided.

As noted above, the DOT ADA regulations discuss the provision of shuttle service in connection with the maintenance of accessible features in Section 37.161(b) and provide:

[...] When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

The Appendix to 37.161 states that:

The rule also requires that accommodations be made to individuals with disabilities that would otherwise use an inoperative accessibility feature. For example, when a rail system discovers that an elevator is out of order, *blocking access to one of its stations [emphasis added]*, it could accommodate users of the station by announcing the problem at other stations to alert passengers and offer accessible shuttle bus service around the temporarily inaccessible station. [...]

We note that you express concern over CTA's failure to provide shuttles. When there is more than one accessible pathway operating, there is no requirement to provide shuttle service under the DOT ADA regulations, as access to the station is not blocked.

Based upon the above, CTA did not violate any provision of the DOT ADA regulations, and we are closing your complaint. You have the right to file a request for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader

Enclosure

Cc: (Identity of Complainant Withheld)
Frank Kruesi
General Manager
CTA
Merchandise Mart Plaza,
Chicago, IL 60654.



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 11 2003

[REDACTED]

Re: FTA Complaint No. 00-0346

Dear [REDACTED]

This letter responds to your letter of complaint against the Riverside Transit Authority (RTA), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of resolution is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Your complaint alleged that:

1. RTA has no standardized complaint process resolving complaints, or established procedures for allowing appeals for denial of service.
2. RTA denied you an administrative appeal in addition to your appeal assistance.
3. RTA requires you to be separated from your service dog when you board and deboard.
4. Several drivers have done things that put you in danger, related to unsafe practices.

We investigated your allegations, and sent a data request to RTA. We received a response from RTA.

1. **RTA has no standardized complaint process resolving complaints, or established procedures for allowing appeals for denial of service.**
2. **RTA denied you an administrative appeal in addition to your appeal assistance.**

The Department of Transportation regulations at 49 CFR Part 27 at section 27.13 provides for each recipient of Federal funds, as well as each program and activity that receives or benefits from such assistance, that a grievance procedure be established. In addition it requires that a "responsible employee" be designated to coordinate its efforts to comply with this part. This is required only where the recipient employs fifteen or more persons. The Department's ADA regulations make no further provision as to the establishment of the complaint process. RTA's response to this allegation was:

Aboard each of our buses is a form that encourages suggestions, compliments, or complaints (Attachment 1). Additionally, our Transportation Center telephone number is widely publicized including listing in our Ride Guide for the use of our ridership. This number will connect our passengers to the information line, where they request information and/or leave a suggestion/compliment/complaint. Each suggestion/compliment/complaint is followed-up by the appropriate department and the passenger always receives a written response. It does appear from the information provided both from Riverside and you that you did receive written responses. This written documentation includes customer feedback forms, as well as a written response to your complaint from RTA.

In addition the service animal policy submitted by Riverside specifically contains an appeal provision. As to the substantive appropriateness of that policy, we will address below.

We will, by cover of separate letter, request Riverside to submit their current policy and procedure as to these issues.

3. **RTA requires you to be separated from your service dog when you board and deboard.**

The DOT ADA regulations at 49 CFR 37.167(d) state:

The entity shall permit service animals to accompany individuals with disabilities in vehicles and facilities.

In the guidance from the Department of Justice contained its "Commonly Asked Questions" about service animals (copy attached), a service animal is defined as:

any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability. If they meet this definition, animals are considered service animals under the ADA regardless of whether they have been licensed or certified by a state or local government.

Service animals perform some of the functions and tasks that the individual with a disability cannot perform for him or her. "Seeing eye dogs" are one type of service animal, used by some individuals who are blind. This is the type of service animal with which most people are familiar. But there are service animals that assist persons with other kinds of disabilities in their day-to-day activities. Some examples include:

- Alerting persons with hearing impairments to sounds.
- Pulling wheelchairs or carrying and picking up things for persons with mobility impairments.
- Assisting persons with mobility impairments with balance.

A service animal is not a pet.

The DOJ guidance also states that it is the obligation of the rider to maintain control of the service animal at all times. The function of *this* service animal was to provide mobility support to the rider, who was partially paralyzed on one side, when boarding on the lift. Another function *this* service animal served was to alert the rider to oncoming seizures.

The rider could not benefit from these services of her service animal if he (the service animal) were separated from her. In addition there is an obligation on the part of the rider to maintain control over the service animal. Separating the rider from her service animal makes it much more difficult to do so. To separate the service animal from its owner does in fact impair that service animal's ability to perform the tasks for which it was trained. In one instance cited by the complainant, a transit operator tied the complainant's service animal to the front of the bus while the complainant was boarding the lift located towards the rear of the vehicle.

In a letter from RTA to FTA Office of Civil Rights Larry Rubio outlined RTA's policy concerning service animals:

In summary, the policy says that the assistance dog must be fully trained and certified, on a collar or harness or in a carrier at all times. The assistance dog, for its own safety, will be boarded on the vehicle through the front door of the vehicle. After boarding the dog, the driver will assist the passenger boarding on the wheelchair lift including riding with the passenger. The passenger will then be reunited with the dog inside the vehicle. The same process is followed for departure from the vehicle. The safety issues considered in this policy are that the dog may be startled and pull the passenger off of the lift, or the dog's extremities could get caught in the mechanisms.

To ascertain whether this was still the policy, the investigator contacted [REDACTED], who replied in February 2002 that this was in fact still RTA's policy.

While investigating the issue already noted, it also came to our attention under RTA's policy, service animals are required to be to be "fully trained and certified" to accompany their owners on transit. There is no provision authorizing certification of service animals under the DOT ADA regulations and both DOT and DOJ guidance expressly prohibits it. Further, no particular form of visible ID is required.

DOJ guidance further states as to the issue of certification:

Some, but not all, service animals wear special collars and harnesses. Some, but not all, are licensed or certified and have identification papers. If you are not certain that an animal is a service animal, you may ask the person who has the animal if it is a service animal required because of a disability. However, an individual who is going to a restaurant or theater is not likely to be carrying documentation of his or her medical condition or disability. Therefore, such documentation generally may not be required as a condition for providing service to an individual accompanied by a service animal. Although a number of states have programs to certify service animals, you may not insist on proof of state certification before permitting the service animal to accompany the person with a disability. [Emphasis added]

We will by cover of separate letter direct Riverside to cease separating service animals from the rider and to cease requiring certification of service animals to access transit with their rider. It should be noted that it is not a violation to have an optional ID system for service animals to facilitate the rider and service animal use of the transit system; however it can never be required.

In addition, the information submitted by RTA in response to this investigation also made the two following statements:

"Two safety issues considered in making this policy are that a dog may be startled and pull the passenger off of the lift," and "the dog's extremities could get caught in the mechanisms."

In the past when safety has been offered as a reason to not allow a person with a disability to do something, DOT has not responded favorably to such arguments. Note the language contained in the Federal Register made during the 1996 rulemaking, when considering the issue of certain bus stops as being "unsafe" for person with disabilities:

The first point these commenters made was that individuals with disabilities -- not transit agencies -- should decide when a given stop is appropriate for them to use. Individuals with disabilities know their own abilities better than anyone else, and can make reasonable choices about what is or is not safe for them. Allowing other parties, such as transit agencies, to make these choices smacks of paternalism and is the sort of well-intended constraint on the activities of persons with disabilities that the ADA is specifically intended to prevent.

In addition to Riverside Transit Authority, Riverside Special Service (RSS), who supplies service under a contract with RTA and the City of Riverside, is also directed to cease the practice of separating a service animal from its owner and rescind any policy RSS has related to this practice.

4. Several drivers have engaged in unsafe practices that put you in danger and in at least one incident caused you injury.

The DOT ADA regulation at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

The incidents related in your correspondence are:

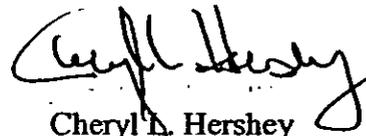
1. A driver leaving a tie-down in the aisle, so that you, being legally blind, stepped on it and almost fell.
2. An RSS driver grabbing your ankle as you were deboarding and caused you to fall and be injured. RSS is a contractor of RTA, and as such, RTA is liable for the actions of RSS drivers.

The training requirement is not a one-time matter. The DOT ADA regulations state that you shall "ensure that personnel are trained to proficiency." The facts of this case and the investigation do not support that adequate training has occurred. RTA will be directed to plan and implement retraining of all drivers, and FTA will monitor to ensure that this training takes place.

We will by cover of separate letter, address this matter with Riverside and indicate that further training is needed. A written response will be required addressing all of the identified issues, and RTA will be monitored until such time as FTA has determined that all deficiencies have been corrected.

We are closing your complaint as of the date of this letter. You have the right to file for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter. If you have any questions regarding our determinations or problems, please contact Mary-Elizabeth Peters on at (202) 366-0792, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl D. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 3 2003

[REDACTED]

Dear [REDACTED]

Re: FTA Complaint No: 98244

This letter responds to your complaint against Suffolk County Transit (SCT), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings

may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that SCT bus operators do not make stop announcements.

We investigated your allegations and sent a data request to Suffolk County. We received responses from SCT regarding your allegation:

- **Suffolk County Transit (SCT) bus operators do not make stop announcements.**

The DOT ADA regulations at 49 CFR 37.167(b) and (c) state:

(b) On fixed route systems, the entity shall announce stops as follows: (1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location. (2) The entity shall announce any stop on request of an individual with a disability. (c) Where vehicles or other conveyances for more than one route serve the same stop, the entity shall

provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

We would like to acknowledge your efforts in first working with Suffolk County. This included hosting a meeting on site at your Advocacy Organization, between SILO and Suffolk County Transit. SILO also was instrumental in providing Suffolk County Transit the information that SCT distributed to their providers; this included the information from the National Center on Calling Stops.

In the correspondence received from Suffolk County Transit, transit officials explained the efforts they have made to increase compliance in the area of calling out stops and we acknowledge these efforts. These efforts include meeting, at the time of the complaint, with your advocacy organization Self Initiated Living Organizations (SILO), making information available, from SILO, the National Center on Calling Stops, and Project Action, to SCT providers. In addition, Suffolk County has required that all buses (fixed route and ADA Paratransit) acquired by Suffolk County since 1993 are equipped with interior and exterior public address systems. SCT also has established a secret rider program, where SCT uses secret riders to monitor the drivers as to whether they are, in fact, calling stops.

In an effort to update our information, due to the age of the complaint, we had several recent discussions with you. Notwithstanding the above mutual efforts, you advised that Suffolk County's drivers continue to routinely fail to call stops, resulting in your, and others', inability to access the public transit system.

We observe that neither written response provided by Suffolk County, the first dated January 1, 1999, and the more recent one, dated June 13, 2003, provided any information as to the current rate stops are *actually* called. This is so despite their efforts in using secret riders to monitor the drivers' stop announcements. Certainly the installation of automated equipment is also no guarantee of the equipment's use.

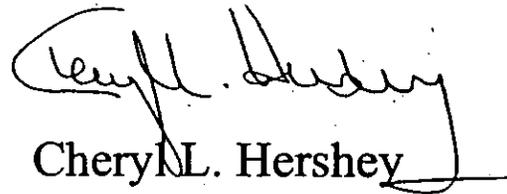
We also note SCT's has posted signs on board the buses with information on how a rider should file a complaint if a driver fails to call out stops. While this may be helpful to persons with certain disabilities, it is of limited or no use by those who are blind or visually impaired, and who cannot see the signs.

In the Suffolk County's Director of Transportation's response dated June 16, 2003, he reported that driver non-compliance results in "progressive discipline," but did not provide any numbers on discipline given for non-compliance.

In addition, although SCT outlined their procedures regarding stop announcement procedures, there was nothing in the transit agency's letters regarding SCT's *actual* compliance with that provision of the DOT ADA regulations, or to indicate the result or success of those efforts discussed.

Based upon the above we will address this matter, by cover of separate letter, with SCT. We are closing this complaint as of the date of this letter. However, we will place this matter in follow-up status until the provisions of DOT ADA section 37.167 (b) & (c) requiring the calling of stops are fully met.

Sincerely,



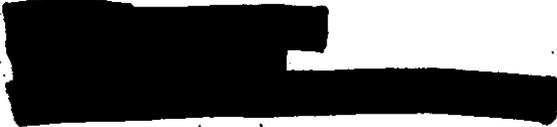
Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 29 2003



Re: FTA Complaint No. 97103

Dear 

This letter responds to your complaint against Springs Transit (ST), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. Most of ST's lift equipped buses do not have adequate wheelchair securement systems.
2. Bus drivers do not announce major stops.
3. Bus schedules are not available in alternative formats.
4. Less than twenty percent of ST's 1,928 bus stops are accessible to wheelchairs.

We investigated your allegations, and sent a data request to ST. We received a response from ST that addressed and provided relevant information on each of your allegations noted above. When we contacted you recently to see if you were still having difficulties with ST, you indicated you were and wanted us to pursue this matter. As the complaint dates back to 1997, we recognized

that changes may have occurred from the date of ST's initial response, so we wrote ST in May 2003 for an update. As we have not received a response from ST to date, July 21, 2003, we are making our determination based on the submitted response.

1. Most of ST's lift equipped buses do not have adequate wheelchair securement systems.

The DOT ADA at 49 CFR 37.165(c)(1) and (2) states:

(1) For vehicles complying with part 38 of this title, the entity shall use the securement system to secure wheelchairs as provided in that Part. (2) For other vehicles transporting individuals who use wheelchairs, the entity shall provide and use a securement system to ensure that the wheelchair remains within the securement area.

In 1997, ST had an active fleet of 45 buses and a contingency fleet of 13 inactive vehicles. Thirty-seven of its active buses were equipped with wheelchair lifts and lap belts. However, none of these 37 buses had both lap and shoulder belts. In 1997, ST acquired 8 new low-floor buses that were ADA compliant to replace 8 active buses, which would bring ST's accessible buses to 45.

In December 1997, negotiations were taking place with Grand Rapids Area Transit Authority and the Gillig Corporation to purchase between 13 and 21 new lift-equipped buses. The goal was to have 53 vehicles, of which 29 would be new and fully ADA compliant. Of the 24 lift-equipped vehicles, 14 vehicles would have had a wheel clamp-restraining device and 10 would have had the four-point tie down securement systems.

Since ST did not provide FTA with an update on its current fleet, we will follow up by cover of separate letter with ST and direct ST to provide an accounting of its fleet.

2. Bus drivers do not announce major stops.

The DOT ADA regulations at 49 CFR 37.167(b) and (c) state:

(b) On fixed route systems, the entity shall announce stops as follows: (1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location. (2) The entity shall announce any stop on request of an individual with a disability. (c) Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

In 1995, ST conducted a covert evaluation of its operators and found that 99% of the operators were not making stop announcements. Since August 1996, ST has employed an internal covert observer, whose evaluations revealed that over 50% of operators were making stop announcements. Although this was an improvement, it is still not meeting the obligation as

established by DOT ADA regulations at section 37.167. We will follow-up by cover of separate letter with ST. ST will be directed to report within thirty days as to the status of their operator's calling stops, and thereafter report on a quarterly basis until such time as FTA determines that ST is meeting these regulatory requirements.

3. Bus schedules are not available in alternative formats.

The DOT ADA regulations at 49 CFR 37.167(f) state:

The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

In ST's report, it indicated that a Juliet Braille Enabling Technology Printer was purchased and loaned to the Colorado School for the Deaf and Blind. In return, the school was to print in Braille any information required, as well as supply audiotapes, if ST needed that. We understand that you initiated this agreement, when you worked at ST.

In addition, at the time of the response, ST was in the process of placing over 250 Information Carousels at popular stops not equipped with a bus shelter, and ST was working with both the manufacturer and Project Action to develop route and schedule information in alternative formats for those Information Carousels. From the information provided it appears that ST is currently meeting its alternative format obligations, however, due to the age of the response we will ask for an update as to the information carousels and their current alternative format provisions.

4. Less than twenty percent of ST's 1,928 bus stops are accessible to wheelchairs.

Under Title II of the ADA, public entities are responsible for implementing access to streets, sidewalks, and other public rights of way. The Department of Justice's regulations at 28 CFR Part 35 requires public entities to operate each service, program, or activity, so that it is readily accessible to and usable by individuals with disabilities. This may involve altering existing facilities or constructing new ones, including the installation of curbcuts. Generally speaking, curbs and sidewalks are owned and constructed or altered by cities and counties. The only time where a transit operator would be responsible for curbcuts and other alterations would be if it had significant involvement in the site (such as construction of transfer facility or a bus stop). The DOT ADA regulations at 49 CFR 37.9(c) states:

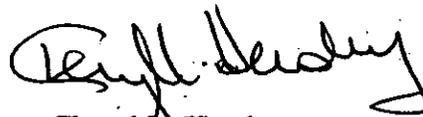
Public entities shall ensure the construction of new bus stop pads are in compliance with section 10.2.1.(1) of appendix A to this part, to the extent construction specifications are within their control. [Emphasis added.]

However, a transit operator could consider moving stops to a more accessible location, as long as public participation and hearing requirements were met. FTA will request a status on the number of accessible and inaccessible stops currently, and an explanation as to efforts to make inaccessible stops accessible.

We will follow-up with ST through our corrective action process on the areas outlined above to ensure these deficiencies are corrected. We will address those deficiencies with ST by cover of separate letter, and we will work with ST until these deficiencies are corrected. We are closing your complaint as of the date of this letter. You have the right to file for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll-free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl K. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: David S. Zelenok, P.E.
Director of the Public Works Department
30 S. Nevada Avenue, Suite 405
Colorado Springs, CO 80903



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 8 2003

[REDACTED]

Re: FTA Complaint No. 98047

Dear [REDACTED]

This letter responds to your complaint filed on behalf of your son against Five Seasons Transportation (FST), Cedar Rapids, Iowa, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. On January 19, 1998, your son was taken off a bus and denied service.
2. Passengers harass your son and throw things at him, and the bus company will not take action to stop these incidents from happening.

Please note that due to age of the complaint we wrote to you to inquire if these concerns were still current and whether you wanted them to be investigated. You responded 12/20/02 that you did want the investigation pursued. We investigated your allegations, and sent a data request to FST. We received a response from FST that addressed and provided relevant information on your allegations noted above.

1. On January 19, 1998, your son was taken off a bus and denied service.

This incident arose on public transportation provided to children to transport them to school. As the DOT ADA regulations have varying requirements depending upon the type of service: public school transportation (see section 37.27), Fixed route, ADA Complementary Paratransit and general demand responsive service, we first must ascertain what type of service FST is providing in this matter.

FST explained in its response as follows:

Five Season Transportation provides supplemental "tripper" service during morning and afternoon peak ridership hours. This service is often associated with school students that do not qualify for mandated school bus service. However, service provided by Five Seasons transportation is not dedicated school service and must remain open to the general public. The City bus routes do not have designated stops and do not stop unless passengers are present and the driver is notified to stop by a riding passenger.

As a beginning point, the system as described by FST is general demand response service.

This incident involved your son, [REDACTED] who is autistic. You often accompanied him on public transit when he rode to school. The facts support the issue that the students often made fun of him. The facts also seem to support that on the date noted above, there was an incident where [REDACTED] was directed to get off of the bus based upon his behavior. He refused, and a teacher responded to assist in removing him. [REDACTED] struck the bus driver. Your allegations and the response from the transit property FST vary substantially.

FST provided a summary of events from the transit agency's viewpoint. An excerpt is included below. In addition, FST provided drivers' and witnesses' written statements and the police incident report. The police incident report does not have a description of the incident, but it verifies that a report was made with the date, time, and the type of incident.

FST reported that your son boarded the bus after it was almost full. The operator asked him to sit quietly in the back, as there were no seats available in the front. According to the incident report, your son started shouting and was asked to leave the bus. When he refused, a teacher boarded the bus and tried to remove him. Your son refused and was shouting and using foul language. According to the report, your son hit the teacher. Another teacher then boarded the bus and assisted in removing your son.

The DOT ADA regulation at 37.5(h) regarding disruptive conduct states:

It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

We cannot conclusively determine what occurred due to the conflicting facts presented. There are also insufficient facts to address the issue whether or not your son's behavior as described by FST, was a function of [REDACTED] disability (autism). As a result, we are unable to conclusively determine if a violation of section 37.5 has occurred.

The DOT ADA regulation at 37.173 requires that personnel be trained to proficiency, and that they treat persons with disabilities respectfully with appropriate attention to differences among persons with disabilities. We note that the information submitted by FST as to training dates back to 1994. By cover of separate letter we will request FST to provide an update and outline on any training that has occurred since 1994. We will also request their current written policy on the treatment of persons with disabilities.

As to your allegation regarding your son being wrongfully suspended, it appears that [REDACTED] was never suspended. FST advised that while the agency received a request to suspend [REDACTED] from the Executive Board of the Local Union #638; FST did not do so. Further, neither the City nor the School District suspended him. In a supplemental response of April 23, 2001, FST stated that you decided to stop using FST transit. We also note that in a conversation that you had with our investigator, you indicated that your son no longer attended that particular school and no longer used the tripper service.

2. Passengers harass your son and throw things at him and the bus company will not take action to stop these incidents from happening.

A memorandum contained in FST's response indicates that an operations supervisor addressed students who rode the tripper, regarding their behavior on the bus early in the school year. He went over the transportation department's rules for riding city buses and warned that the department could eject or refuse service to a problem passenger. He addressed all of the students riding the bus and not just your son.

In addition, FST supplied a document dated January 26, 1998, from the Amalgamated Transit Union of the drivers. The document specifically references the behavior of your son and the fact that it had escalated to physical abuse. As previously referenced above, the DOT ADA regulations at 49 CFR 37.5(h) state:

It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

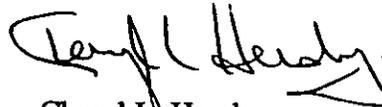
Should your son or any other student engage in violent or seriously disruptive behavior, FST can refuse to provide service. If FST does so, the passenger would have the right to appeal the denial of service and should be afforded due process.

The information provided does indicate that FST did make at least one attempt to inform students of the consequences of engaging in behavior that would constitute disruptive service.

We are unable to make a determination based on the divergence of material facts. However, as stated above, we will request that FST provide an update and outline as to any training that has occurred since 1994 and a statement of the agency's current policy on the treatment of persons with disabilities. We are closing your complaint as of the date of this letter. You have the right to file for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters on our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Douglas K. Forbes
Manager
FST



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 4 2003

Ms. Pam Burkley
Director
Cape Organization for the Rights of the Disabled
1019 Iyannough Road #4,
Hyannis, MA 02601

Re: FTA Complaint No. 95091

Dear Ms. Burkley:

This letter responds to [REDACTED] complaint against Cape Cod Regional Transit Authority (CCRTA), made on behalf of the Cape Organization for the Rights of the Disabled (CORD), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. CCRTA obtained and operated trolleys across Barnstable County, the majority of which are without lifts. Access for the Falmouth trolley is poor, even though a lift is provided.
2. CCRTA's tie down apparatus on trolleys with lifts do not adequately secure wheelchairs, and the lift platforms are not in compliance with the specifications for such lifts.
3. CCRTA incorrectly interprets the DOT ADA regulations at 49 CFR 37.73, when it states that when a bus route is not served by an accessible vehicle, CCRTA may provide comparable paratransit service.

4. The bathrooms in the Hyannis terminal of the Plymouth and Brockton Bus Company are not accessible. (Allegation added in July 1999)
5. A TTY that supplies phone access to the B-Bus is repeatedly not answered.

We investigated your allegations, and sent a data request to CCRTA. We received information from CCRTA that addressed and provided relevant information on each of your allegations noted above.

1. **CORD alleges that CCRTA obtained and operated trolleys across Barnstable County, the majority of which are without lifts. Access for the Falmouth trolley is poor, even though a lift is provided.**

The DOT ADA regulations at 49 CFR 37.71(a) state:

Except as provided elsewhere in this section, each public entity operating a fixed route system making a solicitation after August 25, 1990, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

In addition, Section 37.73(a)-(d) states:

- (a) Except as provided elsewhere in this section, each public entity operating a fixed route system purchasing or leasing, after August 25, 1990, a used bus or other used vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.
- (b) A public entity may purchase or lease a used vehicle for use on its fixed route system that is not readily accessible to and usable by individuals with disabilities if, after making demonstrated good faith efforts to obtain an accessible vehicle, it is unable to do so.
- (c) Good faith efforts shall include at least the following steps: (1) An initial solicitation for used vehicles specifying that all used vehicles are to be lift-equipped and otherwise accessible to and usable by individuals with disabilities, or, if an initial solicitation is not used, a documented communication so stating; (2) A nationwide search for accessible vehicles, involving specific inquiries to used vehicle dealers and other transit providers; and (3) Advertising in trade publications and contacting trade associations.
- (d) Each public entity purchasing or leasing used vehicles that are not readily accessible to and usable by individuals with disabilities shall retain documentation of the specific good faith efforts it made for three years from the date the vehicles were purchased. These records shall be made available, on request, to the FTA Administrator and the public.

Historically, CCRTA has made efforts to buy or lease accessible trolleys. In 1995, CCRTA operated 10 summer routes in 6 communities. At that time, CCRTA acquired 5 lift-equipped trolleys and 1 lift-equipped bus. CCRTA provided ADA Complementary Paratransit service

on all routes when required.

In Fiscal Year 1996, CCRTA operated 10 summer routes. A nationwide effort was launched to find lift-equipped vehicles. This included CCRTA advertising in *Passenger Transport*, a weekly publication of the American Public Transit Association, and in *Highlights*, a monthly publication of Ryder Transportation Services. In addition, a contractor of CCRTA made a number of calls to other transit properties trying to find one that had lift-equipped trolleys to lease or buy. CCRTA also utilized the services of the Buy/Sell Network and brokers of used equipment. CCRTA also searched through advertising in a number of transit industry publications. CCRTA supplied documentation of their efforts.

FTA's follow-ups with CCRTA reveal that in Fiscal Year 1999, CCRTA leased an additional 3 vehicles, all equipped with lifts. Since FY 2000, CCRTA has owned 6 trolleys, 5 of which are ADA-compliant. One vendor, Plymouth and Brockton Bus Company leased 3 vehicles for the Hyannis area.

CCRTA has since withdrawn all trolleys from the fleet and currently provides service with wheelchair lift-equipped buses. Therefore, we believe that CCRTA has corrected any deficiencies in this area.

2. **CORD alleges that CCRTA's tie down apparatus on trolleys with lifts do not adequately secure wheelchairs, and the lift platforms are not in compliance with the specifications for such lifts.**

In view of the fact that CCRTA no longer uses trolleys, this issue has been resolved.

3. **CORD alleges that CCRTA incorrectly interprets the DOT ADA regulations at 49 CFR 37.73, when it states that when a bus route is not served by an accessible vehicle, CCRTA may meet its ADA obligations by providing comparable paratransit service.**

Issue #1, above, addresses the obligations under the DOT ADA regulations to acquire accessible vehicles, and the burden on the transit property where that is not possible.

In addition, The DOT ADA regulations at 49 CFR 37.121 and at 37.123 state:

- (a) Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system. (b) To be deemed comparable to fixed route service, a complementary paratransit system shall meet the requirements of Sees.37.123-37.133 of this subpart. The requirement to comply with Sec. 37.131 may be modified in accordance with the provisions of this subpart relating to undue financial burden. (c) Requirements for complementary paratransit do not apply to commuter bus, commuter rail, or intercity rail systems.

Sec. 37.123 ADA paratransit eligibility: Standards. (a) Public entities required by Sec. 37.121 of this subpart to provide complementary paratransit service shall provide the service to the ADA paratransit eligible individuals described in paragraph (e) of this section.

The narrative in Appendix D relating to section 37.121 states:

This section sets forth the basic requirement that all public entities who operate a fixed route system have to provide paratransit service that is both comparable and complementary to the fixed route service. By "complementary," we mean service that acts as a "safety net" for individuals with disabilities who cannot use the fixed route system. By "comparable," we mean service that meets the service criteria of this subpart. This requirement applies to light and rapid rail systems as well as to bus systems, even when rail and bus systems share all or part of the same service area. Commuter bus, commuter rail and intercity rail systems do not have to provide paratransit, however.

Neither the DOT ADA regulations nor the guidance in Appendix D state that a transit provider is incorrect for providing ADA Complementary Paratransit service, when there is difficulty in providing accessible fixed route service. We note that the transit provider was having considerable difficulty finding accessible trolleys at the time, despite efforts as discussed above in issue #1.

The DOT ADA regulations at section 37.123(e)(2) provide for eligibility under Category 2, where the rider could travel on the fixed route, but either the route is not accessible or the lift is broken. There is no violation related to this allegation.

4. CORD alleges that the bathrooms in the Hyannis terminal of the Plymouth and Brockton Bus Company are not accessible. (Allegation added in July 1999)

Our information from the transit provider indicates that these problems were corrected in March 2001.

5. CORD alleges that a TTY that supplies phone access to the B-Bus is repeatedly not answered.

The DOT ADA regulations at 49 CFR 37.167(f) state:

The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

The narrative in Appendix D related to this provision states:

Entities must make communications and information available, using accessible formats and technology (e.g., Braille, large print, TDDs) to obtain information about

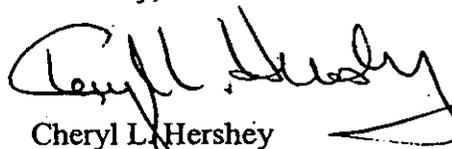
transportation services. Someone cannot adequately use the bus system if schedule and route information is not available in a form he or she can use.

CCRTA provided an email on July 3, 2003, confirming that the transit agency has a TDD to assist people who are deaf or hearing impaired.

Based on the information provided during our investigation, we find that CCRTA's deficiencies have been corrected, and, therefore, we are closing this complaint. We apologize for the tremendous amount of time taken to complete the investigation. This was in part due to allegations added at a later time, but mostly due to a number of staff changes and other conditions that delayed action on this case.

You have the right to file for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter. If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Dennis T. Walsh
Assistant Administrator
Cape Cod Regional Transit Authority
215 Iyannough Road/Route 28
P.O. Box 1988
Hyannis, MA 02601



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 4 2003

[REDACTED]
Progress Center
For Independent Living
7521 Madison Street
Forest Park, IL 60130

Re: FTA Complaint No. 00-044

Dear [REDACTED]

This letter responds to your complaint against the Chicago Transit Authority (CTA), Chicago, Illinois, and Pace, Arlington Heights, Illinois, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged:

- **From 1999, without public hearings and against the advice of disability advocates, CTA and Pace no longer provided suburb-to-suburb and intra-suburban paratransit service, despite the fact that CTA provides mainline bus service in Evanston, Willamette, Skokie, Rosemont, Oak Park, Forest Park and Cicero.**

We investigated your allegation, and sent a data request to the General Manager of CTA. We received a response from CTA that addressed and provided relevant information on your allegation noted above.

The DOT ADA regulations at 49 CFR 37.131(a) service area state:

The entity shall provide complementary Paratransit service to origins and destinations within corridors with a width of three-fourths of a mile on each side of each fixed route. The corridor shall include an area with a three-fourths of a mile radius at the ends of each fixed route. [....]

There are occasions when the three-quarter mile area overlaps political boundaries, or instances where the public hopes for the transit service to cross such boundaries. However, 49 CFR 37.131(a) at Appendix D states, in summary:

The entity is not required to serve such origins and destinations, even though the area on the other side of the political boundary is within the corridor. This exception applies when there is a legal bar to the provision of such service.

We encourage seamless customer-oriented service whenever possible; however, the DOT ADA regulations cited above do not require that CTA and Pace cross political boundaries to provide such service. While such service is not required under these circumstances, we encourage transit properties to work together so that such boundaries do not become barriers to the travel of the individual with disabilities.

In addition, based upon the information in CTA's response, they met their public participation requirements by consulting with the ADA Advisory Committee on numerous occasions, and by holding a public hearing prior to making this change.

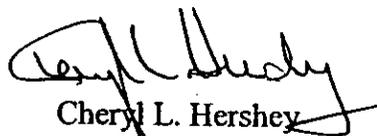
In CTA's response, the following facts were provided:

1. CTA and Pace operated a joint ADA Complementary Paratransit service for only a three-month period from October 1, 1999, to December 31, 1999, to jointly provide ADA Complementary Paratransit service in overlapping service areas.
2. In the overlapping service areas, at the time of the complaint, Pace provided suburban ADA Complementary Paratransit service during the hours that Pace operated its fixed route service, and CTA provided service during the hours when Pace's ADA Complementary Paratransit service was not operating.
3. CTA consulted with its ADA Advisory Committee about the service at seven meetings between 1998 and 1999, held a public hearing, and discussed the service at a public meeting on CTA's budget held on November 4, 1998.

After reviewing all of the submitted materials, FTA has determined that CTA's actions were in accordance with the above DOT ADA regulations. Therefore, we are closing your complaint as of the date of this letter.

You have the right to file for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter. If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Frank Kruesi
President
CTA
Merchandise Mart Plaza
P. O. Box 3555
Chicago, Illinois 60654



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 14 2003

[REDACTED]

Re: FTA Complaint No. 99218

Dear [REDACTED]

This letter responds to your complaint against Maryland Transit Administration (MTA), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. MTA bus drivers do not make stop announcements.
2. MTA denies ADA Complementary Paratransit eligibility to blind and visually impaired passengers who cannot use the fixed route system, because bus operators do not announce stops.
3. At the time of the complaint, MTA required written reports from customers with disabilities about bus operators not complying with stop announcements. The only alternative was for the customer to ask the operator to divulge his/her name and the coach and/or badge number.
4. MTA wrongfully requires a functional test as part of its procedure for determining eligibility for ADA Complementary Paratransit.

We investigated your allegations, and sent a data request to Robert Smith, General Manager, MTA. We received a response from MTA that addressed and provided relevant information on each of your allegations noted above.

1. **MTA bus drivers do not make stop announcements.**

The DOT ADA regulations at 49 CFR 37.167(b) and (c) state:

(b) On fixed route systems, the entity shall announce stops as follows: (1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location. (2) The entity shall announce any stop on request of an individual with a disability. (c) Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

FTA conducted a fixed route stop announcement and route identification assessment of MTA in October 2-5, 2000. For MTA-operated bus service, some announcements were made on 7 of the 34 trips observed. The assessment team observed MTA bus operators announcing 13 percent of the stops included in the MTA stop list, resulting in FTA making a finding that MTA's current calling stop efforts were deficient.

As a result, FTA required MTA to take corrective action to meet the regulatory requirements. MTA has taken steps since the assessment to improve the calling of stops on their system. These steps include: equipping 168 buses with automated voice annunciator systems and ordering a substantial number of new buses to be delivered equipped with voice annunciator systems. While MTA has taken steps, FTA will continue to monitor MTA's performance through quarterly reports until this issue is fully resolved.

2. MTA denies ADA Complementary Paratransit eligibility to blind and visually impaired passengers who cannot use the fixed route system, because bus operators do not announce stops.

Where a transit system's failure to call stops acts as a barrier to a person's use of public transit, as is the case here, eligibility should result under section 37.123(e).

The DOT ADA regulations at 49 CFR 37.123(e) state:

The following individuals are ADA paratransit eligible: (1) Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable [by] individuals with disabilities.

The calling of stops is as essential to a person who is blind or visually impaired, and others, as lifts and physical vehicle accessibility is to a person who uses a wheelchair.

The DOT ADA regulations at 49 CFR 37.167(b) and (c) state:

(b) On fixed route systems, the entity shall announce stops as follows: (1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location. (2) The entity shall announce any stop on request of an individual with a disability. (c) Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

The DOT ADA regulations at 49 CFR 37.167(b) and (c) require all transit operators to announce stops. Stop announcements are necessary to enable persons to use the fixed route system who are blind, or visually impaired, persons with cognitive disorders, or other disabilities. As discussed in issue #1 above, FTA's stop announcement assessment revealed that driver compliance was low.

Where the failure to call stops is a systemic problem with low rates of calling out stops, and the person with the disability cannot use the system, the transit system must make that rider ADA Complementary Paratransit eligible. This is so until such time as the problem is remedied and the system becomes accessible.

It is essential that in these circumstances the transit system also make a concerted effort to improve the calling of stops through training, monitoring and appropriate enforcement efforts. The thrust of the ADA at the time of its passage, and today, is inclusiveness for all persons -- including persons with disabilities.

3. **At the time of the complaint, MTA required written reports from customers with disabilities about bus operators not complying with stop announcements. The only alternative was for the customer to ask the operator to divulge his/her name and the coach and/or badge number.**

MTA's response did not provide sufficient information regarding complaint procedures for the fixed route for us to reach a definite conclusion. However, we will follow-up with MTA by cover of separate letter.

MTA did provide procedures for the ADA Complementary Paratransit service. It appears, based on that information, a written response is required in order to file a complaint. We note however, that the DOT ADA regulations 49 CFR 37.5 (a) would preclude requiring a person with a disability to file a written complaint where persons without disabilities were not required to do so.

4. **MTA wrongfully requires a functional test as part of its procedure for determining eligibility for ADA Complementary Paratransit service.**

The DOT ADA regulations do not prevent a transit provider from using a functional test as part of the eligibility process. MTA's functional testing is in accordance with the DOT ADA regulations discussed below. The DOT ADA regulations at 49 CFR 37.125 place the responsibility on the transit property to develop its own eligibility process.

Paraphrasing Appendix D at this section, it states that while the process can't include unreasonable administrative burdens on the applicant, it may include functional testing as appropriate. It further states that medical verification as to the existence of a medical condition or a disability is not dispositive as to whether that person can independently use the fixed route--that is a transportation decision.

A functional test also may help determine trip-by-trip eligibility that is recognized by the regulation. This acknowledges that a person may be eligible for some trips and not for others.

The DOT ADA regulations at 49 CFR 37.123(b) state:

If an individual meets the eligibility criteria of this section with respect to some trips but not others, the individual shall be ADA paratransit eligible only for those trips for which he or she meets the criteria.

In Appendix D, the regulations cite this example:

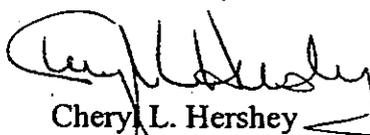
Someone with a cognitive disability may have learned to take the same bus route to a supported employment job every day. This individual is able to navigate the system for work purposes and therefore would not be eligible for paratransit for work trips. But the individual may be unable to get to other destinations on the bus system without getting lost, and would be eligible for paratransit for non-work trips.

After reviewing all of the submitted materials, it appears that MTA is deficient as to calling stops. In addition, we will request clarification of issue #3 regarding the allegation of requiring a complaint be filed in writing.

The FTA Office of Civil Rights will require MTA to take corrective action until such time as MTA has corrected the deficiencies. This corrective action will be monitored through quarterly reporting, and coordinated with that currently ongoing with MTA, as a result of the findings in the Fixed Route assessment. A FTA investigator will contact you periodically as part of the assessment of MTA's corrective action efforts. We are closing your complaint as of the date of this letter.

You have the right to file for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter. If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Robert Smith
General Manager
Maryland Transit Authority
6 St. Paul St.
Baltimore, MD 21202

Jessie Lyons Crawford
Assistant Attorney General
Maryland Transit Authority
6 St. Paul St.
Baltimore, MD 21202



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 13 2003

**Pam Burkeley
Director
Cape Organization
for the Rights of the Disabled
1019 Iyannough Road #4,
Hyannis, MA 02601**

Re: FTA Complaint No. 95090

Dear Ms. Burkeley:

This letter responds to complaints from [REDACTED] and [REDACTED] on behalf of Cape Organization for the Rights of the Disabled (CORD), against Martha's Vineyard Transit Authority (MVTA) and Your Taxi Service, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, the complaints alleged that:

- 1. The ramp of the Tisbury Park and Ride uses vehicles with lifts that have no side barriers.**
- 2. The drop-off areas for the Tisbury Park N' Ride are not accessible.**
- 3. The Vineyard Shuttle service has only one vehicle with a lift**

4. The Downtown Shuttle has a van with a lift that is too small to accommodate many wheelchairs.
5. Your Taxi Service purchased vans after 1992 that were inaccessible to persons using wheelchairs.

We investigated your allegations, and sent a data request to MVTA. We received a response from MVTA that addressed and provided relevant information on each of your allegations noted above.

1. The ramp of the Tisbury Park N' Ride uses vehicles with lifts that have no side barriers and is too steep.
2. The drop-off areas for the Tisbury Park N' Ride are not accessible.

Both of these allegations were later dropped.

3. The Vineyard Shuttle service has only one vehicle with a lift
4. The Downtown Shuttle has a van with a lift that is too small to accommodate many wheelchairs.

MVTA advised our investigator that accessible lift-equipped buses have since replaced all vehicles.

5. Your Taxi Service purchased new vans after 1992 that were inaccessible to persons using wheelchairs.

You allege that Your Taxi Service purchased new vans (after 1992) that were inaccessible to persons using wheelchairs. Your Taxi Service sent documentation to FTA that the vehicles purchased were all used vans.

The DOT ADA regulations address taxis at 49 CFR 37.29 and state:

- (a) Providers of taxi service are subject to the requirements of this part for private entities primarily engaged in the business of transporting people which provide demand responsive service.
- (b) Providers of taxi service are not required to purchase or lease accessible automobiles. When a provider of taxi service purchases or leases a vehicle other than an automobile, the vehicle is required to be accessible unless the provider demonstrates equivalency as provided in Sec. 37.105 of this part. A provider of taxi service is not required to purchase vehicles other than automobiles in order to have a number of accessible vehicles in its fleet.
- (c) Private entities providing taxi service shall not discriminate against individuals with disabilities by actions including, but not limited to, refusing to provide service to individuals with disabilities who can use taxi vehicles, refusing to assist with the stowing of mobility devices, and charging higher fares or fees for carrying individuals with disabilities and their equipment than are charged to other persons.

This provision establishes that taxis are subject to the Part 37 requirements for private entities primarily engaged in the business of transporting people which provide demand responsive service.

Part 37 Subpart E Acquisition of Accessible Vehicles by Private Entities 49 CFR 37.103 states that when acquiring new vehicles (with a seating capacity, including the driver, of 8 or more) the vehicle must be accessible or equivalent service must be provided.

In addition, the DOT ADA regulations at 49 CFR 37.103 state:

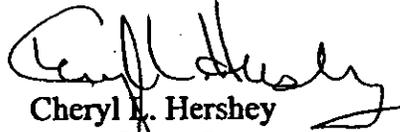
This section applies to all acquisitions of *new* [emphasis added] vehicles by private entities which are primarily engaged in the business of transporting people and whose operations affect commerce, in which a solicitation for the vehicle is made (except as provided in paragraph (d) of this section) after August 25, 1990.

This section applies only to the acquisition of new, *not used*, vehicles. As such, the acquisition of inaccessible vans by a taxi company under these facts is not a violation of the DOT ADA regulations.

After reviewing all of the submitted materials, it appears that the facts leading to the particular circumstances experienced by you with MVTA regarding inaccessible shuttles and inaccessible shuttle lifts (issues #3 & #4) have since been corrected. We are closing your complaint as of the date of this letter. You have the right to file for a request for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Martha's Vineyard Regional Transit Authority (MVTA)
RR 1 Box 10
Martha's Vineyard Business Park
11 A Street
Edgartown, MA 02539



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 13 2003

[REDACTED]

Re: FTA Complaint No. 98260

Dear [REDACTED]

This letter responds to your complaint against the Chicago Transit Authority (CTA), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. No external stops are called at the Dearborn Street Station, and no auxiliary aids are provided so that persons who are blind, visually or cognitively impaired are able to tell which train on what route is stopping at the station.
2. Conductors, customer service representatives, and operators do not assist you or other people with disabilities in identifying trains and are sometimes hostile towards you.
3. CTA's website is not accessible, and does not allow persons using a Lynx browser to purchase fare cards online.

We investigated your allegations, and sent a data request to Frank Kruesi, General Manager, CTA. We received a response from CTA that addressed and provided relevant information on each of your allegations noted above.

1. **No external stops are called at the Dearborn Street Station, and no auxiliary aids are provided so that persons who are blind, visually or cognitively impaired are able to tell which train on what route is stopping at the station.**
2. **Conductors, customer service representatives, and operators do not assist you or other people with disabilities in identifying trains and are sometimes hostile towards you.**

The DOT ADA regulations at 49 CFR 37.167(c) state:

Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

CTA's response of January 2000 indicated that there was not enough information to identify the trains cited, and that in interviews with the conductors, all claimed to be making the announcements. CTA also states that it had performance control specialist make observations of 32 trains between February 9-24, 1999. Of the 32 trains observed, the conductors on 31 trains were found to have made the required announcements.

However, when our investigator contacted you in early 2003, you indicated that you were still having problems.

Due to the age of the initial response, and the discrepancy between the current information, we will place CTA in follow-up status. This will enable us to determine to what extent CTA is or is not in compliance with regards to both external stops announcements and customer assistance in identifying trains. Follow-up will include periodic contact with you to ascertain whether external stops are being made, and whether CTA staff and conductors in identifying trains are providing customer assistance.

3. **Website is not accessible and does not allow persons using a Lynx browser to purchase fare cards online.**

The DOT ADA regulations at 49 CFR 37.167(f) state:

The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate

communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

A recent review of CTA's website, October 24, 2003, revealed a number of problems related to accessibility to people with visual impairments:

- Bus schedules are in only Adobe Acrobat PDF format; train schedules are graphics, convertible only to PDF format,
- The paratransit brochure is only available in PDF,
- Only the Taxi Access brochure has a text-only version.

The Adobe Acrobat Reader has a history of problems with accessibility of documents rendered only in PDF format, which cannot be read by screen readers. No alternate formats are available on CTA's website, except for the Taxi Access brochure. By cover of separate letter, we will address the problem of the provision of Section 37.167(f) and alternate formats with CTA.

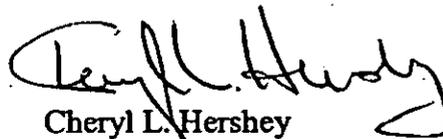
In addition, FTA will be looking into the whole area of website accessibility as it relates to transit properties. When we have developed policy in this area, we will notify CTA and you of any changes that need to be made, aside from the problems already noted.

CTA will be placed in corrective action status with regards the issue of website accessibility. We will monitor their progress until such as time as we have determined that CTA has corrected any deficiencies. We will also follow-up on the current status of the calling of external stops and customer service in this area, to ensure compliance.

We are closing your complaint as of the date of this letter and will address the corrective action and follow-up required with CTA.

You have the right to file for a request for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter. If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Frank Kruesi
General Manager
Chicago Transit Authority
and
Christine Montgomery
ADA Compliance Officer



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 17 2003



Re: FTA Complaint No. 98259

Dear 

This letter responds to your complaint against the Metropolitan Transportation Commission (MTC), Oakland, California, and San Francisco Municipal Railway (MUNI), San Francisco, California, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. The Metropolitan Transportation Commission's web site is not accessible by people who use screen review programs.
2. Public documents on MTC's web site are not accessible.
3. Job information is not accessible.
4. There is no information on the web site on how to obtain documents in accessible formats.
5. MUNI uses a scrip program on their ADA Complementary Paratransit service that effectively denies next day service.

6. (Allegation added on August 28, 2000) MTC is implementing "Smart Card" technology for its fixed-route system but is not providing it for ADA Complementary Paratransit service.

✓ We investigated your allegations, and sent a data request to the Executive Director of MTC and the General Manager of MUNI. We received responses from MUNI and MTC that addressed and provided relevant information on each of your allegations noted above.

1. **The Metropolitan Transportation Commission's web site is not accessible by people who use screen review programs.**
2. **Public documents on MTC's web site are not accessible.**

Section 504(a) of the Rehabilitation Act of 1973 states:

No otherwise qualified individual with a disability in the United States, as defined in section 7(20), shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. [. . .]

In addition, the DOT ADA regulations at 49 CFR 37.167(f) state:

The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

MTC's response stated that the MTC solicited the assistance of its Elderly and Disabled Advisory Committee to identify improvements to the web site to assist people with visual impairments to better navigate the sites. Based on our review of the site and on the information received there is no violation under our jurisdiction at this time. Regarding allegation #4 below, the accessibility of employment applications is not under the jurisdiction of FTA.

3. **There is no information on the web site on how to obtain documents in accessible formats.**

There is a notice on the website that was posted after the time of your original complaint that states:

Requests for Alternative Formats

In compliance with the Americans With Disabilities Act (ADA), MTC will provide materials in alternative formats for citizens who cannot access MTC's Web site. To request materials, contact MTC's Public Information Office at info@mtc.ca.gov or Tel. 510/464-7787. Information about this Web site's

accessibility features can be found on the following page:

www.mtc.ca.gov/access_info.htm. If you have a concern regarding MTC's compliance with the ADA, please contact MTC's manager of Administrative Services, Teri L. Green, via e-mail at tgreen@mtc.ca.gov or at Tel. 510/464-7750.

Based on the information received and the review of the site, we do not see any violations of the DOT ADA regulations at this time.

4. Job information is not accessible.

Job postings on MTC's website are posted on a page in HTML format. However, the employment application is in Adobe Acrobat format. The accessibility of employment applications is not under the jurisdiction of FTA. We suggest you contact your regional EEOC office at:

901 Market Street
Suite 500
San Francisco, CA 94103

or call 1-415-356-5100.

5. San Francisco County uses a scrip program on its ADA Complementary Paratransit service that effectively denies next day service.

MUNI provides taxi service as part of its ADA Paratransit service as a supplement to its next day service. In MUNI's "Taxi Users Handbook" (TH) it states:

The Paratransit Taxi Program (PTP) is part of the San Francisco Municipal Railway (Muni) ADA Paratransit program. The purpose of this program is to provide service for persons whose disability prevents their functional use of Muni's bus or light rail system.

In Muni's provision of next day service which is provided by van to its ADA Paratransit riders, the transit agency does not require scrip. In the supplemental taxi service available as same day service they require scrip. The use of and adoption of same-day taxi service as part of MUNI's ADA Complementary Paratransit service with the use of scrip, under those circumstances, is not discriminatory.

The FTA Chief Counsel's responded to Rochester Genesee Regional Transportation Authority's (RGRTA) Counsel on this issue by letter dated September 11, 2003. The letter was in response to an inquiry regarding the use of taxi service as a supplement to ADA Complementary Paratransit service. The letter stated, in part:

As the Second Circuit noted in its recent decision regarding RGRTA's Paratransit service, section 37.131 sets minimum standards for ADA Paratransit with regard to service area, response time, fares, trip purpose restrictions, hours and days of service, and capacity constraints. As section 37.131 (b)(3) notes real-time service, such as that provided by taxi

companies, may be a component of a public transit operator's ADA paratransit service. And as the accompanying section in Appendix D notes, a transit agency "may use real time scheduling for all or part of its service." Accordingly, the regulation permits the use of vouchers for real time service to supplement RGRTA's basic paratransit service.

Based upon the above we do not find a violation of the DOT ADA regulations.

The FTA Office of Civil Rights has selected MUNI as a site for an ADA Complementary Paratransit compliance review that will be conducted in the near future. MUNI was selected, in part, based upon your complaint. At that time, the reviewers will have an opportunity to perform a several-day on-site review of the ADA Complementary Paratransit system. If there are any findings identified FTA will work with Muni to ensure compliance, and FTA will monitor MUNI until those issues are fully resolved.

6. **(Allegation added on August 28, 2000) MTC is implementing "Smart Card" technology for its fixed-route system but is not providing it for ADA Complementary Paratransit service.**

You contacted the ADA Assistance Line on August 24, 2000, with essentially the same question. The response we provided you at the time stated:

The DOT ADA regulation covers comparability in 49 CFR 37.121. It states:

(a) Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

(b) To be deemed comparable to fixed route service, a complementary paratransit system shall meet the requirements of Secs. 37.123-37.133 of this subpart. The requirement to comply with Sec. 37.131 may be modified in accordance with the provisions of this subpart relating to undue financial burden.

There is nothing in 37.123-133 that would require the use of smart card technology in order to fulfill the comparability requirement.

We restate that while the provision of the smart card may be a convenience, nothing in sections 37.123-133 requires the use of smart card technology on Paratransit in order to fulfill the comparability requirement. There is no other provision of the DOT ADA regulations that would require the use of a smart card on ADA Complementary Paratransit.

After reviewing the submitted materials, it appears that the facts leading to the particular circumstances experienced by you were the result of temporary deficiencies that have been corrected. We are closing your complaint as of the date of this letter. You have the right to file for a request for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty days from the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Steve Heminger
Executive Director
Metropolitan Transportation Commission
101 Eighth Street,
Oakland, California 94607

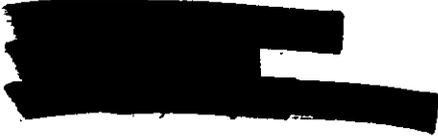
Michael T. Burns
General Manager
MUNI
949 Presidio Avenue
San Francisco, California 94115



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 12 2003



Re: FTA Complaint No. 98210

Dear 

This letter responds to your complaint against Maryland Transit Administration (MTA), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. MTA operates fixed route services under contract with buses you believed were acquired or purchased (new and used) after August 25, 1990. You believe that MTA is in violation of 49 CFR 37.23, "Service under contract."
2. You also believe that MTA is in violation of section 37.35(a) and (b), "Supplemental service for other transportation modes."
3. You also believe that MTA is in violation of section 37.161(a) and (b), "Maintenance of accessible features."

We investigated your allegations, and sent a data request to Robert Smith, General Manager, MTA. We received a response from MTA that addressed and provided relevant information on your allegations noted above. We have restated your allegations below:

- 1. MTA operates fixed route services under contract with buses you believed were acquired or purchased (new and used) after August 25, 1990. You believe that MTA is in violation of 49 CFR 37.23, "Service under contract."**

Public entities may not contract away their ADA responsibility. Contractors hired to provide public transportation on behalf of a public entity must meet the same requirements as the public entity, in this case, as MTA.

The DOT ADA regulations provide at section 37.23: Service under contract. (a) When a public entity enters into a contractual or other arrangement or relationship with a private entity to operate fixed route or demand responsive service, the public entity shall ensure that the private entity meets the requirements of this part that would apply to the public entity if the public entity itself provided the service. (b) A private entity which purchases or leases new, used, or remanufactured vehicles, or remanufactures vehicles, for use, or in contemplation of use, in fixed route or demand responsive service under contract or other arrangement or relationship with a public entity, shall acquire accessible vehicles in all situations in which the public entity itself would be required to do so by this part. (c) A public entity which enters into a contractual or other arrangement or relationship with a private entity to provide fixed route service shall ensure that the percentage of accessible vehicles operated by the public entity in its overall fixed route or demand responsive fleet is not diminished as a result. (d) A private entity that provides fixed route or demand responsive transportation service under contract or other arrangement with another private entity shall be governed, for purposes of the transportation service involved, by the provisions of this part applicable to the other entity.

This regulation at (c) requires MTA to ensure that when they enter into a contractual relation for the provision of service, entering into that agreement does not diminish the percentage of the fleet accessible in the provision of that service.

The DOT ADA regulations, Subpart D-Acquisition of Accessible Vehicles by Public Entities, at section 37.71 provides that where a public entity operating a fixed route system makes a solicitation to acquire *new vehicles* after August 25, 1990, the vehicles must be "readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs."

The only exception is where the public entity applies for, and is granted, a waiver by the FTA Administrator.

Further, the same subpart at 37.73 provides that where a public entity operating a fixed route system makes a solicitation to acquire *used vehicles* after August 25, 1990, the vehicles must be "readily accessible and usable by individuals with disabilities including individuals who use

wheelchairs." The only exception to this requirement is where the public entity made "demonstrated good faith efforts" to obtain an accessible vehicle, and it is unable to do so. In this instance, documentation must be retained for three years and made available on request to FTA.

Likewise, where the vehicles acquired are Over-the-Road buses, DOT ADA regulations at 37.7 (c) provides that Over-the-Road buses acquired by public entities (or by a contractor to a public entity as provided in section 37.23 of this part) shall comply with 38.23 and subpart G of Part 38 of this Title. Section 38.23 and Subpart G, contain the requirements for "a level-change mechanism or boarding device (e.g. lift or ramp)..."

An analysis of the above pertinent sections indicates clearly that any vehicle acquired by the contractors after August 25, 1990, while under contract to MTA, including acquisition made in anticipation of providing contractual service to MTA, must be accessible.

MTA's response dated July 7, 2003, states that:

The MTA currently has four contractors (Dillon, Keller, Eyre and Yellow) that provide MTA's service on twenty-two bus routes. Dillon provides service on routes numbered 410, 411, 412, 420 and 731.* Keller provides services on routes numbered 901, 915, 929, and 995. Yellow provides services on routes numbered 320, 310 and 311. The MTA does not operate the "Meet the Marc" service in Frederick, Maryland as alleged by Mr. Reuter. Currently there are 172 buses operating on the MTA commuter routes. Eighty-four (84) of these buses are wheelchair lift equipped.

*The 731 lines will no longer be operated as of July 11, 2003. The 731 bus is the one that met Marc train #421 that Mr. Reuter complained about in 95/96.

While it is clear there are a large number of inaccessible vehicles, it is unclear as to the dates of acquisition, and this factor is critical to making a determination. In addition, there is no indication as to whether the vehicles acquired were new or used, and whether a waiver or good faith effort was made. We will follow up with MTA regarding this issue.

2. **You also believe that MTA is in violation of section 37.35(a) and (b), "Supplemental service for other transportation modes."**

The DOT ADA regulations at 49 CFR 37.35(a) and (b) state:

Transportation service provided by bus or other vehicle by an intercity commuter or rail operator, as an extension of or supplement to its rail service, and which connects an intercity rail station and limited other points, is subject to the requirements of this part for fixed route commuter bus service operated by a public entity. (b) Dedicated bus service to commuter rail systems, with through ticketing arrangements and which is available only to users of the commuter rail system, is subject to the requirements of this part for fixed route commuter bus service operated by a public entity.

Appendix D states regarding 49 CFR 37.35:

"... It would be regarded as commuter bus service, meaning that accessible vehicles would have to be acquired but complementary paratransit was not required."

The information and analysis outlined in the first allegation also applies to this issue. MTA in their response dated July 2, 2003, states:

To fill any gaps that may arise in providing wheelchair accessible service in its commuter lines, MTA has two services available: Call-A-Lift and Paratransit services. Call-A-Lift has been in service since 1986. On every brochure and pamphlet published by the MTA, patrons are provided information on the use of this service. (See Exhibit 2). Any patron requiring a wheelchair accessible bus may call this service to ensure an accessible bus is on the route on which the patron needs. Paratransit service is a curb-to-curb service for individuals who cannot use fixed route. As the number of buses equipped with wheelchair lifts increases through acquisition and retrofitting, the use of Call-A-Lift will decrease.

MTA continues to be proactive in its efforts to ensure its commuter buses are wheelchair accessible. MTA is working towards its goal to have its commuter buses 100% wheelchair accessible by late 2005. MTA plans to maintain its promotion of retrofits on contractor buses and purchasing new accessible coaches for its commuter bus lines as its budget permits.

We recognize MTA's good faith efforts to improve its commuter service, including the provision of Paratransit service where the regulation does not require it. However, this does not mitigate the obligation that exists under the vehicle acquisition sections and the "stand in the shoes" provisions.

3. You also believe that MTA is in violation of section 37.161(a) and (b), "Maintenance of accessible features."

The DOT ADA regulations at section 37.161 state:

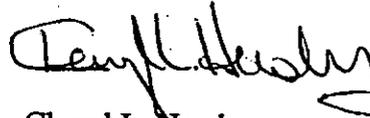
(a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing. (b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature. (c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

MTA did not respond to this allegation and will be placed in follow-up to furnish the information we will request. Based on the response, FTA will determine any further action that may be necessary.

Based on the above, we are closing your complaint as of the date of this letter. You have the right to file for a request for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters at (202) 366-0792, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Robert Smith
General Manager
MTA
6 Saint Paul Street
Baltimore, Maryland 21202-1614

Callista M. Freedman
Assistant Attorney General
Maryland Department of Transportation
MTA
6 Saint Paul Street
Baltimore, Maryland 21202-1614



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 4 2003

[REDACTED]

Re: FTA Complaint No. 98147

Dear [REDACTED]

This letter responds to your complaint against the Chicago Transit Authority (CTA), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT's) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of resolution is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

On September 24, 2003, David Knight, of our office, spoke with you regarding your complaint. As he discussed with you, the issue you brought to our attention, stop announcements on CTA buses, has seen impressive progress since we last wrote to you on February 29, 2000. In that letter, we alerted you that we would be holding your complaint in abeyance pending the conclusion of a lawsuit filed against CTA on February 8, 2000, addressing similar issues. That lawsuit, *Access Living of Metropolitan Chicago, et al vs. Chicago Transit Authority* (Case No. 00 C 0770; U.S. District Court, Northern District of Illinois, Eastern Division), resulted in a Settlement Agreement entered on June 5, 2001.

The Settlement Agreement has a five-year duration, and during that time requires quarterly reporting by an Independent Monitor. The most recent report, Report #7, was issued on October 31, 2003, by Shelley A. Sandow, the Independent Monitor. In the original settlement agreement, the first finding addressed bus audio-visual displays, and read as follows:

The CTA shall install audio-visual equipment on its bus fleet that will display bus stop information in both audio and visual formats. The CTA shall comply with the applicable ADA regulations in determining which bus stops will be displayed. The CTA shall install the audio-visual display equipment on all of its busses in revenue passenger service on December 31, 2003, except for those busses that the CTA plans to retire from service on or before December 31, 2004.

In the seventh quarterly report, the Independent Monitor reported that CTA's compliance is in progress as of September 30, 2003. After receiving four proposals and awarding the contract to Clever Devices, of Syosset, NY, installation of the Automatic Voice Annunciation System (AVAS) began in November 2002. CTA's Request for Proposal outlined an elaborate system that included both exterior and interior enunciators, controlled independently, that would automatically adjust in response to ambient noise levels. Initially, four buses were outfitted and members of the disabled community were invited to test-pilot the system. The final system will include external announcements of the bus route and destination, and internal announcements of stops and public service information.

As of September 30, 2003, 1,164 of CTA's 1,432 fleet were equipped with AVAS, on a contract to have all 1,432 buses equipped by the end of the year. Next-stop announcements have been activated at two of CTA's eight garages so far, and the Independent Monitor reports initial feedback from CTA managers that the system is working well and that feedback from riders is welcome. CTA has plans to purchase 226 new articulated buses for late 2003, 25 new 45-foot buses for early 2004, and up to 430 new standard buses for delivery in 2004. All of these buses will be equipped with AVAS on delivery.

Ms. Sandow will continue to monitor the progress of CTA in meeting this and the other deadlines, and ongoing requirements from the Settlement Agreement. On November 19, 2003, she hosted a forum for Class Members and interested parties at Equip for Equality's Chicago office. The Settlement Agreement requires thirteen additional quarterly reports, with the eighth report, covering progress through December 31, 2003, due in early 2004.

FTA's Office of Civil Rights continues to be concerned with the issues raised by Equip for Equality in their 2000 lawsuit, and has followed the Independent Monitors progress reports. On the specific issue of next-stop announcements, CTA's progress is encouraging. In light of CTA's present requirement under the Settlement Agreement to have fully functional AVAS systems on its fleet by the end of the year, and the Independent Monitor's report of positive progress toward that requirement, the FTA will await the Independent Monitor's next report and continue to monitor the reports in the future.

We are closing your complaint as of the date of this letter. You have the right to file for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit

Administration, within thirty (30) days from the date of this letter. If you have questions regarding our determination, please contact David Knight, Equal Opportunity Specialist, at 202-366-0805, or at his electronic mail address: david.knight@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Frank Kruesi
President
CTA
Merchandise Mart Plaza
P. O. Box 3555
Chicago, Illinois 60654



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 29 2003

[REDACTED]

Re: FTA Complaint No. 95168

Dear [REDACTED]

This letter responds to your complaint against the Maryland Transit Authority (MTA), Baltimore, Maryland, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged:

1. **MTA denies service to people with disabilities on MARC trains;**
2. **MTA operates MARC service in such a way as to direct or steer persons with disabilities to a single rail route and certain stations;**
3. **MTA operates rail service in such a manner that makes it difficult or impossible to use, when it is in compliance with the letter of the law;**

4. **Bus shuttle service to BWI by the Hudson Bus Company is not accessible;**
5. **MTA publishes train schedules that do not list many accessible stations, as a result, steering passengers to the Penn Line and away from the Brunswick and Camden Lines. The stations that have low level platforms and are not listed as accessible include Germantown, Gaithersburg, Rockville, Laurel and Savage**
6. **MARC issues daily, weekly and monthly tickets for riders without disabilities but persons with disabilities are provided daily tickets only.**

On weekends, when MARC doesn't operate, Amtrak accepts MARC's monthly and weekly passes. However, as persons with disabilities are not issued those passes, they can't have similar pass access on weekends on Amtrak.

7. **MTA provides an 800 number for callers, and there is no 800 number for persons with disabilities. There is a standard number for callers requesting information on accessible services. In addition, the 800 number "live" hours are extended, while the standard phone number provided to persons with disabilities seeking information on accessible services is only open with a "live" person during normal business hours.**
8. **Various stations have inaccessible parking; a disproportionate share of the free parking is inaccessible.**

MTA promulgates rules and policies that have the effect of disparate treatment of persons with disabilities.

9. **MTA purchases equipment that is difficult or unusable by persons with disabilities.**

MTA uses three different types of lifts, two of which are not in compliance with 49 CFR 38.93 and 38.95(b). Lifts at MARC stations do not meet ADA requirements, and the lifts are difficult or unusable by persons with disabilities.

We investigated your allegations, and sent a data request to Robert Smith, General Manager, MTA. We received a response from MTA that addressed and provided relevant information on each of your allegations noted above.

1. **MTA denies service to people with disabilities on MARC trains;**
2. **MTA operates MARC service in such a way as to direct or steer persons with disabilities to a single rail route and certain stations;**
3. **MTA operates rail service in such a manner that makes it difficult or impossible to use, when it is in compliance with the letter of the law;**

The DOT ADA regulations at 49 CFR 37.47 state:

- (a) Each public entity that provides designated public transportation by means of a light or rapid rail system shall make key stations on its system readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. This requirement is separate from and in addition to requirements set forth in Sec. 37.43 of this part.
- (b) Each public entity shall determine which stations on its system are key stations. The entity shall identify key stations, using the planning and public participation process set forth in paragraph (d) of this section, and taking into consideration the following criteria: (1) Stations where passenger boarding's exceed average station passenger boarding's on the rail system by at least fifteen percent, unless such a station is close to another accessible station; (2) Transfer stations on a rail line or between rail lines; (3) Major interchange points with other transportation modes, including stations connecting with major parking facilities, bus terminals, intercity or commuter rail stations, passenger vessel terminals, or airports; (4) End stations, unless an end station is close to another accessible station; and (5) Stations serving major activity centers, such as employment or government centers, institutions of higher education, hospitals or other major health care facilities, or other facilities that are major trip generators for individuals with disabilities.

MTA, along with all other transit providers, was required to identify key stations in its system and develop a key station plan. MTA's key station plan was developed in 1992. Twenty-two of 42 MARC stations are key stations; the remainder are not key stations.

Key station compliance assessments of MTA's key stations have been conducted and deficiencies noted. MTA was told to correct those deficiencies by the execution of a Voluntary Compliance Agreement (VCA) in 1998. MTA issued a closeout report on January 31, 2002, verifying that the agency had corrected the deficiencies noted in the VCA. In addition, the Silver Spring Station was relocated, and the new facility opened in March 2003.

It seems that your assertion that MTA operates its service in such a way as to direct or steer persons with disabilities to a single rail route and certain stations may have to do with the designation of stations as key stations. MTA was addressing the information required by FTA with regard to the provisions of the DOT ADA regulations relating to key stations. The regulations were not intended to direct people with disabilities to certain routes or stations, but to identify, in accordance with the regulation, as "key" certain stations that had already been built prior to the effective date of the regulations and make them accessible.

In addition, 49 CFR 37.43(a) states:

- (1) When a public entity alters an existing facility or a part of an existing facility used in providing designated public transportation services in a way that affects or could affect the usability of the facility or part of the facility, the entity shall make

the alterations (or ensure that the alterations are made) in such a manner, to the maximum extent feasible, that the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations. (2) When a public entity undertakes an alteration that affects or could affect the usability of or access to an area of a facility containing a primary function, the entity shall make the alteration in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of the alterations. Provided, that alterations to the path of travel, drinking fountains, telephones and bathrooms are not required to be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, if the cost and scope of doing so would be disproportionate.

MTA has stated that it is following this provision of the regulations when making improvements to any stations in the MARC system. Your complaint was written in 1995, before MTA's key station plan and VCA were in place. We recognize your allegations were made in 1995, and changes have occurred in the intervening years.

Of the 42 MARC Stations 22 are key and none are new. MTA was monitored through its VCA. Robert Smith, Administrator of MTA, wrote FTA, in a letter dated October 31, 2002, stating:

In summary, out of a total of 306 non-compliant elements at the start of our VCA on July 1, 1998 we have corrected 247 elements. Out of the remaining elements that need to be corrected, 39 are being corrected under our Metro elevator and Silver Springs project. The remaining 20 are located at stations owned by AMTRAK (19 elements) and by the City of Martinsburg (1 element).

FTA continues to monitor key and new stations in our ongoing efforts to ensure compliance. Recent compliance reviews were conducted at the Rockville, Silver Spring, and Laurel MARC Stations. Several findings were identified, and MTA responded by letter dated November 21, 2003, that they would correct these deficiencies by December 31, 2003.

In addition, MTA's July 7, 2003, response states:

The MTA plans to conduct an ADA survey on all its non-Key Stations during 2004, providing it is not prevented from doing so due to budget constraints. Based on this survey, MTA intends to develop a plan to initiate improvements to these stations to increase accessibility features beyond that currently required by the federal regulations, to the maximum extent possible and within its financial constraints.

4. Bus shuttle service to BWI by the Hudson Bus Company is not accessible.

The DOT ADA regulations at 49 CFR 37.33 state:

- (a) Transportation systems operated by public airport operators, which provide designated public transportation and connect parking lots and terminals or provide transportation among terminals, are subject to the requirements of this part for fixed route or demand responsive systems, as applicable, operated by public entities. Public airports which operate fixed route transportation systems are subject to the requirements of this part for commuter bus service operated by public entities. The provision by an airport of additional accommodations (e.g., parking spaces in a close-in lot) is not a substitute for meeting the requirements of this part.
- (b) Fixed-route transportation systems operated by public airport operators between the airport and a limited number of destinations in the area it serves are subject to the provisions of this part for commuter bus systems operated by public entities.
- (c) Private jitney or shuttle services that provide transportation between an airport and destinations in the area it serves in a route-deviation or other variable mode are subject to the requirements of this part for private entities primarily engaged in the business of transporting people which provide demand responsive service. They may meet equivalency requirements by such means as sharing or pooling accessible vehicles among operators, in a way that ensures the provision of equivalent service.

MTA's response of July 7, 2003, advised that "MTA does not operate, control or service the shuttle bus about which [REDACTED] complains. Thus, MTA, has no knowledge or information about [REDACTED] complaint."

The FTA investigator has been unable to obtain any information on the Hudson Bus Company. Therefore, this allegation will be placed in follow-up to ascertain whether the Hudson Bus Company is currently operating, and the status of its shuttle service.

5. MTA publishes train schedules that do not list many accessible stations, as a result, steering passengers to the Penn Line and away from the Brunswick and Camden Lines. The stations that have low level platforms and are not listed as accessible include Germantown, Gaithersburg, Rockville, Laurel and Savage.

Our review of current MTA's MARC schedules for the Penn-Camden-Brunswick lines shows that all of the above referenced stations are currently identified on schedules as accessible.

In the MARC Brunswick/Frederick line schedule dated July 13, 2003, 9 of the 20 listed stations are identified as accessible. They include Union Station, Rockville, Gaithersburg, Germantown, Point of Rocks, Monocacy, Frederick, Brunswick, and Martinsburg.

The Camden line schedule dated April 28, 2003, identifies 7 of 12 listed stations as accessible. They are: Union Station, Greenbelt, Muirkirk Road, Laurel, Savage, Dorsey, and Baltimore/Camden station.

The Penn line schedule dated April 28, 2003, identifies 10 of 14 listed stations as accessible. They are: Union Station, New Carrollton, Seabrook, Bowie State, Odenton, BWI Rail Station, Baltimore/Penn Station, Baltimore Camden Station, Aberdeen, and Perryville.

As to the issue raised regarding the location of the accessible stations having the effect of "steering" you to use certain train lines, i.e., the Penn line, we refer to the discussion of Key stations in preceding issues 1-3.

- 6. MARC offers daily, weekly and monthly tickets for riders without disabilities but persons with disabilities can only purchase daily tickets.**

On weekends when MARC doesn't operate, AMTRAK accepts MARC's monthly and weekly passes, but since those passes are not available to passengers with disabilities, they cannot receive the same benefits.

MTA in its response dated July 7, 2003, states:

MTA provides 50% or more reduced rate tickets for disabled riders on MARC for one-way or monthly tickets. AMTRAK accepts the monthly tickets on weekends. MTA does not provide a reduced weekly ticket as it would be cheaper to buy a week's worth of one-way tickets than a weekly ticket.

MARC's Rider's Guide for April 2003 states: "MARC honors monthly and weekly MARC Penn and Camden line tickets; excludes Brunswick for all passengers."

- 7. MTA provides an 800 number for callers, and there is no 800 number for persons with disabilities. There is a standard number for callers requesting information on accessible services. In addition, the 800 number "live" hours are extended, while the standard phone number provided to persons with disabilities seeking information on accessible services is only open with a "live" person during normal business hours.**

The DOT ADA regulations at 49 CFR 37.167(f) states:

The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

MTA provides a general transit information line. This is a toll-free number listed on the back of MTA's MARC Rider's Guide. Information can be obtained from the recorded system or additional assistance is available by pushing "O" from 6:00 a.m. to 7:00 p.m. The pre-recorded information does not advise the rider whether the station is accessible, making it necessary for the rider to contact the customer service representative. After service hours, customers with disabilities would need to access this information at MTA's website at <http://www.mtamaryland.com>.

We will follow-up with MTA regarding this matter by cover of separate and letter. We will advise MTA that this is not in accord with DOT ADA regulation section 37.167(f) and that MTA must add accessibility information to the pre-recorded information that is available to all callers 24 hours a day, as not all persons with disabilities have access to a computer.

8. Various stations have inaccessible parking; a disproportionate share of the free parking is inaccessible

DOT ADA regulations at 37.5(a) state:

No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

MTA's response of July 7, 2003, states:

Parking at MARC stations has changed since [REDACTED] complaint. Brochures in exhibit #3 describe the available parking, accessible parking, and whether there is fee for parking. Many of MTA's accessible parking lots are free.

The lot referred to by [REDACTED] located at Baltimore Penn Station is not owned or controlled by MTA, but by the City of Baltimore.

The BWI parking lot was built after [REDACTED] complaint. It has 3,114 spaces, 51 reserved for disabled patrons. Parking for disabled patrons is free at BWI if a monthly ticket is purchased.

We recognize that the allegations were originally filed in 1995. Many changes have occurred with the passage of time, and, as a result of the efforts made by MTA.

Below is the current parking information extracted from the MTA's MARC Rider's Guide from April 2003. Our review of this guide shows whether the station is accessible, whether parking is provided, and whether parking is free or paid.

Station	Rail Line P=Penn C=Camden B= Brunswick	Accessible	Free Parking	Paid Parking	Number of Parking Spaces
Aberdeen	P	yes	yes	no	100
Baltimore/Camden	C	no	no	yes	1004
Baltimore/Penn	P	yes	no	yes	550
Barnesville	B	no	yes	no	46
Bowie State	P	yes	yes	no	675
Boyds	B	no	yes	no	15
Brunswick	B	yes	yes	no	394
BWI Rail Station	P	yes	no	yes	1600

- Of the 23 accessible stations, 8 have paid parking.
- Of the 42 stations, 19 are inaccessible.
- Of the 19 inaccessible stations, 17 have free parking. Of the 19 inaccessible stations 2 have paid parking.

Our analysis of the current parking at the various MARC stations reflects that a disproportionate number of stations that are inaccessible offer free parking, and that a significantly lesser number that are accessible are free. Conversely, generally speaking, if the parking is accessible the rider must pay to park there. While there is no evidence that this is intentional on the part of MTA, it nevertheless can impact the rider who has a disability in a discriminatory fashion.

MTA states on its July 7, 2003, response:

The MTA plans to conduct an ADA survey on all its non-Key Stations during 2004, providing it is not prevented from doing so due to budget constraints, based on this survey, MTA intends to develop a plan to initiate improvements to these stations to increase accessibility features beyond that currently required by the federal regulations, to the maximum extent possible and with its financial constraints.

We will address this with MTA by cover of separate letter and ask MTA to take a closer look at the "potentially disparate" availability of free parking for persons with disabilities as compared to persons without disabilities. We suggest that this matter be addressed, in the survey, if MTA proceeds with it.

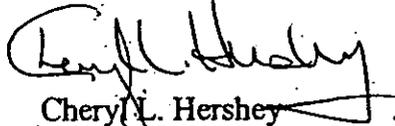
9. Lifts at MARC stations do not meet ADA requirements, and the lifts are difficult or unusable by persons with disabilities

At the present time, MTA uses wheelchair lifts at 18 stations. The manufacturer of the lifts is Adaptive Engineering, Ltd., in Calgary, Canada. MTA's response did not provide sufficient information to make a determination. We will place this matter into follow-up to obtain sufficient background to do so.

We are closing your complaint as of the date of this letter. We will address the issues identified by cover of separate letter with MTA and place this case in follow-up status. You have the right to file for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations or problems, please contact Mary-Elizabeth Peters at (202) 366-0792, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Robert Smith
General Manager
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Baltimore, Maryland 21202-1614

Callista M. Freedman
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Maryland Department of Transportation
MTA
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7201 Corporate Center Drive
Hanover, Maryland 21076



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 31 2003

[REDACTED]

Re: FTA Complaint No. 99096

Dear [REDACTED]

This letter responds to your complaint against the Maryland Transit Administration (MTA), Baltimore, Maryland, and potential noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

We understand your allegations to be as follows:

1. Until 1999, MTA transported your child with your special car seat/stroller on MTA's ADA Complementary Paratransit Service. MTA is now denying you the right to have your son ride with you.
2. MTA will not assist in carrying a car seat on board and/or in securing the child in the car seat.

We informed MTA of your allegations, requested information relating to your complaint, reviewed the information presented by MTA and you, and made a determination in relation to the DOT ADA regulations, based on our analysis of the compiled information. We have restated your allegations followed by our determinations:

1. MTA is currently denying you the right to have your son ride with you.

You state that MTA denied you the right to transport your child with you on ADA Complementary Paratransit service.

MTA's former Administrator Ronald L. Freeland responded in a letter dated July 2, 1999, to [REDACTED] who wrote on your behalf:

I appreciate [REDACTED] desire to have her children with her when she travels, but we cannot permit every Paratransit rider to bring members of their family because we cannot accommodate the additional ridership.

The DOT ADA regulations are clear in this area and permit at least one companion, who can be anyone, including a family member. DOT ADA regulations at 49 CFR 37.123(f)(1) state:

Individuals accompanying an ADA paratransit eligible individual shall be provided service as follows:

One other individual accompanying the ADA paratransit eligible individual shall be provided service.

The regulations at 49 CFR 37.123(f)(2) further state:

Additional individuals accompanying the ADA paratransit eligible individual shall be provided service, provided that space is available for them on the paratransit vehicle carrying the ADA paratransit eligible individual and that transportation of the additional individuals will not result in a denial of service to ADA paratransit eligible individuals [. . .]

Appendix C at section 37.123 provides further guidance in this area, stating:

The ADA requires entities to provide paratransit to one person accompanying the eligible individual, with others served on a space-available basis. The one individual who is guaranteed space on the vehicle can be anyone -- family member, business associate, friend, date, etc. The provider cannot limit the eligible individual's choice of type of companion.

As a certified ADA Complementary Paratransit rider, you are allowed one companion with you when you ride. There is nothing in the DOT ADA regulations that prohibit the one companion from being a child. However, MTA may refuse to take more than one companion, if doing so will result in a denial of service to a certified ADA Complementary Paratransit passenger. You are only allowed more companions, if space permits.

2. MTA will not assist you in carrying a car seat on board and/or in securing the child in the car seat.

The issue restated is:

What level of assistance, if any, is required of MTA operators when an eligible Paratransit rider, riding with her child as her companion, needs assistance to properly secure the child safety seat that is required by Maryland State law?

You have cerebral palsy, and use a wheelchair. For the last several years, you have used Baltimore's MTA Paratransit system. On many occasions, you have taken your two children with you who per Maryland State Law must be in a child safety seat while riding in the Paratransit vehicle.

You connected a child's stroller to your wheelchair. This arrangement enabled you to board the Paratransit van with your child in a car seat in the stroller. You used this arrangement from 1994-1999. However, on April 13, 1999, an operator questioned this arrangement and took you to see MTA supervisors. Although, initially, the supervisors said that the driver could transport you, a few minutes later the dispatcher contacted the operator and said that you could not be transported in this manner. Since that time, you have been unable to use MTA Paratransit and, as a result, are housebound.

A memo from MTA to Mobility employees, dated June 30, 1998, summarizes the Maryland State Child Safety Seat law and the operator's obligations. It states:

Md. State Law declares that any child under four* years of age and/or who weighs less than 40 lbs., when traveling in a class A, E, or M vehicle, must be securely fastened in an approved child safety seat. Class A is a regular passenger vehicle (car); Class E is a ¾ ton, or less, truck; Class M is a multi-purpose vehicle such as our Mobility vans. Vehicles used by the MTA and Yellow fall under at least one of these categories.

*Subsequently increased to six years of age.

MTA's current policy prohibits operators from transferring the child to a child safety seat. We note, however, previous policy as stated in the above-mentioned June 30, 1998, memo from MTA to ALL Mobility employees:

It is the customer's responsibility to secure the special seat in the vehicle, if physically possible. If the adult is unable to perform the task the operator may do so.

MTA's Assistant Attorney General wrote the Maryland Disability Law Center, who was acting on your behalf, in a letter dated January 6, 2000, and stated:

These activities are expressly excluded from the scope of services in MTA's Paratransit contract and are not provided for in MTA's approved Plan [Paratransit Plan]. I am unaware

of any federal requirements for such services, and note that MTA does not provide them in the fixed-route services to which Paratransit is comparable.

As child safety seats are not required on fixed route buses, fixed route cannot, in this instance, be a proper basis for comparison.

The Paratransit Plans were working documents that were developed initially to assist transit properties to come into compliance at the time of the passage of the ADA and the implementation of the DOT ADA regulations.

The DOT ADA regulations at 49 CFR 37.123(f) (1) & (2) require that:

(f) Individuals accompanying an ADA Paratransit eligible individual **shall be provided service (emphasis added)** as follows:

(1) One other individual accompanying the ADA Paratransit eligible individual **shall be provided service (emphasis added)**—[...]

(2) Additional individuals accompanying the ADA paratransit eligible individual **shall be provided service (emphasis added)**, provided that space is available for them on the paratransit vehicle carrying the ADA paratransit eligible individual and that transportation of the additional individuals will not result in a denial of service to ADA paratransit eligible individuals; [. . .]

This provision to provide service to an accompanying individual, which can include a family member, is non-discretionary. This includes taking the steps necessary to provide that service. Transporting individuals in accordance with State law, including the Maryland State law regarding child safety seat requirements, would be such a necessary step.

This is so notwithstanding any previous or existing contractual provisions or established policy by MTA, as it is contrary to the Federal rules and regulations. MTA cannot agree to do something contrary to the force and effect of the Federal law.

In addition, the Department of Justice's regulations regarding program access and modification of policy also apply in this type of situation.

Under the concept of program accessibility, a public entity has an obligation to alter its policies to make its services and facilities accessible — even if those policies are otherwise reasonable. The Department of Justice's requirements can be found at 28 CFR Part 35: "Non-Discrimination on the Basis of Disability in State and Local Government Services" at section 35.130(a) and (b)(1) and (7).

Program access at section 35.130(a) provides that:

No qualified individual with a disability shall, on the basis of disability, be excluded from the participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

Program access at section 35.130(b)(1) provides that:

A public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability—

(i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service [...]

Reasonable modification of policy at section 35.130(b)(7) provides that:

A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program or activity.

We find, based upon the facts outlined above, that an operator's assistance in securing the child safety seat, including handling the child, if necessary, is necessary to effectuate the DOT ADA regulations at 49 CFR 37.123(f) (1) & (2).

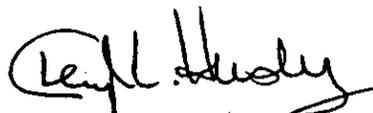
Further, the DOJ's requirements of program access and reasonable modification of policy apply requiring the same result.

The investigation showed that MTA took numerous steps to assist you; including obtaining a child safety seat, although you were able to provide your own at a later time, and in making efforts to locate a PCA. We commend MTA for these efforts. We note, however, the right to elect to use a PCA remains with the rider.

We will address these matters with MTA by cover of separate letter, and MTA will be given 30 days to respond.

If you have any questions, please contact Mary-Elizabeth Peters at (202) 366-0792, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Robert L. Smith
Administrator
MTA
6 Saint Paul Street
Baltimore, Maryland 21202

Jessie Lyons Crawford
Assistant Attorney General
MTA
6 Saint Paul Street
Baltimore, Maryland 21202

Lisa L. Dickerson
Assistant Secretary for Equity and Economic Empowerment
7201 Corporate Center Drive
Hanover, Maryland 21076



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 28 2004

[REDACTED]

Re: FTA Complaint No. 02-0003

Dear [REDACTED]

This letter responds to your complaint you filed against San Francisco Municipal Railway (MUNI) alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

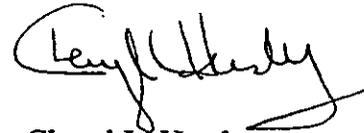
FTA plans to conduct an on-site compliance assessment of MUNI's ADA Complementary Paratransit service March 9th-12th, 2004. The decision to perform this compliance assessment was based, in part, on your complaint submitted to the FTA Office of Civil Rights. A copy of your complaint will be provided to the contractors for their review prior to the assessment. The specific issues in your complaint regarding late pickups, no-shows, and inaccessible paratransit vehicles resulting in denial of service on MUNI's ADA Complementary Paratransit service will be addressed from a broader perspective by this compliance assessment. Your complaint and others, coupled with our investigator's initial investigation, drew us to the conclusion that a system-wide assessment was necessary. If we make findings of deficiencies, FTA will monitor activities until we determine that the deficiencies noted are corrected.

When the compliance assessment report is final, we will provide a copy to you. For the reasons discussed above, we are closing your complaint.

You have the right to file a motion for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Michael Burns
Executive Director
MUNI
1145 Market Street
San Francisco, CA
94103-1547

Derrin Jourdan
RCRO, Region IX
FTA, Office of Civil Rights
201 Mission, Suite 2210
San Francisco, CA 94105



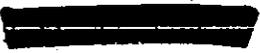
U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 28 2004



Re: FTA Complaint No. 02-0090

Dear 

The Federal Transit Administration (FTA) Office of Civil Rights has received your complaint letters of May 30, 2002, and October 24, 2002, that you sent to the U.S. Department of Transportation (DOT), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The FTA Office of Civil Rights has the responsibility for ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

Your complaints are filed against the Maryland Transit Administration (MTA), Baltimore, Maryland. In your letter, you allege that:

1. An operator degraded, harassed and belittled you by referring to your physical condition (being legally blind);
2. Corridor Transportation, a contractor of MTA, stopped providing you service and was retaliating after you had filed a complaint about the operator's discriminatory behavior; and,
3. Because Corridor Transportation had ceased providing you ADA Complementary Paratransit service, you injured your foot attempting to use an alternate form of transportation.

We investigated your allegations, and sent a data request to the General Manager, MTA. We received a response from MTA that addressed and provided relevant information on each of your allegations noted above. The information provided was as follows:

1. **An operator degraded, harassed and belittled you by referring to your physical condition (being legally blind).**

The DOT ADA regulations at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

The operator making inappropriate comments about your visual condition was required to enroll in a sensitivity training class to ensure proper behavior and attitude when relating to persons with disabilities. In addition, the Deputy Transit Administrator wrote you and apologized on behalf of Corridor Transportation Corporation, the contractor for MTA.

2. **Corridor Transportation, a contractor of MTA, stopped providing you service and was retaliating after you had filed a complaint about the operator's discriminatory behavior.**

The DOT ADA regulations at 49 CFR 37.131(a) states:

The entity shall provide complementary paratransit service to origins and destinations within corridors with a width of three-fourths of a mile on each side of each fixed route. The corridor shall include an area with a three-fourths of a mile radius at the ends of each fixed route.

In this instance MTA mistakenly provided you service, even though you live nine miles outside the three-quarter mile service area.

While MTA is not required to provide service outside of the three-quarter mile area, they are required to provide service within that corridor to eligible riders. As MTA did not terminate your eligibility, if you are able to access the three-quarter mile area you would still be eligible for ADA Paratransit service.

3. **Because MTA had ceased providing you ADA Complementary Paratransit service, you injured your foot attempting to use an alternate form of transportation.**

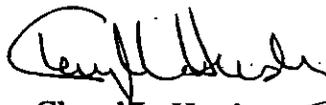
The injury you sustained is not an issue covered under DOT ADA regulations, but is a civil matter.

The information provided does not show that MTA violated any provisions of the DOT ADA regulations. Accordingly, we are closing your complaint.

You have the right to file a motion for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 28 2004

[REDACTED]

Re: FTA Complaint No. 02-0100

Dear [REDACTED]

This letter responds to your complaint you filed against San Francisco Municipal Railway (MUNI) alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

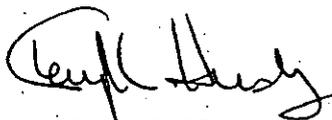
FTA plans to conduct an on-site compliance assessment of MUNI's ADA Complementary Paratransit service March 9th-12th, 2004. The decision to perform this compliance assessment was based, in part, on your complaint submitted to the FTA Office of Civil Rights. A copy of your complaint will be provided to the contractors for their review prior to the assessment. The specific issues in your complaint regarding late pickups, no-shows, and inoperable lift vans resulting in denial of service on MUNI's ADA Complementary Paratransit service will be addressed from a broader perspective by this compliance assessment. Your complaint and others, coupled with our investigator's initial investigation, drew us to the conclusion that a system-wide assessment was necessary. If we make findings of deficiencies, FTA will monitor activities until we determine that the deficiencies noted are corrected.

When the compliance assessment report is final, we will provide a copy to you. For the reasons discussed above, we are closing your complaint.

You have the right to file a motion for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Michael Burns
Executive Director
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1145 Market Street
San Francisco, CA
94103-1547

Derrin Jourdan
RCRO, Region IX
FTA, Office of Civil Rights
201 Mission, Suite 2210
San Francisco, CA 94105



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 28 2004

[REDACTED]

Re: FTA Complaint No. 02-0102

Dear [REDACTED]

This letter responds to your complaint you filed against San Francisco Municipal Railway (MUNI) alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

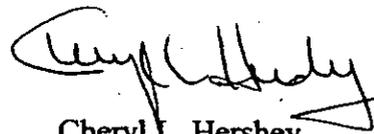
FTA plans to conduct an on-site compliance assessment of MUNI's ADA Complementary Paratransit service March 9th-12th, 2004. The decision to perform this compliance assessment was based, in part, on your complaint submitted to the FTA Office of Civil Rights. A copy of your complaint will be provided to the contractors for their review prior to the assessment. The specific issues in your complaint regarding late pickups, no-shows, and inappropriate vehicles (taxis) and/or inoperable lift vans resulting in denial of service on MUNI's ADA Complementary Paratransit service will be addressed from a broader perspective by this compliance assessment. Your complaint and others, coupled with our investigator's initial investigation, drew us to the conclusion that a system-wide assessment was necessary. If we make findings of deficiencies, FTA will monitor activities until we determine that the deficiencies noted are corrected.

When the compliance assessment report is final, we will provide a copy to you. For the reasons discussed above, we are closing your complaint.

You have the right to file a motion for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Michael Burns
Executive Director
MUNI
1145 Market Street
San Francisco, CA
94103-1547

Derrin Jourdan
RCRO, Region IX
FTA, Office of Civil Rights
201 Mission, Suite 2210
San Francisco, CA 94105



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 28 2004



Re: FTA Complaint No. 02-0018

Dear 

This letter responds to your complaint you filed against Riverside Transit Agency (RTA) alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA is scheduled to conduct an on-site compliance assessment of RTA's ADA Complementary Paratransit service February 2nd-5th, 2004. The decision to perform this compliance assessment was based, in part, on your complaint submitted to the FTA Office of Civil Rights. A copy of your complaint was provided to the contractors for their review prior to the assessment. The specific issues in your complaint regarding unauthorized changes of pickup times on RTA's ADA Complementary Paratransit service will be addressed from a broader perspective by this compliance assessment. Your complaint and others, coupled with our investigator's initial investigation, drew us to the conclusion that a system-wide assessment was necessary. If we make findings of deficiencies, FTA will monitor activities until we determine that the deficiencies noted are corrected.

When the compliance assessment report is final, we will provide a copy to you. For the reasons discussed above, we are closing your complaint.

You have the right to file a motion for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



**Cheryl D. Hershey
ADA Group Leader
Office of Civil Rights**

**Cc: Larry Rubio
General Manager
1825 Third Street
P.O. Box 59968
Riverside, CA 92517-1968**

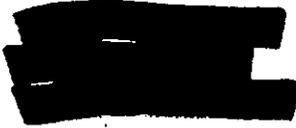
**Derrin Jourdan
RCRO, Region IX
FTA, Office of Civil Rights
201 Mission, Suite 2210
San Francisco, CA 94105**



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 28 2004



Re: FTA Complaint No. 02-0020

Dear 

This letter responds to your complaint you filed against Riverside Transit Agency (RTA) alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

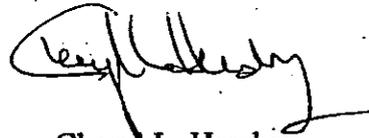
FTA is scheduled to conduct an on-site compliance assessment of RTA's ADA Complementary Paratransit service February 2nd-5th, 2004. The decision to perform this compliance assessment was based, in part, on your complaint submitted to the FTA Office of Civil Rights. A copy of your complaint was provided to the contractors for their review prior to the assessment. The specific issues in your complaint regarding excessive trip lengths, unauthorized changes to pickup times, and late pickups on RTA's ADA Complementary Paratransit service will be addressed from a broader perspective by this compliance assessment. Your complaint and others, coupled with our investigator's initial investigation, drew us to the conclusion that a system-wide assessment was necessary. If we make findings of deficiencies, FTA will monitor activities until we determine that the deficiencies noted are corrected.

When the compliance assessment report is final, we will provide a copy to you. For the reasons discussed above, we are closing your complaint.

You have the right to file a motion for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Larry Rubio
General Manager
1825 Third Street
P.O. Box 59968
Riverside, CA 92517-1968

Derrin Jourdan
RCRO, Region IX
FTA, Office of Civil Rights
201 Mission, Suite 2210
San Francisco, CA 94105



U.S. Department
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Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 28 2004

[REDACTED]

Re: FTA Complaint No. 03-0038

Dear [REDACTED]

This letter responds to your complaint you filed on behalf of your daughter [REDACTED] against Riverside Transit Agency (RTA) alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA is scheduled to conduct an on-site compliance assessment of RTA's ADA Complementary Paratransit Service February 2nd-5th, 2004. The decision to perform this compliance assessment was based, in part, on your complaint submitted to the FTA Office of Civil Rights.

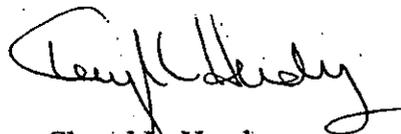
A copy of your complaint was provided to the contractors for their review prior to the assessment. The specific issues in your complaint regarding excessive trip lengths, unauthorized changes to pickup times, and insensitive of staff on RTA's ADA Complementary Paratransit service will be addressed from a broader perspective by this compliance assessment. Your complaint and others, coupled with our investigator's initial investigation, drew us to the conclusion that a system-wide assessment was necessary. If we make findings of deficiencies, FTA will monitor activities until we determine that the deficiencies noted are corrected.

When the compliance assessment report is final, we will provide a copy to you. For the reasons discussed above, we are closing your complaint.

You have the right to file a motion for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl E. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Larry Rubio
General Manager
1825 Third Street
P.O. Box 59968
Riverside, CA 92517-1968

Derrin Jourdan
RCRO, Region IX
FTA, Office of Civil Rights
201 Mission, Suite 2210
San Francisco, CA 94105



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400 Seventh St., S.W.
Washington, D.C. 20590

JAN 28 2004

[REDACTED]

Re: FTA Complaint No. 03-0039

Dear [REDACTED]

This letter responds to your complaint you filed against Riverside Transit Agency (RTA) alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA is scheduled to conduct an on-site compliance assessment of RTA's ADA Complementary Paratransit February 2nd-5th, 2004. The decision to perform this compliance assessment was based, in part, on your complaint submitted to the FTA Office of Civil Rights.

A copy of your complaint was provided to the contractors for their review prior to the assessment. The specific issues in your complaint regarding service area changes, excessive trip lengths, unauthorized changes to pickup times, failure to appropriately notify you of a vehicle's arrival, poorly trained drivers, inadequate securement of wheelchairs, inappropriate denial of service, and insensitive of staff on RTA's ADA Complementary Paratransit service will be addressed from a broader perspective by this compliance assessment. Your complaint and others, coupled with our investigator's initial investigation, drew us to the conclusion that a system-wide assessment was necessary. If we make findings of deficiencies, FTA will monitor activities until we determine that the deficiencies noted are corrected.

Your allegation of the costs of paratransit (costs distinguished from fares) being nine times that of fixed route is not an ADA issue, but an operational issue. Paratransit across the country is higher than the cost of fixed route service.

When the compliance assessment report is final, we will provide a copy to you. For the reasons discussed above, we are closing your complaint.

You have the right to file a motion for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Mary-Elizabeth Peters at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Larry Rubio
General Manager
1825 Third Street
P.O. Box 59968
Riverside, CA 92517-1968

Derrin Jourdan
RCRO, Region IX
FTA, Office of Civil Rights
201 Mission, Suite 2210
San Francisco, CA 94105



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400 Seventh St., S.W.
Washington, D.C. 20590

MAR 10 2004

Ms. Lauren Young
Legal Director
Maryland Disability Law Center
1800 North Charles Street
4th Floor
Baltimore, Maryland 21201

Re: FTA Complaint No. 02-0015

Dear Ms. Young:

This letter responds to your complaint you filed on behalf of clients of the Maryland Disability Law Center (MDLC) against the Maryland Transit Authority, of Baltimore, Maryland, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

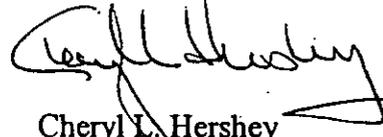
On June 17-21, 2002, FTA conducted an on-site compliance assessment of Maryland Transit Authority's ADA Complementary Paratransit service. The compliance assessment was based in part on allegations similar to your complaint submitted to the FTA Office of Civil Rights. The specific issues in your complaint regarding on time performance issues, late pickups and late drop offs, excessive hold times on telephones, driver training: lack of courtesy; failure to provide assistance to visually impaired riders, not properly identifying themselves to the blind or visually impaired riders when the driver arrives to pick them up, drivers going to wrong locations, tracking performance/poor record keeping, against MTA's ADA Complementary Paratransit service were addressed from a broader perspective by this compliance assessment.

Where we made findings of deficiencies, FTA is monitoring activities through quarterly reporting with MTA, until we determine that the deficiencies noted in the report are corrected. We have combined our monitoring efforts on the complaints with those addressing the assessment findings. We are also monitoring the status of MDLC's lawsuit against MTA and will continue to monitor until a decision is made or a settlement is reached.

Accordingly, we are closing your complaint as of the date of this letter. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at (202) 366-0792, or at her email address: *Mary-Elizabeth.Peters@fta.dot.gov*. Please include the FTA complaint number on any correspondence with this office.

Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Robert Smith
Administrator
Maryland Transit Administration
6 Saint Paul Street
Baltimore, Maryland 21202-1614

Callista M. Freedman
Assistant Attorney General
Maryland Transit Administration
6 Saint Paul Street
Baltimore, Maryland 21202-1614

Lisa L. Dickerson
Assistant Secretary for Equity and
Economic Empowerment
7201 Corporate Center Drive
Hanover, Maryland 21076



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 17 2004

[REDACTED]

Re: FTA Complaint No. 03-0207

Dear [REDACTED]

This letter responds to your complaint you filed against the Maryland Transit Authority, of Baltimore, Maryland, alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

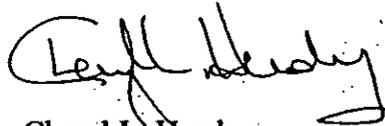
On June 17-21, 2002, FTA conducted an on-site compliance assessment of Maryland Transit Authority's ADA Complementary Paratransit service. While your complaint was received after the assessment was conducted, Baltimore was selected for an assessment, in part, upon other similar allegations received by this Office. The specific issues regarding late pickups, resulting in capacity constraints, in MTA's ADA Complementary Paratransit service in your complaint were addressed from a broader perspective by this compliance assessment.

Where we made findings of deficiencies, FTA is monitoring activities with MTA through quarterly reporting until we determine that the deficiencies noted in the report are corrected. We have combined our monitoring efforts on the complaints with those addressing the assessment findings. We are also monitoring the status of the lawsuit of the Maryland Disability Law Center against MTA and will continue to monitor until a decision is made or a settlement is reached.

Accordingly, we are closing your complaint as of the date of this letter. If you have any questions regarding this letter, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at (202) 366-0792, or at her email address: *Mary-Elizabeth.Peters@fta.dot.gov*. Please include the FTA complaint number on any correspondence with this office.

Thank you for bringing this matter to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Robert Smith
Administrator
Maryland Transit Administration
6 Saint Paul Street
Baltimore, Maryland 21202-1614

Callista M. Freedman
Assistant Attorney General
Maryland Transit Administration
6 Saint Paul Street
Baltimore, Maryland 21202-1614

Lisa L. Dickerson
Assistant Secretary for Equity and
Economic Empowerment
7201 Corporate Center Drive
Hanover, Maryland 21076



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 17 2004

[REDACTED]
Disability Resource Center
7944 Dorchester Road, Suite 5
North Charleston, South Carolina 29418

Re: FTA Complaint No. 04-0059

Dear [REDACTED]

This letter responds to your complaint against the Charleston Area Regional Transportation Authority (CARTA), Charleston, South Carolina, alleging violations of Title II of the American with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. CARTA's ADA Complementary Paratransit service, known as Tel-A-Ride, schedules rides on a standby basis and that CARTA is maintaining waiting lists for rides.

2. Tel-A-Ride sometimes failed to notify you of your ride time, and the vehicle would sometimes show up with no notice.

We investigated your allegations, and sent a data request to CARTA. We received a response from CARTA that addressed and provided relevant information on your allegation noted above.

1. **CARTA's ADA Complementary Paratransit service, known as Tel-A-Ride, schedules rides on a standby basis and that CARTA is maintaining waiting lists for rides.**

The DOT ADA regulations at 49 CFR 37.131(f)(2) state:

Capacity constraints. The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: [. . .]
(2) Waiting lists for access to the service[.]

In response to your complaint, Ms. Reita Guy, General Manager of CARTA, met with you on March 4, 2004, and explained how CARTA schedules trips on ADA Complementary Paratransit. She explained to you that at times CARTA was unable to schedule a trip request at the exact time requested, but provided a time within a period of one hour before or one hour after the requested. This is in accordance with the DOT ADA regulations at Section 37.131(b)(2) that states:

The entity may negotiate pickup times with the individual, but the entity shall not require an ADA paratransit eligible individual to schedule a trip to begin more than one hour before or after the individual's desired departure time.

Ms. Guy reported that you talked to her about feeling as though you and others were put on a waiting list, even though no one at CARTA said you were being put on a list or told you that you had to wait to find out if you had a ride at the time requested. Ms. Guy explained to you that CARTA does not place anyone on lists and all rides are scheduled at the time a paratransit rider calls into Tel-A-Ride. Ms. Guy further told you that if you had any problems at any time to call and speak with her, her Administrative Assistant or the Operations Supervisor.

Ms. Guy spoke with the FTA investigator and relayed to him that you did not accept rides offered within the window of one hour before to one hour after the requested time. Under the provision of the regulations of Section 37.131(b)(2) already noted, rides offered within that time frame are allowed. Please keep in mind that ADA Complementary Paratransit service is a shared-ride service comparable to and a complement to fixed route bus service. The window for scheduling is comparable to a schedule for a fixed route bus, which has a specific time schedule for arrival at bus stops. ADA Complementary Paratransit service is not comparable to a taxi service in which you can specify time for pick up and receive that exact time.

2. Tel-A-Ride sometimes failed to notify you of your ride time, and the vehicle would sometimes show up with no notice.

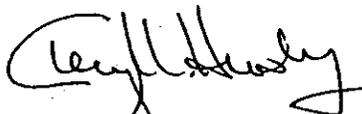
Since you did not provide any dates and times for this allegation, neither FTA or CARTA can investigate to find if there is a problem with particular drivers or scheduling. Since your complaint CARTA has installed a software system for scheduling rides that CARTA believes should eliminate any scheduling issues that may have occurred in the past. In an email to the FTA investigator dated March 5, 2004, you related that your service had improved. If you have any scheduling issues arise in the future, we suggest you contact Ms. Guy to let her know.

After reviewing all of the submitted materials, it appears that CARTA has not violated any provision of the DOT ADA regulations. We are closing your complaint as of the date of this letter.

You have the right to file for a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding our determination, please contact Mary-Elizabeth Peters at (202) 366-0792, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Reita Guy
General Manager, CARTA
3664 Leeds Avenue
North Charleston, South Carolina 29405



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 19 2004

[REDACTED]

Re: FTA Complaint No. 02-0006

Dear [REDACTED]

This letter responds to your complaint against Port Authority of Allegheny County Transit (PAT) Access Transportation, Pittsburgh, Pennsylvania, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the termination of Federal

funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. PAT charges double tickets to use ADA Complementary Paratransit services.
2. You are unable to access the fixed route bus, because you cannot get off the curb.

We investigated your allegations, and sent a data request to PAT. We received a response from PAT that addressed and provided relevant information on each of your allegations noted above.

1. PAT charges double tickets to use ADA Complementary Paratransit services.

According to PAT's response, the Access ADA fare is equal to the base bus fare charged by PAT. Through the eligibility process for ADA Complementary Paratransit service, riders are determined to be unconditionally or conditionally eligible. Those riders determined to be conditionally eligible have specific conditions established who can sometimes use the bus service. In your case, you were determined to be eligible for ADA Complementary Paratransit service when there is an accumulation of ice or snow; having to travel up or down a steep hill, where there are a lack of curb cuts, boarding at any stop that is not accessible, or traveling when the temperature is below 35 degrees.

Your confusion seems to have arisen over PAT's establishment of "convenience fares." If a person does not have a barrier to using the

fixed route system, PAT offers the individual the option of taking paratransit at a charge of twice the base fare for ADA Complementary Paratransit service. This is an optional service offered over and above the basic ADA Complementary Paratransit service. There is nothing in the DOT ADA regulations that precludes PAT from offering this optional service. In addition, since PAT's basic service fare is equal to the fixed route bus service, PAT is not violating the provision of the DOT ADA regulations at 49 CFR 37.131(c), which states:

The fare for a trip charged to an ADA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the entity's fixed route system.

Thus, even PAT's "convenience fares" do not exceed the amount provided for in the DOT ADA regulations. Janet Ministerman, of Access Transportation, has explained these convenience fares to you and also indicated that if you do not want to pay the higher fares, that you have the option of using the fixed route bus service. In addition, she stated that she let you know that you can appeal any individual trip that you feel has been incorrectly denied.

We do not find that there has been any violation of DOT ADA regulations in the way PAT has charged fares for ADA Complementary Paratransit service.

- 2. You are unable to access the fixed route bus, because you cannot get off the curb.**

In reviewing the conditions of your ADA Complementary Paratransit, we found that a lack of curb cuts or boarding at a stop that is not accessible are both conditions for your ADA Complementary Paratransit eligibility. We encourage you to work with Ms. Minsteman, of Access Transportation on any locations where

you have difficulty with access. She will need the details of the inaccessibility of the stop or the conditions that make access impossible. As previously noted, Ms. Minsterman has told you that you can appeal any individual denial of a trip where you are unable to access the fixed route.

After reviewing all of the submitted materials, it does not appear that PAT violated any provisions of the DOT ADA regulations. We are your complaint as of the date of this letter.

You have the right to file for a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl N. Hershey
ADA Group Leader
Office of Civil Rights

cc: Paul Skoutelas
Chief Executive Officer
Port Authority of Allegheny County
Transit (PAT) Access Transportation

Janet Minsterman
Access Transportation Services



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 29 2004

[REDACTED]

Re: FTA Complaint No. 02-0097

Dear [REDACTED]

This letter responds to your complaint against Montgomery Ride On and Transit Services (Ride On), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

- Wheelchair lifts on Ride On buses are frequently inoperable; this is a system-wide problem. A number of times, you have been unable to exit buses due to inoperable lifts and have had to ride around on buses until a mechanic arrives. Buses frequently pass you by due to inoperable lifts.

We investigated your allegations, and sent a data request to Ride On. We received a response from Ride On that addressed and provided relevant information on each of your allegations noted above.

- **Wheelchair lifts on Ride On buses are frequently inoperable; this is a system-wide problem. A number of times, you have been unable to exit buses due to inoperable lifts and have had to ride around on buses until a mechanic arrives. Buses frequently pass you by due to inoperable lifts.**

The DOT ADA regulations at 49 CFR 37.161(a) and (b) state:

- (a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.
- (b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

In February 2003, in response to your complaint, Ride On enlisted the assistance of outside specialists and the manufacturer to determine the reason for the malfunctioning lifts. It was determined that there was a problem with the steps of the bus. Ride On reported at that time that 12 gasoline vehicles had the problem and 5 had been repaired and retrofitted to correct the problem.

A recent email from the Customer and Community Outreach manager of the Montgomery County Government further advised:

In response Ride On has implemented the following:

1. As of today, 2/27/04, there are seven new low floor buses in service and our passengers are e-mailing us with compliments about the new buses. We are anticipating 11 more buses by mid March and an additional 15 buses by May 2, 2004. Ride On will have 38 low floor buses in service. These low floor buses will allow greater mobility with less mechanical breakdowns.
2. Ride On has not received any new complaints from [REDACTED] about our lifts not working. Ride On has replaced flaps on some buses that were causing problems with the lifts. All operators are being retrained on the use of wheelchair and how to handle mechanical problems when there is lift failure while operating a route. There are daily wheelchair checks of all Ride On buses and the operators receive direct contact training from a member of the Commission for People with Disabilities, Mr. David Sharp.

3. There are weekly maintenance meetings covering various topics with cycling of wheelchair lifts as a standard agenda item.

We will place this matter in follow-up status and inquire as to the status of the remaining seven vehicles as to whether they have been retrofitted.

The DOT ADA regulations at 49 CFR 37.163 address the maintenance and repair of lifts in buses. Section 37.163(b) states:

The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.

Ride On stated in its response of February 2004 that it had "daily wheelchair checks of all Ride On buses." FTA will follow up with Ride On to determine what procedures are in place as it relates to the daily checks and maintenance of lifts in its fleet.

Section 37.163(c) states:

The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.

In addition, Section 37.163(f) states:

In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

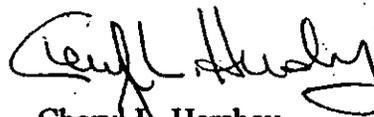
Since you stated that buses sometimes pass you by due to malfunctioning lifts, Ride On should be providing you with alternate transportation if the headway to the next bus is more than 30 minutes. In its letter FTA will caution Ride On that it must ensure that you are provided alternate transportation at those times.

As the investigation phase of the process has been completed, we are closing your complaint as of the date of this letter. However, we are placing this matter in follow-up status pending receipt of information from Ride On. If any violations are found, Ride On will be placed in corrective action status until such time that FTA has determined that all deficiencies have been corrected.

You have the right to file for a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you would please provide your phone number to Ms. Mary-Elizabeth Peters by calling her at (202) 366-0792 or sending her an email at Mary-Elizabeth.Peters@fta.dot.gov, she will contact you to see if your service has improved. If you have any questions regarding this decision, please contact Ms. Peters.

Sincerely,



Cheryl D. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Carolyn Biggins
Chief, Division of Transit Services
Montgomery County Department of Public
Works and Transportation
101 Monroe Street, 10th Floor
Rockville, Maryland 20850



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

APR 29 2004

[REDACTED]

Re: FTA Complaint No. 03-0236

Dear [REDACTED]

This letter responds to your complaint against the City Of Albuquerque Transit Department (ABQ), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Specifically, your complaint alleged that:

1. **Bus operators of ABQ fail to announce stops.**
2. **There is a lack of ADA training for the bus operators.**
3. **Lifts on buses break down.**

We investigated your allegations, and sent a data request to ABQ. We received a response from ABQ on your allegations noted above. In addition, the investigator conducted a telephone conference with Don Marquez, Customer Service Manager, on April 21, 2004.

1. Bus operators of ABQ fail to announce stops.

The DOT ADA regulations at 49 CFR 37.167 (a)-(c) state:

- (a) This section applies to public and private entities.
- (b) On fixed route systems, the entity shall announce stops as follows: (1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location. (2) The entity shall announce any stop on request of an individual with a disability.
- (c) Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

ABQ submitted policy and procedure documents related to stop announcements as required in the regulation noted above. In addition, ABQ has road supervisors monitor routes. In the conference the investigator had with Mr. Marquez, they discussed the fact that road supervisors who are known to the drivers are used in monitoring stop announcements and that this system is not efficient. ABQ has made arrangements for a contract for an outside monitor to audit stop announcement compliance. ABQ will be placed in follow-up status and will report the outcome of the contract to FTA. FTA will work closely with ABQ to ensure that proper monitoring occurs on a regular basis and that this results in calling of stops in accordance with the DOT ADA regulations.

2. There is a lack of ADA training for the bus operators.

The DOT ADA regulations at 49 CFR 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

FTA is placing ABQ in follow-up status with regard to this allegation. ABQ has been instructed to send copies of training materials to FTA. FTA will review these documents and then determine what action needs to be taken to ensure that ABQ conducts sufficient training at intervals to ensure that the staff is properly trained.

3. Lifts on buses break down.

The DOT ADA regulations at 49 CFR 37.161(a) and (b) state

- (a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the

vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.

- (b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.
- (c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

The DOT ADA regulations at 49 CFR 37.163(b) and (c) state:

- (b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.
- (c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.

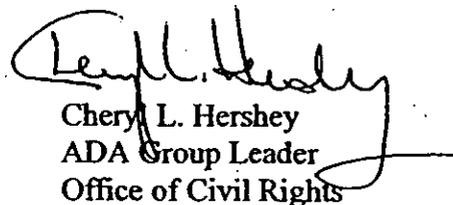
FTA will place ABQ in follow-up status pending further information on this allegation. FTA will work with ABQ and monitor lift maintenance and breakdowns, until such time that ABQ corrects any deficiencies.

FTA has determined that ABQ needs further technical assistance. FTA will work with ABQ and monitor these areas until such time as it determines that ABQ has corrected any deficiencies and is in compliance with the DOT ADA regulations.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at (202) 366-0792, or at her electronic mail address:

Mary-Elizabeth.Peters@fta.dot.gov

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Peter Behrman
Transit Director
ABQ Ride

Don Marquez
Customer Service Manager
ABQ Ride



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 13 2004

[REDACTED]

Re: FTA Complaint No. 04-0032

Dear [REDACTED]

This letter responds to your complaint against the City of Albuquerque Transit Department (ABQ), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. Drivers do not make stop announcements.
2. On buses equipped with voice enunciators, the operators disable them or the enunciators malfunction frequently.

We investigated your allegations, and sent a data request to ABQ. We received a response from ABQ that addressed and provided relevant information on each of your allegations noted above. In addition, the FTA investigator conducted a teleconference with Don Marquez, Customer Service Manager, who is working with FTA on these issues.

1. Drivers do not make stop announcements.

The DOT ADA regulations at 49 CFR 37.167 (a)-(c) state:

- (a) This section applies to public and private entities.
- (b) On fixed route systems, the entity shall announce stops as follows: (1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location. (2) The entity shall announce any stop on request of an individual with a disability.
- (c) Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

ABQ submitted policy and procedure documents related to stop announcements as required in the regulation noted above. In addition, ABQ has road supervisors monitor routes. In the teleconference the investigator had with Mr. Marquez, they discussed the fact that road supervisors who are known to the drivers are not efficient in monitoring stop announcements. ABQ has a contract for an outside monitor to come and audit stop announcement compliance. ABQ will be placed in follow-up status and will report the outcome of the contract to FTA. FTA will work closely with ABQ to ensure that proper monitoring occurs on a regular basis and that this results in calling of stops in accordance with the DOT ADA regulations.

2. On buses equipped with voice enunciators, the operators disable them or the enunciators malfunction frequently.

In the teleconference, Mr. Marquez stated that ABQ was having a number of problems regarding the voice enunciators from vibration of the equipment from roads causing the equipment to malfunction, and software problems, but they are working on both. FTA will work with ABQ and monitor progress with the voice enunciators.

FTA is placing ABQ in follow-up status with regard to this allegation. FTA will work with ABQ and monitor these areas until such time as it determines that ABQ has corrected any deficiencies and is in compliance with the regulations.

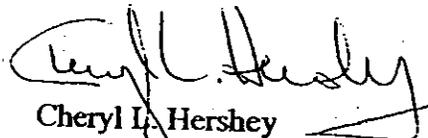
In addition, FTA is requesting that ABQ send copies of training materials to FTA. FTA will review these documents and then determine what action needs to be taken to ensure that ABQ conducts sufficient training to ensure that their staff is properly trained in both the treatment of persons with disabilities, and the use of the equipment.

FTA has given ABQ 30 days to provide the documents requested. FTA will work with ABQ until deficiencies have been corrected.

You have the right to file for a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Peter Behrman
Transit Director
City of Albuquerque Transit Department
Alvarado Transportation Center
100 First Street, SW
Albuquerque, New Mexico 87102

Don Marquez
Customer Service Manager
City of Albuquerque Transit Department

Congresswoman Heather Wilson
Attention: Carri Phillis
20 First Plaza NW Suite 603
Albuquerque, New Mexico 87102



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 16 2004



Re: FTA Complaint No. 01-0188.

Dear 

This letter responds to your complaint against Corridor Transportation Corporation (CTC) and Howard Area Transit Service (HATS), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA.

If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that CTC operating HATS does not accept ADA Complementary Paratransit-certified riders from Anne Arundel County.

We investigated your allegations, and sent a data request to HATS. We received a response from HATS that addressed and provided relevant information on each of your allegation noted above.

- **CTC operating Howard Area Transit Service (HATS) does not accept ADA Complementary Paratransit-certified riders from Anne Arundel County.**

CTC operating HATS has declined to serve [REDACTED], despite his status as an eligible ADA Complementary Paratransit-eligible rider.

Route K is a fixed route bus service as defined in the DOT ADA regulations at 49 CFR 37.3:

Fixed route system means a system of transporting individuals (other than by aircraft), including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, including, but not limited to, specified public transportation service, on which a vehicle is operated along a prescribed route according to a fixed schedule.

Since Route K is fixed route bus service, HATS must provide ADA Complementary Paratransit service as stated in the DOT ADA regulations in Section 37.121(a):

Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

In providing ADA Complementary Paratransit, an entity is required to comply with the six service criteria outlined in DOT ADA regulations 49 CFR 37.131. One of those six criteria found at Section 37.131(a)(1)(i) addresses the 3/4-mile requirement:

The entity shall provide complementary paratransit service to origins and destinations within corridors with a width of three-fourths of a mile on each side of the fixed route. The corridor shall include an area with a three-fourths of a mile radius at the ends of each fixed route.

A public transit entity is only required to provide ADA Complementary Paratransit service where fixed route exists, and, absent consent of the neighboring jurisdictions, the entity is not required to cross-jurisdictional lines to meet the 3/4-mile obligation. However, where an entity elects to provide fixed route service across jurisdictional lines, with the consent of the other political entity, there is an obligation to provide service to ADA Complementary Paratransit-eligible riders within that 3/4-mile corridor.

Based on these facts, HATS cannot restrict ADA Complementary Paratransit service across jurisdictional lines where the 3/4-mile obligation exists.

After reviewing all of the submitted materials, the FTA Office of Civil Rights has found CTC operating HATS in violation of the above-cited DOT ADA regulations. We are requiring HATS to provide FTA with a plan to provide ADA Complementary Paratransit service to all ADA Complementary Paratransit-certified persons in Anne Arundel County along the three

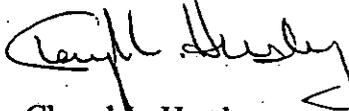
quarter mile corridor where CTC, operating as HATS, provides ADA Complementary Paratransit service. FTA will monitor CTC until the transit agency has corrected the deficiency.

As the investigation phase of the process has been completed, we are closing your complaint as of the date of this letter. However, as Corridor Transportation Corporation (CTC), operating as HATS, was found not to be in violation of the above DOT ADA regulations, the agency will be placed in corrective action and directed to correct the deficiencies found. CTC will be monitored until FTA has determined that this deficiency has been resolved.

You have the right to file for a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl A. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Gerald Von Mayer
George Howard Building
3430 Court House Drive
Ellicott City, Maryland 21043



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 16 2004

[REDACTED]

Re: FTA Complaint No. 02-0093

Dear [REDACTED]

This letter responds to your complaint against North Slope Borough (NSB), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. NSB has not maintained accessible lifts on its vehicles.
2. NSB has not permitted drivers to use the kneeling feature on its transit buses.
3. NSB has not provided transit staff with training and sensitivity awareness about the requirement for accessible transit services.
4. NSB restricts the number of rides on its paratransit services to individual with disabilities.

We investigated your allegations, and sent a data request to NSB. We received a response from NSB that addressed and provided relevant information on each of your allegations noted above. In addition, the State of Alaska Department of Transportation's Civil Rights Office conducted an investigation of this complaint that included an on-site visit. The background information and findings from that investigation were provided to the FTA for consideration in its determination.

1. NSB has not maintained accessible lifts on its vehicles.

The DOT ADA regulations at 49 CFR 37.161 state:

- (a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.
- (b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

In addition, Section 37.163(a)-(c) states:

- (a) This section applies only to public entities with respect to lifts in non-rail vehicles.
- (b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.
- (c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.

Section 37.161(c) states:

This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

Section 37.167 (g) states that:

The entity shall not refuse to permit a passenger who uses a lift to disembark from a vehicle at any designated stop, unless the lift cannot be deployed, or temporary conditions at the stop, not under the control of the entity, preclude the safe use of the stop by all passengers.

See also Section 37.167 (g) Appendix D:

It is inconsistent with this section for a transit provider to refuse to let a passenger use a lift at any designated stop, unless the lift is physically unable to deploy or the lift would be damaged if it did deploy (see discussion under 37.123)...

The investigation revealed that Barrow is located on the Arctic Circle and has subzero degree weather. Barrow is a town of 4,581 persons. NSB operates three routes, all on gravel roads. The staff maintains the lifts by:

- installing brushes on the housing just in front of the lift,
- steam-cleaning the lifts every night,
- maintaining the lifts with hydraulic fluid appropriate for arctic temperatures, and
- drying the buses in a heated garage overnight.

NSB also maintains and uses a daily checklist that includes ADA-accessible features. Despite these maintenance efforts and precautions taken, the lifts collect gravel, snow, and ice that impair the ability of the lifts to operate. Although the lifts will deploy under these conditions, they do not retract. When these conditions exist, they preclude NSB from deploying the lifts on their fixed route buses. At these times, NSB provides, in accordance with 37.123 (e)(2)(i), ADA Complementary Paratransit service for people unable to use fixed route buses.

(e) The following individuals are ADA paratransit eligible:

(1) Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable individuals with disabilities.

(2) Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time, or within a reasonable period of such time, when such a vehicle is not being used to provide designated public transportation on the route.

(i) An individual is eligible under this paragraph with respect to travel on an otherwise accessible route on which the boarding or disembarking location which the individual would use is one at which boarding or disembarking from the vehicle is precluded as provided in Sec. 37.167(g) of this part.

We note that the fixed route buses are designed so that the lifts are externally exposed to the elements, while the paratransit vehicles are designed so that the lifts retract internally into the vehicles, resulting in lifts that operate despite the conditions already described.

We encourage NSB in future procurement of fixed route buses to address this issue to the extent possible. NSB should also explore any options available through contact with the manufacturer or through innovative solutions. However, based on the information provided, we find based on these specific facts that NSB's actions are in accordance with the DOT ADA regulations.

2. NSB has not permitted drivers to use the kneeling feature on its transit buses.

According to the information received, there was a short period of time in 1999 when the Alaska Department of Transportation gave NSB permission to disable the kneelers, but that was later rescinded, in part; as a result of a prior complaint you filed with this Office.

The kneelers have been reconnected and are being operated. According to the State DOT Civil Rights Office investigation, the kneelers took 2 minutes to retract in the subzero degree weather, while inside the heated garage they "deployed and retracted properly."

3. NSB has not provided transit staff with training and sensitivity awareness about the requirement for accessible transit services.

The DOT ADA regulations section 37.173 require that:

Each public or private entity, which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Appendix D regarding Section 37.173 states: "While there is no specific requirement for recurrent or refresher training, there is an obligation to ensure that, at any given time, employees are trained to proficiency...."

The State DOT investigator advised in his final report of April 2003, that at the time of the on-site visit, NSB advised that it had conducted a training about two years earlier. Based upon the nature of the complaint and the length of time from the last training, FTA will place NSB into follow-up regarding this matter and request submission of current training efforts.

4. NSB restricts the number of rides on its paratransit services to individual with disabilities.

The information obtained by FTA indicates that ADA paratransit-eligible riders are restricted to two rides per day. This is contrary to DOT ADA regulations at 49 CFR 37.123(f)(1) that state:

The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: (1) Restrictions on the number of trips an individual will be provided[.]

A letter will be sent to NSB stating that no restriction can be put on the number of rides taken per day. NSB will be instructed to eliminate that restriction and required to provide FTA with revised written policies and procedures with documentation that it has advised riders of this change. FTA will monitor NSB until these policies and procedures have been corrected.

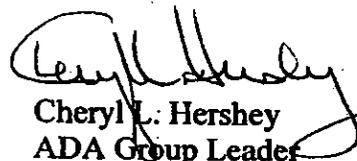
After reviewing all of the submitted materials, the FTA Office of Civil rights has found NSB to be in violation of 37.123 (f)(1) of the DOT ADA regulations. As the investigation phase of the process has been completed, we are closing your complaint as of the date of this letter. However, as NSB was found not to be in violation of the DOT ADA regulations, the agency will be placed in corrective action and directed to correct the deficiency found. NSB will be monitored until FTA is certain that the deficiency have been corrected.

In addition we are requesting additional information in the area of employee training to ensure that training is to proficiency. This matter is being placed in follow-up status, with a request for additional information to NSB.

You have the right to file for a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Jacob Kagak, Director
North Slope Boroughs Transit
Department of Municipal Services

Jon Dunham, Manager
Alaska DOT and Public Facilities
Civil Rights Office



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 15 2004

[REDACTED]

Re: FTA Complaint No. 03-0163

Dear [REDACTED]

This letter responds to your complaint against the City of Hickory Transit, known as Piedmont Wagon Transit (PWT), Hickory, North Carolina, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. **PWT's buses operate without lifts**
2. **Some buses have lifts that don't work or the operators don't have keys to operate the lifts.**
3. **PWT does not provide next-day service on its ADA Complementary Paratransit service.**

We investigated your allegations, and sent a data request to PWT. We received a response from PWT that addressed and provided information on your allegations noted above.

1. PWT's buses operate without lifts.

The DOT ADA regulations at 49 CFR 37.71(a) state:

Except as provided elsewhere in this section, each public entity operating a fixed route system making a solicitation after August 25, 1990, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

Section 37.73(a) states:

Except as provided elsewhere in this section, each public entity operating a fixed route system purchasing or leasing, after August 25, 1990, a used bus or other used vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

FTA will follow up with PWT as to when their vehicles were purchased and why some buses do not have lifts. As stated above, any bus purchased after August 25, 1990, should be accessible to persons who use wheelchairs.

2. Some buses have lifts that don't work or the operators don't have keys to operate the lifts.

The DOT ADA regulations at 49 CFR 37.161(a) state:

Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.

In addition, the regulations at Section 37.161(b) state:

Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

Your letter cited multiple incidents of malfunctioning lifts and buses where the operator did not have a key to unlock the lift to use it. The written response from the transit provider did not provide details on how the transit provider addressed the problems regarding the maintenance of the lifts and the training of bus operators on how to use the lifts. Because the response lacked any specificity on actions taken, and the transit provider did not respond to FTA's request for additional information, FTA is putting PWT in follow-up status. PWT will be asked to provide maintenance procedures and the number of lift breakdowns in the last 12

months and the length of time the lifts were out of service. PWT will remain in follow-up until that information is received and a determination is made on the maintenance of the lifts.

3. PWT does not provide next-day service on its ADA Complementary Paratransit service.

The DOT ADA regulations at 49 CFR 37.121(a) state:

Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

Section 37.131(b) states:

The entity shall schedule and provide paratransit service to any ADA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day. Reservations may be taken by reservation agents or by mechanical means.

Again, PWT did not provide information on this allegation. FTA will follow up with PWT on the allegation of denial of next day service.

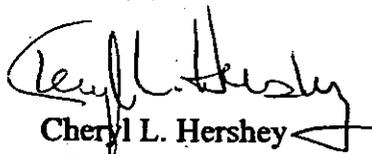
We note that the investigator received an email from you stating that you were satisfied with the outcome of PWT's actions regarding the complaint. However, PWT's response was insufficient to determine whether its service is in accordance with the DOT ADA regulations. They will be placed in follow-up status, until we are able to ensure that they are in compliance.

As the investigation phase of the process has been completed, we are closing your complaint as of the date of this letter.

You have the right to file for a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 21 2004

[REDACTED]

Re: FTA Complaint No. 04-0107

Dear [REDACTED]

This letter responds to your complaint against Shore Transit (ST), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

- **After being determined to be eligible for ADA services, you were able to use Shore Access, the ADA Complementary Paratransit service, after 5:00 p.m. in the afternoon during the weekdays. A short time later, despite your eligibility, your rides were restricted so that you could not ride beyond 5:00 p.m. On Saturdays, you were able to ride the ADA Complementary Paratransit service. A short while after that, you were told that you were no longer eligible to ride on these days while other persons in wheelchairs were able to ride.**

As you are aware, we contacted you by telephone on two occasions to obtain clarification and specificity with respect to information contained in your complaints. We also conducted an on-site review of the transit system and met with its officials on June 9 and 10, 2004, to determine the validity of your allegations.

- **After being determined to be eligible for ADA services, you were able to use Shore Access, the ADA Complementary Paratransit service, after 5:00 p.m. in the afternoon during the weekdays. A short time later, despite your eligibility, your rides were restricted so that you could not ride beyond 5:00 p.m. On Saturdays, you were able to ride the ADA Complementary Paratransit service. A short while after that, you were told that you were no longer eligible to ride on these days while other persons who use wheelchairs were able to ride.**

The DOT ADA regulations provide at 49 CFR 37.131(a)(1)(i) that:

The entity shall provide complementary paratransit service to origins and destinations within corridors with a width of three-fourths of a mile on each side of each fixed route. The corridor shall include an area with a three-fourths mile radius at the ends of each fixed route.

Appendix D of Section 37.131 states:

Complementary Paratransit must provide service to any origin and destination point within a corridor fitting this description around any route in the bus system. Note this does not say that an eligible user must live within a corridor to be eligible. If an individual lives outside the corridor and can find a way of getting to a pickup point within the corridor, the service must pick him up there. The same holds true at the destination end of the trip.

The Transportation Director of Shore Transit reported that, after you were certified as ADA Complementary Paratransit-eligible, you were able to travel on the ADA Complementary Paratransit service.

He further explained, however, that some of the rides provided to you were not through the ADA Paratransit service, but rather through the Job Access program. This service was not related to your status of eligibility under the ADA Paratransit service, but was related to the availability of specific Federal funding for that program. Through the Job Access program, you were transported to areas beyond that served by the ADA Complementary Paratransit service and on days and hours beyond that offered by the ADA Complementary Paratransit service.

However, when Job Access funding was no longer available, Shore Transit placed you in the Special Transportation Assistance Program (STAP) program for persons with disabilities and the elderly. This program, funded by the State of Maryland and administered by Wicomico County, has more restrictions than ADA Complementary Paratransit. Among its limitations are: it operates fewer hours daily during the weekdays and it does not operate on Saturdays

and Sundays. You stated that you needed service beyond the preceding times, so that you could assist your grandchildren whom you are raising.

The transit officials noted that they placed you in STAP, because you live outside the three-fourth mile corridor. However, they indicated that they had advised you that while you are in the STAP program, you could also participate in the ADA Complementary Paratransit service, if you could get to a point within the three-fourth mile corridor.

You advised the investigator that currently this is not feasible in that you would have to use a manual wheelchair to access a bus stop within the three-quarter mile corridor, and that would be very difficult. You also stated that you did not want to rely upon a family member or personal care attendant to assist you in gaining access to a point within the three-quarter mile corridor, as you valued your independence.

After reviewing all of the submitted materials, the FTA Office of Civil rights have found that ST did not violate the DOT ADA regulations

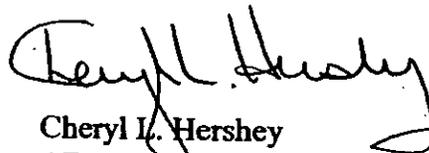
We note the importance of clear communication with the rider. We would emphasize to ST the importance in clearly explaining to the rider the differences between ADA Complementary Paratransit, Job Access and the STAP programs, as well as the requirement that an eligible rider can ride ADA Paratransit where he/she lives outside the three-quarter mile area, if he/she can access the three-quarter mile area.

As the investigation phase of the process has been completed, we are closing your complaint as of the date of this letter.

You have the right to file for a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Rob Hart
Transportation Director
Shore Transit



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 29 2004

[REDACTED]

Re: FTA Complaint No. 01-0251

Dear [REDACTED]

This letter responds to your complaint against San Diego Metropolitan Transit System (MTS), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. You were unable to board buses due to drivers' failure to deploy the lifts [49 CFR 37.5; 49 CFR 37.173];
2. The transit provider fails to maintain accessible features of the buses [37.161]; and
3. The transit provider fails to keep vehicle lifts in operating condition [37.163]

We investigated your allegations, and sent a data request to the MTS. We received a response from MTS that addressed and provided relevant information on your allegations.

The FTA investigator contacted the ADA Coordinator of Metropolitan Transit System (MTS) in response to your complaint. According to the ADA Coordinator, both the San Diego County Transit District and the contractor they were using for bus service at the time of your complaint, Larson Transportation Services, Inc., are no longer providing transportation in your area.

Transportation is now provided by MTS and its member agencies:

- North County Transit District
- San Diego Trolley, Inc.
- San Diego Transit Corp. and
- The San Diego Association of Governments.

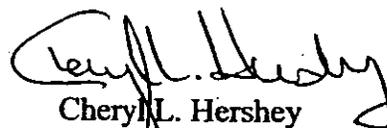
After reviewing all of the submitted materials, the FTA Office of Civil Rights has determined that your concerns have been resolved through changes made in the delivery of the fixed route service in your area. As the investigation phase of the process has been completed, we are closing your complaint as of the date of this letter.

Should you encounter the same problems again, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist on FTA's toll-free ADA assistance line at (888) 446-4511 or at her email address: mary-elizabeth.peters@fta.dot.gov.

You have the right to file for a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Paul C. Jablonski
Chief Executive Officer
SDMTS



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 9 2004

[REDACTED]

Re: FTA Complaint No. 03-0119

Dear [REDACTED]

This letter responds to your complaint against Capital Area Transportation Authority (CATA), Lansing, Michigan, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. Drivers are verbally abusive.
2. Your wheelchair only fits in one of the securement areas.
3. Drivers won't let you secure your wheelchair your way.
4. Drivers jam and push your scooter into the securement area.
5. The lifts on RTS buses (older model buses) won't fit your chair.

We investigated your allegations, and sent a data request to CATA. We received a response from CATA that addressed and provided relevant information on each of your allegations noted above.

1. Drivers are verbally abusive.

The DOT ADA regulations at 49 CFR 37.173 state:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

By your own admission in your complaint, you have blocked the path of buses leaving the terminal, used abusive language and "acted out." CATA has sent a number of employee reports that indicate that you swore and verbally abused CATA employees. Based on the information received, FTA does not find CATA in violation of the above referenced section.

2. Your wheelchair only fits in one of the securement areas.

The DOT ADA regulations at 49 CFR 38.23(d)(2) state:

The securement system shall be placed as near to the accessible entrance as practicable and shall have a clear floor area of 30 inches by 48 inches. Such space shall adjoin, and may overlap, an access path. Not more than 6 inches of the required clear floor space may be accommodated for footrests under another seat provided there is a minimum of 9 inches from the floor to the lowest part of the seat overhanging the space. Securement areas may have fold-down seats to accommodate other passengers when a wheelchair or mobility aid is not occupying the area, provided the seats, when folded up, do not obstruct the clear floor space required.

The regulations at 37.3 define a common wheelchair as "a device, which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied." However, our investigator reported that you have a backpack on the back of your wheelchair that you refuse to remove to fit in the securement location. If that is the case, your backpack becomes a part of the wheelchair in terms of its dimensions and whether the wheelchair fits into the 30x48 inch area prescribed in the regulations. If the backpack makes the chair longer than 48 inches, CATA may refuse to transport you.

If the securement area is in compliance with the regulations and your scooter meets the dimensions of a "common wheelchair," then your scooter should fit in either securement area.

If your scooter does not fit within the "common wheelchair" definition, the DOT ADA regulations do not require CATA to transport you. However, we encourage them to do so where possible. However, if your wheelchair fits the "common wheelchair" definition and it only fits in one of the securement areas, then we suggest CATA accommodate you when it is reasonable to do so. If another passenger in a wheelchair is already secured in that location, for example, it would not be reasonable to move that person.

If someone is seated at that location, the DOT ADA regulations at Section 37.167(j)(1) state:

When an individual with a disability enters a vehicle, and because of a disability, the individual needs to sit in a seat or occupy a wheelchair securement location, the entity shall ask the following persons to move in order to allow the individual with a disability to occupy the seat or securement location: (i) Individuals, except other individuals with a disability or elderly persons, sitting in a location designated as priority seating for elderly and handicapped persons (or other seat as necessary); (ii) Individuals sitting in or a fold-down or other movable seat in a wheelchair securement location.

Thus, the operator can ask, but not order, a person occupying a fold-down seat at that securement location to move.

FTA will request information regarding the date of acquisition of the fleet and whether the vehicles meet the accessibility requirements.

3. Drivers jam and push your scooter into the securement area.

This allegation relates to the provision on training already discussed under #1. Since a person in a wheelchair feels the chair is an extension of his/her body, jamming or pushing the wheelchair without permission is the equivalent of pushing the person's own body. FTA will obtain CATA's training materials and review them for appropriate training with regard to securement. If the training appears to be inadequate or incorrect, CATA will be directed to revise the training procedures and materials. FTA will monitor CATA until any deficiencies are corrected.

4. Drivers won't let you secure your wheelchair your way.

The regulations at Section 37.165(f) state that:

Where necessary or upon request, the entity's personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts. If it is necessary for the personnel to leave their seats to provide this assistance, they shall do so.

In addition, Section 37.165 (c) (3) states: "The entity may require that an individual permit his or her wheelchair to be secured."

Appendix D at Section 37.165 Lift and Securement Use states:

The entity's personnel have an obligation to ensure that a passenger with a disability is able to take advantage of the accessibility and safety features on vehicles. Consequently, the driver or other personnel must provide assistance with the use of lifts, ramps, and securement devices.

The Appendix in the same section further states:

If the passenger cannot do so independently, the driver must assist the passenger with using the securement device.

This indicates that the driver only needs to assist passengers who cannot independently secure themselves; this recognizes the rider's right to secure him/herself.

However, we note that Section 37.165(f) states that:

Where necessary or upon request, the entity's personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts. If it *is necessary* for the personnel to leave their seats to provide this assistance, they shall do so. [Emphasis added]

This language "where necessary" in Section 37.165(f) places an obligation on the driver or other appropriate personnel to use his/her judgement where, despite the best efforts of the rider to secure him/herself, the driver's assistance may still be required.

To summarize, the entity's personnel have an obligation to ensure that a passenger with a disability is able to take advantage of the accessibility and safety features on vehicles. Consequently, the driver or other personnel must *provide assistance* with the use of lifts, ramps, and securement devices. However, the rider has the right to secure him/herself without driver assistance. When he/she cannot do so independently despite his/her best effort, the driver may determine it is necessary to provide assistance.

5. The lifts on RTS buses (older model buses) won't fit your chair.

Section 38.23(a)(6) of the regulations states:

[. . .] The platform shall have a minimum clear width of 28 1/2 inches at the platform, a minimum clear width of 30 inches measured from 2 inches above the platform surface to 30 inches above the platform, and a minimum clear length of 48 inches measured from 2 inches above the surface of the platform to 30 inches above the surface of the platform.

FTA will request information regarding the date of acquisition of the fleet and whether the vehicles meet the accessibility requirements, including the specifications of the lifts. If the lifts are within the dimensions stated in this provision, and your wheelchair fits the "common wheelchair" definition, then your wheelchair should fit on the lift.

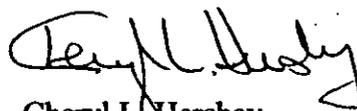
As the investigation phase of the process has been completed, we are closing your complaint as of the date of this letter.

The FTA Office of Civil Rights will place CATA in follow-up status and request documentation to be submitted within 30 days. We will continue to monitor CATA until we determine that any deficiencies identified are corrected.

You have the right to file for a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Sandy Drago
Executive Director
Capital Area Transit Authority



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 16 2004

[REDACTED]

Re: FTA Complaint No. 02-0007

Dear [REDACTED]

This letter responds to your complaint against the Chicago Transit Authority (CTA), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that CTA's fixed route buses frequently have lifts that are broken.

We investigated your allegation and sent a data request to CTA. We have reviewed data from CTA that addressed and provided relevant information on your allegation noted above.

- **CTA's fixed route buses frequently have lifts that are broken.**

The DOT ADA regulations at 49 CFR 37.161 state:

- (a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.
- (a) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use this feature.
- (b) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

The DOT ADA regulations at 49 CFR 37.163 state:

- (a) This section applies only to public entities with respect to lifts in non-rail vehicles.
- (b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.
- (c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.
- (d) Except as provided in paragraph (e) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service.
- (e) If there is no spare vehicle available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than five days (if the entity serves an area of 50,000 or less population) or three days (if the entity serves an area of over 50,000 population) from the day on which the lift is discovered to be inoperative.
- (f) In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

On February 8, 2000, Access Living of Metropolitan Chicago and other plaintiffs filed a Federal lawsuit against CTA alleging various violations of the Americans with Disabilities Act. As part of the June 5, 2001, settlement agreement, an independent monitor was selected to gather data and assemble quarterly reports pertaining to CTA's performance under the settlement agreement. The monitoring is to continue for five years from the date of the settlement.

These reports can be found at the following link:

<http://www.transitchicago.com/maps/accessible.html>

Three of the performance areas defined by the settlement agreement were:

1. the number of bus lift failures in the field,
2. the number of operator failures to deploy a functional bus lift upon request, and
3. the number of unjustified failures to stop for persons in wheelchairs.

The agreement also requires that CTA set aside funds for improvements in ADA-related operational areas.

The lift failure reports from January 2003 to January 2004 are shown in this chart:

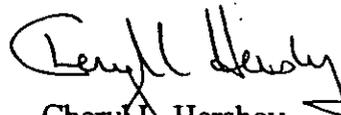
Month/Year	Lift Deployments	Lift Failures
Jan 03	12,327	52
Feb 03	11,537	37
Mar 03	13,055	34
Apr 03	15,112	67
May 03	15,875	33
June 03	18,316	44
July 03	19,254	62
Aug 03	19,171	59
Sep 03	17,754	36
Oct 03	18,102	18
Nov 03	15,644	67
Dec 03	13,887	22
Jan 04	10,354	81

We recognize that you filed your complaint in 2002, and at that time lift failures may not have been at current standards. A review of the number of lift deployments for January 2003-January 2004, as compared to the number of lift failures for the same time period, shows that there were total deployments of 200,388 with total failures of 612 resulting in a lift failure rate of .3 or less than 1/3 of one percent. The DOT ADA regulations place the clear obligation on the transit provider to keep accessibility equipment in working order and to repair it promptly when broken. The DOT ADA regulations do recognize, however, that, at times, equipment will break down. Based upon our review we do not find a violation of the DOT ADA regulations.

Since you told the investigator that you no longer used CTA's buses, FTA will not be able to follow up with you as to your own experiences. Should you start taking fixed route buses again and encounter difficulties, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, on FTA's toll-free ADA assistance line at (888) 446-4511, or at her email address: mary-elizabeth.peters@fta.dot.gov.

As the investigation phase of the process has been completed, we are closing your complaint as of the date of this letter. You have the right to file for a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Frank Kruesi
General Manager
CTA



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 8 2004

[REDACTED]

Re: FTA Complaint No. 04-0033

Dear [REDACTED]

This letter responds to your complaint against the Maryland Transit Authority (MTA), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that on September 24, 2003, a bus operator did not open the front door to allow you to board, and on October 3, 2003, a bus operator passed you by without stopping.

We investigated your allegations and sent a data request to MTA. We received a response from MTA that provided information on your allegations.

- **On September 24, 2003, a bus operator did not open the front door to allow you to board, and on October 3, 2003, a bus operator passed you by without stopping.**

The DOT ADA regulations at 49 CFR 27.7 state:

- (a) **General. No qualified handicapped person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance administered by the Department of Transportation.**
- (b) **Discriminatory actions prohibited. (1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability: (i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service[.]**

In addition, Section 37.5(a) and (b) states:

- (a) **No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.**
- (b) **Notwithstanding the provision of any special transportation service to individuals with disabilities, an entity shall not, on the basis of disability, deny to any individual with a disability the opportunity to use the entity's transportation service for the general public, if the individual is capable of using that service.**

As to the DOT ADA regulations cited at 37.5(a) and (b), if an entity provides public transit, discrimination against an individual with a disability in connection with the provision of that transportation service is prohibited, regardless of whether or not the entity receives Federal financial assistance.

The DOT ADA regulations at 49 CFR 37.173 state:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Regarding the September 24, 2003, incident, you advised that you were waiting outside the front door of the bus to board, and the driver did not open the front door, which was the lift-equipped entrance. You further advised the driver opened the center doors for other passengers to board and disembark. You also stated that on October 3, 2003, that an MTA driver passed you by without stopping.

We requested information from MTA and received a general response addressing training, retraining, and lift maintenance. We acknowledge the efforts made by MTA to train new personnel and retrain existing personnel on ADA requirements.

In a follow-up email communication in April 2004, we requested that MTA respond more specifically to the allegations. The response from MTA, dated May 21, 2004, advised that the drivers on duty at the time of the two incidents had been identified, and the drivers did not recall these incidents. As the MTA drivers were unable to recall the incidents or provide any facts, we are unable to determine conclusively what occurred.

Absent a response it is not possible to know why either incident occurred. However, the facts of September 24, 2003, indicate that the driver did in fact have room on the bus, as he boarded other riders through the center door, but did not board you. If there were room on the bus for a person with a wheelchair, then this would constitute discrimination.

As to October 3, 2003, when the driver passed you by, certainly to purposely pass by a person with a disability waiting for public transit is clearly a violation of the DOT ADA regulations. However, if the bus was full, a person with a disability would not be entitled to a seat, any more than a person without a disability.

After reviewing all of the submitted materials, the FTA Office of Civil Rights has not been able to conclusively determine the cause of the events. However, we will take all steps necessary to ensure that this type of incident does not occur again. We will follow-up with MTA to ensure that the agency's training meets the regulatory requirements. We will review MTA's training materials to ensure that the materials provide a level of training that meets all obligations under the DOT ADA regulations. The obligation for training is ongoing, and the DOT ADA regulations require at Section 37.167 that personnel be trained to proficiency. We will request that MTA provide information regarding its next scheduled training and the proposed course content of that training.

As you are no longer taking the bus, FTA cannot directly monitor your rides. If you should decide to take the bus again, please call our toll-free number at 1-888-446-4511 and leave a message for Mary-Elizabeth Peters, Equal Opportunity Specialist, who will follow up with you. However, we will maintain this complaint on file and monitor MTA for any future complaints in this area.

As the investigation phase of the process has been completed, we are closing your complaint as of the date of this letter. You have the right to file for a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Ms. Peters at our toll-free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,


Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Robert Smith
Administrator
Maryland Transit Administration
6 Saint Paul Street
Baltimore, Maryland 21202-1614

Callista M. Freedman
Assistant Attorney General
Maryland Transit Administration
6 Saint Paul Street
Baltimore, Maryland 21202-1614

Lisa L. Dickerson
Assistant Secretary for Equity and Economic Empowerment
7201 Corporate Center Drive
Hanover, Maryland 21076



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 13 2004



Re: FTA Complaint No. 01-0249

Dear 

This letter responds to your complaint against Gary Public Transportation Corporation (GPT), Gary, Indiana, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. A high percentage of GPTC fixed-route buses have inoperable lifts or drivers who cannot operate the lifts.
2. When a lift fails and GPTC must dispatch a van to provide alternative transportation, the agency charges the higher paratransit fare rather than the fixed route fare.
3. GPTC refuses to certify ADA paratransit applicants who are younger than five years of age.

We investigated your allegations, and sent a data request to GPT. We received a response from GPT that addressed and provided relevant information on each of your allegations noted above.

1. A high percentage of GPTC fixed-route buses have inoperable lifts or drivers who cannot operate the lifts.

The DOT ADA regulations at 49 CFR Section 37.161 state:

- (a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.
- (b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.
- (c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

Further, Section 37.163(b) states:

The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.

GPTC submitted copies of its Wheelchair Lift Maintenance Plan and operator training/retraining documents. According to GPTC's documentation, lifts are to be inspected and cycled each day at the start of each route. Problems are to be reported to GPTC's Maintenance Department immediately. Once a week each lift is cleaned, checked, and recycled by the Maintenance Department. The training program includes training on wheel chair lift usage. All operators had been retrained three to four months after the complaint was filed. However, at the time of GPTC's interview of July 19, 2004, the agency stated that it had only recently started daily recording of lift failures.

In addition, a summary of buses with inoperable lifts showed that six of the 29 buses in the fleet have permanently inoperable lifts. GPTC stated that the bus manufacturer is out of business, and it was not possible to repair the lifts. Six replacement buses with lifts are scheduled to be purchased in the future.

Based upon the above stated facts FTA finds GPTC is in violation of DOT ADA regulations at Sections 37.161 and 37.163(b). FTA will place GPTC in corrective action until all deficiencies related to inoperable lifts are corrected.

- 2. When a lift fails and GPTC must dispatch a van to provide alternative transportation, the agency charges the higher paratransit fare rather than the fixed route fare.**

The DOT ADA regulations at Section 37.163(f) state:

In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

You stated that when a fixed-route bus had an inoperable lift, GPT would send a paratransit van, and you were charged from \$0.60 to \$2.50.

GPTC stated that its policy is to charge the fixed-route fee, if the fixed-route lift is inoperable and a backup accessible van is sent. The transit agency stated that you had been given incorrect information by GPTC staff. The Director of Operations and the Superintendent of Transportation were notified of the proper fare schedule for backup accessible vans, which is the fare for a fixed route bus. Since GPTC has already taken steps to correct this situation, FTA will take no further action. If GPTC makes this mistake in the future, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at (202) 366-0792, and FTA will determine appropriate further action.

- 3. GPTC refuses to certify ADA paratransit applicants who are younger than five years of age.**

The DOT ADA regulations at 49 CFR 37.121(a) states:

Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

GPTC's response stated that its current policy is not certifying children below the age of five for ADA Complementary Paratransit service, even if the parent accompanies the child on the paratransit vehicle. The reason given by the agency is that children under the age of five ride free on the fixed-route service and must be accompanied by an adult. Since the child is not a paying rider and the adult is not eligible for ADA Complementary Paratransit, then the child cannot be certified for paratransit.

FTA does not find that GPTC is in compliance with regard to the provision of comparability in the regulation at Section 37.121(a). If GPTC's policy for fixed route service is that no one under the age five can ride unaccompanied by an adult, then the same policy should be applied to ADA Complementary Paratransit service

In addition, the regulations at 49 CFR 37.131(c) state:

The fare for a trip charged to an ADA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying *full fare* (i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the entity's fixed route system. [Emphasis added.]

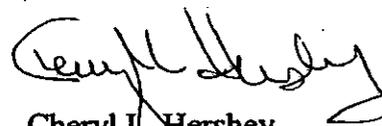
Therefore, the charge for ADA Complementary Paratransit fare would be up to twice the full fare, regardless of age, not twice the fare of a child under five riding fixed route (free). Under such circumstances, the adult accompanying the child would either be a personal care attendant, and ride free, or a "companion," and pay the same fare as the child. As GPTC is not in compliance with the DOT ADA regulations, FTA has directed GPTC to revise its policy with regard to children under five and eligibility for ADA Complementary Paratransit.

After reviewing all of the submitted materials, the FTA Office of Civil Rights has found GPTC in violation of 49 CFR 37.161, 37.163(b), and 37.121(a) of the DOT ADA regulations. As the investigation phase of the process has been completed, we are closing your complaint as of the date of this letter. However, as GPTC was found not to be in compliance with the DOT ADA regulations, the agency will be placed in corrective action and directed to correct the deficiencies found. GPTC will be monitored, until FTA is certain that the deficiencies have been corrected.

You have the right to file for a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Alfred Hammons
General Manager
Gary Public Transit Corporation
P.O. Box M857
Gary, Indiana 46401-0857



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 14 2004

[REDACTED]

Re: FTA Complaint No. 04-0014

Dear [REDACTED]

This letter responds to your complaint against Southeastern Pennsylvania Transportation Authority (SEPTA), Philadelphia, Pennsylvania, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

- On October 4, 2003, you experienced three lift failure incidents on two buses on a SEPTA bus route. Both vehicles were in service with inoperable lifts. In addition, with a headway between buses of 60 minutes, you were not provided with alternative transportation when the headway to the next bus was over 30 minutes, as required by the DOT ADA regulations at 49 CFR 37.163(f).

We investigated your allegations, and sent a data request to SEPTA. We received a response from SEPTA that provided information on your allegation noted above.

- **On October 4, 2003, you experienced three lift failure incidents on two buses on a SEPTA bus route. Both vehicles were in service with inoperable lifts. In addition, with a headway between buses of 60 minutes, you were not provided with alternative transportation when the headway to the next bus was over 30 minutes, as required by the DOT ADA regulations at 49 CFR 37.163(f).**

The DOT ADA regulations at 49 CFR 37.163(b) state:

The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.

SEPTA's response stated:

It should also be noted that on the Complainant's return trip the wheelchair lift on bus number 3445 did deploy and raise and lower but would not raise and lower with the Complainant in her wheelchair on the lift. There have been at least two other occasions where a lift would not function with the weight of the wheelchair passenger.

A wheelchair lift that won't deploy with a passenger in a wheelchair on the lift is not "operative." "Operative" means the lifts are operating for the purpose they were intended: to lift passengers in wheelchairs (or standees) into the bus.

SEPTA stated in its response that there have been at least two other occasions when a lift would not function with the weight of the passenger and a wheelchair. This indicates that SEPTA's checks and maintenance are insufficient to determine if the lifts are "operative," absent mitigating circumstances that have not been offered by way of explanation in SEPTA's response. Based upon the above facts this constitutes a violation of the DOT ADA regulations at Section 37.163(b).

In addition, Section 37.163(f) states:

In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

In the initial incident with bus #3445, the bus operator told you to wait for the next bus, which would come in 60 minutes. Since the headway to the next bus exceeded 30 minutes, you should have been provided alternative transportation at that time and not told to wait for the next bus. This constitutes a violation of the regulations at Section 37.163(f).

Further, SEPTA's response stated the following:

In 2000, detail [sic] instructions regarding inoperable wheelchair lift situations were widely distributed [. . .] These procedures clearly place the responsibility for insuring: 1) expedited accommodation of the wheelchair passenger, 2) the removal of the non-functioning vehicle from service, and 3) that expedited maintenance attention is paid to said vehicle on the Control Center personnel regarding the effective fulfillment of these responsibilities.

We note that the first and second step did not occur. Alternative transportation, in consideration of the length of the headway, was not provided, and Bus #3445 was left in service, so you encountered it again on your return trip -- with the same results. SEPTA's detailed instructions that were widely distributed in 2000, did not obtain the desired result.

In addition SEPTA advised in its response that they entered into an agreement with a contractor to independently observe lift operations, among other operations. This provider submits monthly reports to SEPTA's management. We will request this monitoring information be provided to FTA.

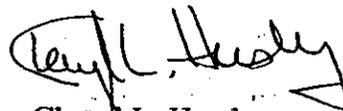
In view of the information provided by both you and SEPTA, FTA finds SEPTA to be in violation of 49 CFR 37.163(b), by not having a system of regular and frequent maintenance checks of lifts sufficient to determine if lifts are operative, and of 49 CFR 37.163(f), for failure to provide alternative transportation, when the headway to the next bus was over 30 minutes.

As the investigation phase of the process has been completed, we are closing your complaint as of the date of this letter. However, as SEPTA was found not to be in compliance with the DOT ADA regulations, the agency will be placed in corrective action and directed to correct the deficiencies found. SEPTA will be monitored until FTA is certain that the deficiencies have been corrected.

You have the right to file for a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 8 2004

[REDACTED]

Re: FTA Complaint No. 01-0189

Dear [REDACTED]

This letter responds to your complaint against Los Angeles County Metropolitan Transit Authority (LACMTA), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

- LACMTA is not properly maintaining accessible features of buses.
- LACMTA fails to keep vehicle lifts in operating condition.
- You were unable to board buses twice due to both drivers' failures to deploy lifts.
- LACMTA fails to properly train bus drivers.
- A driver failed to properly secure your wheelchair.

We investigated your allegations, and sent a data request to LACMTA. We received a response from LACMTA that addressed and provided relevant information on each of your allegations noted above.

- **LACMTA is not properly maintaining accessible features of buses.**
- **LACMTA fails to keep vehicle lifts in operating condition.**
- **You were unable to board buses twice due to both drivers' failures to deploy lifts.**

The DOT ADA regulations at Sec. 37.161(a) and (b) state:

- (a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.
- (b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

In addition, Section 37.163(b) and (c) state:

- (b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.
- (c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.

Section 37.163(f) states:

In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

Section 37.167(e) states:

The entity shall ensure that vehicle operators and other personnel make use of accessibility-related equipment or features required by part 38 of this title.

In two instances, the driver alleged failed to properly deploy the wheelchair lift as you requested. As a result, you were unable to board.

LACMTA indicated that your complaints were investigated in 2001, and one driver was identified, interviewed, and counseled. LACMTA also indicated that they have not received any complaints from you since 2001. We recognize that that LACMTA's ADA Compliance Team has taken steps to improve service to people who use wheelchairs and to persons with other disabilities. These steps are more fully described in the next section.

The information provided by LACMTA did not contain details on the agency's maintenance procedures. FTA will place LACMTA in follow up and request information on the agency's maintenance procedures for lifts and other accessible features. In addition, FTA will request information on whether LACMTA provides alternative transportation, if the headway to the next bus exceeds 30 minutes. When the information is received, FTA will determine if any further action is necessary.

- **LACMTA fails to properly train bus drivers.**
- **A driver failed to properly secure your wheelchair.**

Section 37.173 states:

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

On one occasion, the operator lowered the lift for you, but the driver did not properly secure the wheelchair, in that he did not fasten all of the securement straps.

Since you filed your complaint LACMTA has taken steps to improve accessible services. The LACMTA Bus Operations ADA Compliance Team developed an ADA training program, conducted as part of the annual bus operator retraining. The one and a half hour session, entitled "MTA Standards for Accessible Service," is an interactive course that includes class exercises and an instructional video. LACMTA's response included the following:

- The ADA Compliance Team oversees monitoring of accessible service. This monitoring includes reviewing customer complaints related to accessible service. Part of the monitoring includes an undercover program.
- When customer complaints are received, the ADA Compliance Team follows up with division management and operations to determine if procedures were followed.
- LACMTA indicated that your complaints were investigated in 2001, and one driver was identified, interviewed, and counseled.
- The Compliance Team also determines with division management's help, whether or not the complaint involves a behavioral issue, training issue, or mechanical issue.
- Staff have recommended additional training and counseling in response to some complaints.

- Since May 2001, the ADA Compliance Team has conducted over 400 undercover compliance checks and processed hundreds of disciplinary notes resulting from these checks.

LACMTA indicated that it has not received any further complaints from you since your complaints in 2001.

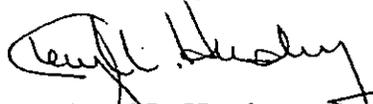
We will remind LACMTA that the training requirement is "to proficiency." However, we acknowledge the steps they have taken to ensure ongoing and regular ADA training and do not find that they are in violation of 37.173.

After reviewing all of the submitted materials, the FTA Office of Civil is placing LACMTA in follow up with regard to its maintenance checks and procedures. As the investigation phase of the process has been completed, we are closing your complaint as of the date of this letter. LACMTA will be monitored, and FTA will work with LACMTA if any deficiencies are found.

You have the right to file for a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Mr. Roger Snoble
Chief Executive Officer
Los Angeles County Metropolitan
Transit Authority



**U.S. Department
of Transportation
Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 8 2004

[REDACTED]
[REDACTED]
[REDACTED]
Brookline Coalition of Citizens with Disabilities
P.O. Box 1721
Brookline, MA 02446

Re: FTA Complaint No. 02-0009

Dear [REDACTED]:

This letter responds to your letter dated October 9, 2001, regarding the policies of the Massachusetts Bay Transportation Authority (MBTA) and its ADA Complementary Paratransit service known as "The Ride." Your letter alleged noncompliance with Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In your letter you requested information regarding FTA policy decisions and clarifications regarding three service areas: late pickups, changes in requested pickup times, and ride times exceeding an hour and a half. You also alleged that members of the Brookline Coalition of People with Disabilities had experienced problems with rides due to the issues you mentioned.

Your letter was classified as a complaint. However, your second letter of February 11, 2002, stated that you had not intended to file a complaint, but you were merely requesting information from FTA regarding the three areas listed above. Due to procedures of this office and the nature of the allegations, we felt it necessary to investigate the allegations, rather than simply providing you the information.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider in complying with the ADA.

If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Information regarding FTA policy on the three areas you requested is summarized below. In addition, we investigated your allegations and sent a data request to MBTA. We received a response from MBTA that addressed and provided relevant information on each of your allegations.

1. Late pickups

Section 37.131 of the DOT ADA regulations outlines the service criteria for ADA Complementary Paratransit services. Section 37.131(f) states:

Capacity constraints. The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: (1) Restrictions on the number of trips an individual will be provided; (2) Waiting lists for access to the service; or (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of significantly untimely pickups for initial or return trips; (B) Substantial numbers of trip denials or missed trips; (C) Substantial numbers of trips with excessive trip lengths. (ii) Operational problems attributable to causes beyond the control of the entity (including, but not limited to, weather or traffic conditions affecting all vehicular traffic that were not anticipated at the time a trip was scheduled) shall not be a basis for determining that such a pattern or practice exists.

This provision of the regulations refers to significantly untimely pickups for initial or return trips. Given the nature of the service, where external events can cause a vehicle to be delayed on occasion, FTA would examine a service to determine if there is an operational pattern and practice resulting in a substantial number of significantly untimely trips.

The Department's position was outlined in a letter to the Court in *Anderson, et al. v Rochester-Genesee Transp. Auth., et al.*, No.01-9105 (2nd Cir.). This was a joint letter prepared in response to a request by the Court from Counsels for the Department of Justice and the Department of Transportation. The discussion in this letter related to trip denials; however, the analysis of pattern and practice under Section 37.131(f) is applicable to late pickups as well.

[...]Section 37.131 (f)'s "substantial numbers" requirement embodies the common-sense notion that a "pattern or practice" of trip denials cannot be predicated on isolated instances, but instead involves repeated failures. See 49 CFR Pt 37, App.D, section 37.131 at 528 (2001)[...]

[...]Section 37.131(f) (3) (ii) makes clear that the cause of operational problems, as well as their frequency, is relevant in assessing the adequacy of a paratransit program. Operational problems that are attributable to causes beyond the transit agency's control do not provide a basis for finding an impermissible pattern or practice.
49 CFR 37.131(f) (3) (ii)...

[...]As Section 37.131(f) (3) (ii) expressly indicates, the transit authority cannot disclaim responsibility for all traffic conditions, as distinguished from more specific problems, such as "traffic conditions affecting all vehicular traffic that were not anticipated at the time a trip was scheduled." 49 CFR 37.131 (f) (3) (ii). Indeed, once a seemingly unforeseeable pattern develops, such as a recurring traffic jam at a particular location, the recurring event becomes foreseeable, and the transit authority can no longer claim the matter is beyond its ability to address[...].

MBTA submitted figures indicating that for the period of July 2002 through January 2003, MBTA was late 182 times out of a total of 289,382 trips. This constitutes less than one percent. Based upon the information provided, this is in accordance with DOT ADA regulations at Section 37.131(f)(3)(i)(A):

2. Changes in requested pickup times

Regarding your question concerning requested pickup times, the DOT ADA regulations at section 37.131(b)(2) state:

The entity may negotiate pick-up times with the individual, but the entity shall not require an ADA Paratransit eligible individual to schedule a trip to begin more than one hour before or after the individual's desired departure time.

However, if the rider wishes to accept the ride outside the one-hour-before-or-after window, he/she may do so, but for accounting purposes that trip would still be counted as a denial. This was explained by Patrick W. Reilly, Chief Counsel, in a letter to Stephen F. Gold, dated March 23, 1999:

Thus an operator's inability to accommodate ADA complementary paratransit-eligible individuals within this two-hour window amounts to a prohibited capacity constraint under 49 CFR 37.131 (f) in violation of the DOT's ADA regulation and discrimination within section 202 of the ADA. The individual's acceptance of an alternative time slot does not change the character of the discriminating act.

You did not submit specific information on changes in requested pickup times. In order to investigate this allegation further, we would need specific dates and times when riders asked for trips but could only get a day and/or time outside the one-hour-before-or-after window. If you have further problems in this area, please supply detailed information to facilitate a full investigation.

3. Ride times exceeding an hour and a half

You alleged that riders were being kept on vehicles longer than an hour and a half. Rides on ADA Paratransit must be comparable to rides on fixed route. The DOT ADA regulations at Section 37.121(a) state:

Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit, or other special service to individuals with disabilities, that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

There is no minimum or maximum amount of time for an ADA Complementary Paratransit trip, as every system is different and service areas vary widely. In this instance, the MBTA service area covers a large area.

Further, the DOT ADA regulations do not provide a hard and fast formula for determining comparability. However, the DOT ADA regulations are clear that the ride on the ADA Complementary Paratransit service from Point A to Point B must be "comparable" to a ride on the fixed route from Point A to Point B.

Factors generally relied upon in comparing and determining comparability are:

- travel time on each bus,
- transfer time or waiting time for multi-bus trips, and
- walking time or time needed to get to or from the bus stop or pickup point.

Our office would look at whether there is a pattern and/or practice of excessive ride times system-wide, given all the factors mentioned.

MBTA's policy, as stated in its handbook, is to limit travel time to 60 minutes, except in cases where the direct route is 30 minutes or more. In those cases, the travel time is limited to twice what the trip would be by the most direct route.

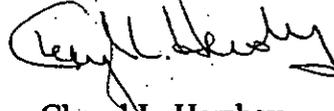
In order to investigate this allegation, we need specific instances where passengers were kept on vehicles for excessive amounts of time. We understand the hesitancy expressed in your letter to provide detailed information on behalf of your consumers. However, given the information supplied, without specifics concerning problems experienced by members of your coalition, we are unable to reach a determination. We will follow-up with MBTA regarding its excessive-trip-length policy to ensure that comparability requirements are reflected in its standards. If in the future you can supply FTA with current specific information with regard to excessive trip length, we will review it and determine whether to open it as a new complaint.

You have the right to file for a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions or problems regarding our determinations, please contact

Mary-Elizabeth Peters at (202) 366-0792 or at her electronic mail address:
mary-elizabeth.peters@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Michael Mulhern
General Manager
MBTA
10 Park Plaza
Boston, Massachusetts 02116-3974



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 2 2004



Re: FTA Complaint No. 02-0199

Dear Mr. Raines:

This letter responds to your complaint against Island Transit (IT), Galveston, Texas, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. IT's lifts frequently malfunction.
2. Buses frequently do not have the proper number of securement straps.
3. Accessibility equipment is not properly maintained.
4. Drivers do not secure wheelchairs properly.
5. Drivers are discourteous.
6. Drivers are not properly trained.

We investigated your allegations, and sent a data request to IT. We received a response from IT that addressed and provided relevant information on each of your allegations noted above.

1. **IT's lifts frequently malfunction.**
2. **Buses frequently do not have the proper number of securement straps.**
3. **Accessibility equipment is not properly maintained.**

The DOT ADA regulations at 49 CFR 37.161 state:

- (a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.
- (b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.
- (c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

Section 37.163 states:

- (a) This section applies only to public entities with respect to lifts in non-rail vehicles.
- (b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.
- (c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.

In accordance with the DOT ADA regulations, IT must maintain accessible equipment in operative condition and have a system of regular and frequent maintenance checks of lifts. IT's response included the following:

- (a) All wheelchair lifts are inspected and serviced every 4,500 miles on fixed route vehicles and 3,500 miles on paratransit vehicles or every 90 days whichever occurs first.
- (b) All wheelchair lifts are serviced and repaired immediately as defects are reported by the operators on their "vehicle condition cards."
- (c) All wheelchair lifts that are found to have a problem during the operators pre-trip inspections are reported to the maintenance department and pulled from service until the problem has been corrected.

The maintenance schedule and procedures are in accordance with DOT ADA regulations at Sections 37.161 and 37.163. In addition, in January 2004, IT distributed a memorandum to all drivers stating that, if a driver was found to be negligent with regard to securing a wheelchair, the driver could be immediately terminated. Training was given to all drivers and all other

employees whose job duties included driving. Each employee signed an acknowledgement that he/she had received a copy of the memorandum.

However, FTA did not find information as to whether IT included an inspection of the wheelchair securement straps in its pre-trip inspection. As a result, FTA will place IT in follow-up status, until the agency can report on whether operators are required to check securement straps. If not, FTA will direct IT to change its pre-trip inspection to include inspection of wheelchair securement straps.

In addition, when a lift becomes inoperable while a vehicle is in service, IT has a demand-response van that operates to transport the passenger with a disability to his/her destination. This process is in accordance with the language of DOT ADA regulation at Section 37.161(b) that states: "Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature."

4. **Drivers do not secure wheelchairs properly.**
5. **Drivers are discourteous.**
6. **Drivers are not properly trained.**

Section 37.165 states:

- (a) This section applies to public and private entities.
- (b) All common wheelchairs and their users shall be transported in the entity's vehicles or other conveyances. The entity is not required to permit wheelchairs to ride in places other than designated securement locations in the vehicle, where such locations exist.
- (c) (1) For vehicles complying with part 38 of this title, the entity shall use the securement system to secure wheelchairs as provided in that Part.
(2) For other vehicles transporting individuals who use wheelchairs, the entity shall provide and use a securement system to ensure that the wheelchair remains within the securement area.
(3) The entity may require that an individual permit his or her wheelchair to be secured.
- (d) The entity may not deny transportation to a wheelchair or its user on the ground that the device cannot be secured or restrained satisfactorily by the vehicle's securement system.
- (e) The entity may recommend to a user of a wheelchair that the individual transfer to a vehicle seat. The entity may not require the individual to transfer.
- (f) Where necessary or upon request, the entity's personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts. If it is necessary for the personnel to leave their seats to provide this assistance, they shall do so.

As stated previously, in January 2004, IT distributed a memorandum to all drivers stating that if a driver was found to be negligent with regard to securing a wheelchair, the driver could be immediately terminated. Training was given to all drivers and all other employees whose job duties included driving. Each employee signed an acknowledgement that he/she had received a

copy the memorandum. IT also instituted random wheelchair inspections to check that wheelchairs are properly secured.

IT also submitted reports with witnesses that indicated you had been verbally abusive towards drivers and, in at least one case, physically abusive. In that case, the police had to be sent to the scene. Please be aware that the DOT ADA regulations at 49 CFR 37.5(h) states:

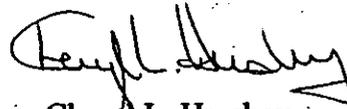
It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct. [. . .]

After reviewing all of the submitted materials, the FTA Office of Civil Rights has found that IT has taken steps to correct any deficiencies that previously existed. As the investigation phase of the process has been completed, we are closing your complaint as of the date of this letter. As a result, FTA will place IT in followup status, until the agency provides information on its procedures in place to ensure that all necessary securement straps are present and functioning before vehicles are put in service every morning.

You have the right to file a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Wayne Cook
Director of Transportation
Island Transit
3115 Market Street
Galveston, Texas 77550



U.S. Department
of Transportation
**Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 2 2004

[REDACTED]

Re: FTA Complaint No. 04-0069

Dear [REDACTED]

This letter responds to your complaint against Tri-County Metropolitan Transportation District of Oregon (Tri-Met), alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each response is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

Specifically, your complaint alleged that:

1. **Tri-Met bus operators do not make stop announcements.**
2. **Tri-Met does not enforce priority seating**
3. **The priority seating signs are difficult for persons with visual impairments to read.**

We investigated your allegations and sent a data request to Tri-Met. We received a response from Tri-Met that addressed and provided relevant information on your allegations.

1. Tri-Met bus operators do not make stop announcements.

The DOT ADA regulations at 49 CFR 37.167(b) and (c) state:

(b) On fixed route systems, the entity shall announce stops as follows: (1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location. (2) The entity shall announce any stop on request of an individual with a disability.

(c) Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

Tri-Met outlined its efforts to retrofit the current fleet and buy new buses equipped with stop enunciators. In April 2004, Tri-Met earmarked \$500,000 to retrofit its current fleet and, as of October 2003, committed all newly purchased buses to be equipped with stop enunciators. While this is commendable, it will be a period of years before the changes have an impact on service. In addition, stop enunciators do not always solve the problem. Some transit agencies have reported problems with drivers turning the stop enunciators off. Even after adjusting the software to prevent such occurrences, some drivers have learned how to bypass the system.

The effort at obtaining stop enunciators does not address the immediate problem. FTA can only judge by what is happening in the present and not what may happen in the future. Tri-Met's response stated that a professor of Portland State University conducted a survey in May 2003 and found the rate of compliance to be 53 percent. This is not in accordance with DOT ADA regulations 49 CFR 37.167(b) and (c). FTA will use this figure as a starting point for monitoring the efforts of Tri-Met, and monitoring will continue until Tri-Met is in compliance. FTA will also provide technical assistance to assist Tri-Met in bringing its system into compliance.

2. Tri-Met does not enforce priority seating

The DOT ADA regulations at Section 37.167(j) state:

- (1) When an individual with a disability enters a vehicle, and because of a disability, the individual needs to sit in a seat or occupy a wheelchair securement location, the entity shall ask the following persons to move in order to allow the individual with a disability to occupy the seat or securement location: (i) Individuals, except other individuals with a disability or elderly persons, sitting in a location designated as priority seating for elderly and handicapped persons (or other seat as necessary); (ii) Individuals sitting in a fold-down or other movable seat in a wheelchair securement location.**

- (2) This requirement applies to light rail, rapid rail, and commuter rail systems only to the extent practicable.
- (3) The entity is not required to enforce the request that other passengers move from priority seating areas or wheelchair securement locations.
- (4) In all signage designating priority seating areas for elderly persons and persons with disabilities, or designating wheelchair securement areas, the entity shall include language informing persons sitting in these locations that they should comply with requests by transit provider personnel to vacate their seats to make room for an individual with a disability. This requirement applies to all fixed route vehicles when they are acquired by the entity or to new or replacement signage in the entity's existing fixed route vehicles.

Tri-Met has a policy that mandates people without disabilities to vacate priority seating. In doing so, Tri-Met gone beyond the Federal regulations, which prescribe the minimum requirements. A transit provider can go beyond the requirements of the regulations.

Your letter did not contain specific incidences where Tri-Met failed to enforce the DOT ADA regulations regarding this aspect of priority seating. Since no specifics were provided, FTA cannot investigate this aspect of the allegation at this time.

3. The priority seating signs are difficult for persons with visual impairments to read.

You have stated in correspondence copied to FTA that you have concerns with the priority seating signs themselves. You have objected to both the color contrast and the finish of newer signs. The signs you object to are a reddish orange with white letters and a high-gloss finish and are in place on some of the buses. You state that these signs are difficult for people who are visually impaired to read. Signs in the past were black and white and, you believe, easier to read by those who are visually impaired.

With regard to priority seating signs, Section 38.27 of the DOT ADA regulations provides that:

- (a) Each vehicle shall contain sign(s), which indicate that seats in the front of the vehicle are priority seats for persons with disabilities, and that other passengers should make such seats available to those who wish to use them. At least one set of forward-facing seats shall be so designated.
- (b) Each securement location shall have a sign designating it as such.
- (c) Characters on signs required by paragraphs (a) and (b) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case "X") of 5/8 inch, with "wide" spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and shall contrast with the background either light-on-dark or dark-on-light.

The above is clear as to the size of characters on signs. However the requirement on contrast is that it "shall contrast with the background either light-on-dark or dark-on-light." As to the issue of finish of the signs, matte versus glossy, Part 38 does not address this issue.

While Part 38 does not cover the finish of the signs themselves, the *ADA Accessibility Guidelines for Transportation Vehicles* publication, available on the website of the Architectural and Transportation Barriers Compliance Board (Access Board) (<http://www.access-board.gov>) contains guidance in this area. It should be noted that this is guidance only, not a requirement of the regulations.

The Appendix to the *ADA Accessibility Guidelines for Transportation Vehicles* states:

Priority Seating Signs and Other Signage. A. Finish and Contrast. The characters and background of signs should be eggshell, matte, or other non-glare finish. An eggshell finish (11 to 19 degree gloss on 60 degree glossimeter) is recommended. Characters and symbols should contrast with their background -- either light characters on a dark background or dark characters on a light background.

Tri-Met provided copies of its priority seating signs to FTA for review. Based upon the *ADA Accessibility Guidelines for Transportation Vehicles* and FTA staff review, we found that the high gloss finish did make the signs hard to read. As the type of finish is discussed in the guidance, but not covered in the regulations themselves, we will encourage, but not require, Tri-Met to replace the signs that are high gloss with new matte finish signs.

We recognize that Tri-Met has notified FTA that it is in the process of producing new signs that will have a matte finish, rather than high gloss, and appreciate the agency's efforts in this area. TriMet recently updated FTA as to its efforts on November 19, 2004, stating the following:

I wanted to update you on the status of TriMet's work with its Committee on Accessible Transportation regarding vehicle priority seating signage. Working with CAT, TriMet has made additional revisions to the design of its priority seating sign. The new prototype has been created in two different color combinations, orange gloss and matte, and Blue gloss and matte.

TriMet has located a certified testing facility that is capable of conducting the Light Reflective Value ("LRV") and Glossimeter tests referenced in the ADA Access Guidelines. The facility is located at Cal Poly. On Wednesday of this week we sent the prototypes to the Cal Poly lab for testing. I am not certain when we will receive the results of the testing, but I expect it to be in the near future. I anticipate that we will be able to supply you with examples of the as-tested prototypes when the testing is completed and we have made any final revisions to the priority seating sign design.

Section 38.27 states with regard to contrast: "Characters on signs [...] shall contrast with the background either light-on-dark or dark-on-light." We find that while the orange sign with white letters may not have been the best choice for contrast, it meets the requirements outlined in Section 38.27.

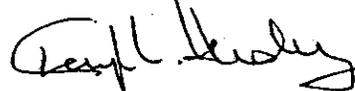
We realize some of the signs that are in place on some vehicles are undersized with the letters lacking the correct width-to-height ratio. Section 38.27 is clear as to the size of characters for priority seating signs. We are requiring Tri-Met to replace existing priority signs that don't meet the character size requirements under 38.27(c). Tri-Met has acknowledged this and is taking steps to correct the situation. The new signs will have the correct width-to-height ratio.

After reviewing all of the submitted materials, the FTA Office of Civil Rights has found Tri-Met in violation of the calling stops requirements at 49 CFR 37.167(b) and (c) of the DOT ADA regulations. Tri-Met will be placed in corrective action and directed to correct the deficiencies found. In addition, Tri-Met will be monitored to ensure the successful completion of the revisions as to the character size of the priority seating signs in accordance with Section 38.27. FTA will monitor Tri-Met until the deficiencies have been corrected.

As the investigation phase of the process has been completed, we are closing your complaint as of the date of this letter. You have the right to file for a reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration, within thirty (30) days from the date of this letter.

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Enclosure

cc: Fred Hansen
General Manager
Tri-Met



U.S. Department
of Transportation
Federal Transit
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 9 2004

[REDACTED]

Re: FTA Complaint No. 03-0238

Dear [REDACTED]

This letter responds to your complaint against South Town Wheelchair Services (South Town), Buffalo, New York, alleging violations of Title II of the Americans with Disabilities Act of 1990 (ADA) and/or the Department of Transportation's (DOT) implementing regulations at 49 CFR Parts 27, 37, and 38. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If FTA identifies what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

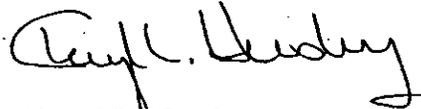
Specifically, your complaint alleged that South Town Wheelchair Services denies you service due to your having HIV/AIDS.

We investigated your allegation and sent a data request to South Town. We received a response from South Town that addressed and provided relevant information on your allegation noted above. After reviewing all of the submitted materials, the FTA Office of Civil Rights found that South Town Wheelchair Services is a private transportation agency that does not receive Federal funds. Since South Town is not itself a public transportation entity or a contractor to a public entity and does not receive any Federal funds, the agency falls outside the jurisdiction of FTA. We believe that the Department of Justice is the agency that has jurisdiction in the area of your allegation and therefore, we are referring your complaint to:

Mr. John Wodatch
U.S. Department of Justice
Civil Rights Division
Disability Rights Section
1425 New York Avenue, N.W., Room 4055
Washington, DC 20005

If you have any questions regarding this decision, please contact Mary-Elizabeth Peters, Equal Opportunity Specialist, at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: mary-elizabeth.peters@fta.dot.gov.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

Cc: Rob Hummel
Director, Operations
South Town Wheelchair Services
131 North America Drive
Buffalo, New York 14224



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

FEB 22 2005

[REDACTED]
[REDACTED]

Michigan Paralyzed Veterans of America
40550 Grand River Avenue
Novi, Michigan 48375

Re: FTA Complaint No. 05-0039

Dear [REDACTED]

This letter responds to your complaint you filed against The City of Detroit Department of Transportation (DDOT) alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of resolution or finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA recently conducted an on-site compliance review of The City of Detroit Department of Transportation's (DDOT) Fixed Route service in the area of lift operability. This review was conducted from February 14, 2005 through February 17, 2005. The decision to perform this compliance review was based, in part, on your complaint submitted to the FTA Office of Civil Rights. The specific issue in your complaint fixed route lift failure, and the contributing factors, will be addressed from a broader perspective by this compliance review.

We requested the review team to contact you prior to this compliance review. In speaking with them recently they said they had spoken with you. This contact was to provide them background and a better understanding of your areas of concern prior to going on-site.

Upon completion of the compliance review, if we make findings of deficiencies, FTA will place DDOT in follow-up status to ensure satisfactory resolution of the matter. Monitoring will occur through quarterly reporting until it is determined that any deficiencies are corrected. Upon completion of the final compliance review report, you will be provided a copy.

We are closing your complaint based upon this letter. However if a finding is made, follow-up will be conducted as described above to ensure compliance. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determination, please contact me at 202-366-0808 or at, my electronic mail address: cheryl.hershey@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
FTA Office of Civil Rights

cc: Norman White, General Manager
The City of Detroit Department of
Transportation (DDOT)
1301 E. Warren Avenue
Detroit, Michigan 48207



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 23 2005

[REDACTED]

Re: FTA Complaint No. 04-0029

Dear [REDACTED]

This letter responds to your complaint you filed against St. Louis, Missouri, METRO (METRO) alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of resolution or finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA has identified METRO for an ADA Complementary Paratransit compliance review. An FTA review team will spend four days on-site reviewing the METRO's Call-A-Ride service. The decision to perform this compliance review was based, in part, on your complaint submitted to the FTA Office of Civil Rights.

Your complaint alleged METRO's inability to process your ADA Paratransit application in a timely fashion, and their failure to provide temporary service after 21 days in accordance with DOT ADA regulation 37.125 (c). The upcoming compliance review will focus on capacity constraints, and includes a review of the ADA eligibility process.

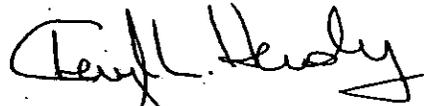
We will request that the review team contact you prior to this compliance review. This contact is to provide them background and a better understanding of your areas of concern prior to going on-site. Please note that as you have asked that your identity not be disclosed we will be unable to investigate the particulars of your specific complaint, as to do so would require that METRO be given the opportunity to respond. However, the review team will explore this area of concern that you raise.

Upon completion of the compliance review, if we make findings of deficiencies, FTA will place METRO in follow-up status to ensure satisfactory resolution of the matter. Monitoring will occur through quarterly reporting until it is determined that any deficiencies are corrected. Upon completion of the final compliance review report, you will be provided a copy.

We are closing your complaint based upon this letter. If a finding is made, follow-up will be conducted as described above to ensure compliance. You have the right to file an appeal to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determination, please contact me at 202-366-0808, or at my electronic mail address: cheryl.hershey@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
FTA Office of Civil Rights

cc: Mokhtee Ahmad
FTA Regional Administrator VIII

Rebecca Tanrath
FTA Regional Civil Rights Officer VIII

Larry E. Salci
President and CEO
METRO



**U.S. Department
of Transportation
Federal Transit
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 9 2005

[REDACTED]

Re: FTA Complaint No. 00-0016

Dear [REDACTED]

This letter responds to your complaint you filed against the Suburban Mobility Authority for Regional Transportation (SMART) and Detroit Department of Transportation (DDOT) alleging noncompliance with Title II of the Americans with Disabilities Act of 1990 (the ADA) and/or the Department of Transportation (DOT) implementing regulations at 49 CFR parts 27, 37, and 38. The FTA Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement the ADA, the DOT ADA regulations, and Section 504 of the Rehabilitation Act of 1973.

In the FTA complaint investigation process, we analyze the complainant's allegations for possible ADA deficiencies by the transit provider. If we identify what may be a violation, we first attempt to provide technical assistance to address it by assisting the transit provider to comply with the ADA. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider that may result in the termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

Each letter of finding is developed based on the specific facts and circumstances at issue. A determination resulting from a review of these facts is not intended to express an opinion as to the overall ADA compliance of that transit property.

FTA recently conducted an on-site compliance review of SMART's fixed route lifts/ramps on May 9-12, 2005. FTA conducted a compliance review DDOT's ADA Complementary Paratransit service on September 9-13, 2002. The decision to perform these compliance reviews was based, in part, on your complaint submitted to the FTA Office of Civil Rights. A copy of your complaint was provided to the contractors for their review prior to these compliance reviews. The specific issues in your complaint regarding fixed route lift failure and as to ADA paratransit untimely pick-ups and excessive trip length were addressed from a broader perspective by these compliance reviews.

Regarding the recent review of SMART fixed route lifts/ramps; the on-site review team is currently preparing the draft report. If findings are identified, we will work with SMART through our quarterly reporting and technical assistance process to ensure their compliance. Upon completion of this final report we will notify you.

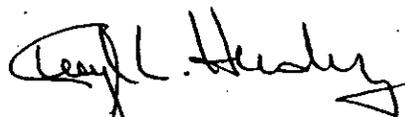
You identified Paratransit concerns in the areas of untimely pick-up and excessive trip length. The Office of Civil Rights has been monitoring DDOT in all areas where Paratransit findings were made. We continue to monitor them in the area of on-time performance and will continue to do so to ensure they come into compliance. Based upon the action taken by DDOT's in response to the finding of excessive trip length, we recently closed out monitoring. We will continue monitoring and require quarterly reporting on all remaining findings, including on-time performance.

You can access the DDOT Paratransit final report, as well as the SMART report when it is final, at our accessible website located at www.fta.dot.gov/ada by clicking on ADA Compliance Review Final Reports. You may also contact Linda Craig at 1-888-446-4511 should you require an alternative format.

Based upon the above, we are closing your complaint. You have the right to file a motion for reconsideration to Michael Winter, Director, Office of Civil Rights, Federal Transit Administration within thirty (30) days from the date of this letter.

If you have any questions regarding our determinations, please contact Donna R. Walton at our toll free FTA ADA Assistance Line, 1-888-446-4511, or at her electronic mail address: donna.walton@fta.dot.gov. Thank you for bringing your concerns to our attention.

Sincerely,



Cheryl L. Hershey
ADA Group Leader
Office of Civil Rights

cc: Dan Dirks
Suburban Mobility Authority for Regional Transportation
First National Building
660 Woodward Avenue
Detroit, MI 48226

Don Gismondi, FTA Region V Acting Administrator
Dwight Sinks, FTA Region V Civil Rights Officer

**Miami-Dade Transit Agency
Assessment of Stop Announcement
and Route Identification Efforts**

July 19-23, 1998

Summary of Observations

**Prepared for the
Federal Transit Administration
Office of Civil Rights
Washington, D.C.**

**Prepared by
COMPUCON INCORPORATED**

September 26, 1998

Final Report

TABLE OF CONTENTS

PAGE

SECTION I	GENERAL INFORMATION	1
SECTION II	JURISDICTION AND AUTHORITIES	2
SECTION III	PURPOSE AND OBJECTIVES	3
SECTION IV	BACKGROUND INFORMATION	4
SECTION V	SCOPE AND METHODOLOGY	6
SECTION VI	SURVEY RESULTS	9
SECTION VII	ISSUES AND RECOMMENDATIONS	11
SECTION VIII	TABLES	16
SECTION IX	MDTA'S RESPONSE TO FTA'S DRAFT REPORT	22

SECTION I

GENERAL INFORMATION

Grant Recipient:

Miami-Dade Transit Agency
Stephen P. Clark Center
111 NW First Street, Suite 910
Miami, Florida 33128-1999

City/State:

Miami, Florida

FTA Grantee I.D. #:

1089

Executive Official:

Danny Alvarez, Director, Miami-Dade Transit Agency
Phone: (305) 375-5675

Corporate ADA Officer:

Sylvia Crespo-Tabak, Chief,
Office of Fair Employment and Labor Practices
Phone: (305) 375-5675

Report Prepared By:

CompuCon, Incorporated
101 N. Columbus Street, Suite 301
Alexandria, VA 22314

Phone No. (703) 684-7619

Dates of On-Site Visit:

July 19 - 23, 1998

Review Team Members:

Frank Billue,
Regional Civil Rights Officer
Office of Civil Rights, FTA

James S. Gee
Principal Investigator
CompuCon, Incorporated

Herbert L. Jackson
Investigator
CompuCon, Incorporated

Russell H. Thatcher
Investigator
Multisystems, Incorporated

SECTION II JURISDICTION AND AUTHORITIES

The Federal Transit Administration (FTA) Office of Civil Rights (TCR) is authorized by the Secretary of Transportation to conduct assessments to ensure that grant recipients and sub-recipients adhere to the requirements of the Americans with Disabilities Act of 1990 (ADA); the Department of Transportation (DOT) ADA implementing regulations at 49 CFR Parts 27, 37, and 38; the nondiscrimination and affirmative action provisions cited in Section 5332 of the Federal Transit Laws, as codified under 49 CFR C 5301 et.seq.; and Section 1003(b) of the Intermodal Surface Transportation Efficiency Act of 1991. The Miami-Dade Transit Agency (MDTA) is a recipient of FTA funds and is, therefore, subject to the ADA requirements.

Announcing Stops

The DOT ADA regulations at 49 CFR section 37.167(b) requires that on fixed route systems, the transit operator shall announce stops at transfer points with other fixed routes, other major intersections and destination points, and at intervals along the route which are sufficient to permit persons with vision impairments or other disabilities to be oriented to their location. In addition, the operator must announce any stop on request of passengers with disabilities.

Identifying Vehicles and/or Passengers

The DOT ADA regulations at 49 CFR section 37.167(c) requires fixed route transit operators to have a means of identifying vehicles and/or passengers. At stops that serve more than one route, the transit operator shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter, or be identified to the vehicle operator as a person seeking a ride on a particular route.

Training Personnel

The DOT ADA regulations at 49 CFR section 37.173 "requires fixed route transit operators to ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the differences among individuals with disabilities."

SECTION III

PURPOSE AND OBJECTIVES

Purpose

This onsite assessment was conducted to verify whether MDTA meets the ADA requirements regarding the use of stop announcements and vehicle and/or passenger identification procedures at 49 CFR sections 37.167(b) and (c).

This review was also conducted in response to a complaint filed with FTA on February 26, 1997. This complaint alleged violations of ADA regulations "requiring bus operators to make announcements of major intersections and transfer points." The complainant paid for 60 - 75 bus rides, documented some of the trips, and reported that, "All the drivers were ignoring their responsibilities [to make announcements of major intersections and transfer points]."

Objectives

The objectives of the assessment were:

- (1) To assess the efficacy of MDTA's fixed route stop announcement and vehicle/passenger identification systems;
- (2) To review MDTA's stop announcement and vehicle/passenger identification policies and procedures;
- (3) To review the procedures MDTA uses to disseminate its stop announcement and vehicle/passenger identification policies and procedures to its employees; and
- (4) To review the procedures MDTA uses to monitor implementation of its stop announcement and vehicle/passenger identification systems.

SECTION IV

BACKGROUND INFORMATION

MDTA's service area encompasses an estimated population of 1,914,660 people, based on 1990 Census data. In addition, MDTA's service area overlaps the service area of the Broward County Transit Authority and a coordination plan has been developed for providing service between counties. In 1995, MDTA operated a fleet of 275 ADA accessible buses and the fleet was projected to grow to 300 buses in 1996. In 1997, nine buses were equipped with automatic voice annunciators (AVA) to make stop announcements. The stop announcements are preprogrammed and are automatically announced onboard the buses using Global Positioning Satellite Technology (GPS). On non-AVA equipped buses, stop announcements and vehicle/passenger identification is the responsibility of bus operators.

MDTA also operates a metrorail system and a people-mover. The Metrorail system covers 22.4 miles and runs from Okeechobee, North Miami, to Dadeland South, with stops approximately every mile. The system serves northwest Dade County and southwest Broward County. The Metromover is an elevated rail system that has 21 stations conveniently located at 21 stops around downtown Miami. Metrorail uses automatic voice annunciators for vehicle identification, but operators are responsible for making stop announcements. Metromover is totally automated (no operators are required) and is equipped with automatic voice annunciators for both stop announcements and vehicle identification.

Results of an Internal MDTA Assessment

The following is excerpted from the "ADA Office Bus Monitoring Results." During the month of June 1997, an on-board bus operator monitoring program was conducted by the County Manager's Office of ADA Compliance. Surveyors were disabled passengers employed by the ADA Office and trained by MDTA staff to verify MDTA operator compliance with ADA regulations.

The surveyors were either wheelchair users or were visually impaired. The surveyors who used wheelchairs were provided with questionnaires listing 13 specific areas to be checked. The one visually impaired surveyor used a questionnaire with seven areas to be evaluated. The following results were reported for the areas of concern in this self-assessment:

Physically Impaired Surveyor's Findings

Did the driver announce major stops?

- Only 21 operators (33.9%) made the required announcements of major intersections.

- Twenty-six operators (41.9%) failed to make any announcements.

Did the driver stop when requested either by voice or ringing the bell?

- Forty-five operators (72.6%) stopped the bus when requested by passengers.
- Three operators (4.8%) failed to stop their vehicles at the requested stop.

Visually Impaired Surveyor's Findings

Did the bus driver stop to pick you up when you were waiting at a designated bus stop?

- One operator (50%) stopped at the designated bus stop.
- One operator (50%) stopped approximately one block away.

When asked to announce your destination stop, did the driver agree to do so?

- Both operators (100%) failed to announce the requested bus stops.

SECTION V SCOPE AND METHODOLOGY

Scope

The assessment examined policies and administrative procedures and surveyed the stop announcement and vehicle/passenger identification activities of MDTA's bus and rail systems. The survey components and specifics required for each mode of transportation were as follows:

1. The stop announcement survey of buses was comprised of 21 trips over two days on sample of bus routes.
2. The vehicle/passenger identification survey for buses included having a reviewer pose as a visually impaired individual at three major locations/stops over two days.
3. The stop announcement and vehicle identification surveys of the Metrorail and Metromover systems were conducted simultaneously and comprised approximately four trips per system.

A variety of data sources were sought to provide a comprehensive picture of MDTA's bus and rail systems and the current ADA program policies and procedures for stop announcements and vehicle/passenger identification. In addition to documents, the review team members interviewed bus operators, individuals from the ADA Compliance Office, Transport Workers Union Local 291, and officials from the following MDTA organizational units:

Office of Fair Employment and Labor Practices
Transit Communications
Human Resources Department
Bus Department
Rail Department
Office of Public Involvement

Methodology

Review team members met with MDTA staff to discuss how the assessment was to be conducted, areas to be reviewed, individuals to be interviewed, and the exit conference. In addition to the reviewers, the following officials attended the entrance conference:

MDTA Deputy Director
Assistant Director, Rail
Chief, Fair Employment and Labor Relations
Chief, Service and Mobility Policy

**Chief, Office of Public Involvement
Staff Development Supervisor
Chief, Human Resources
Chief, Transit Communications**

A purposive sample of bus routes was drawn for the stop announcement survey. The sample included routes that traversed the city north and south, east and west, along the beach, and through commercial and residential areas. Bus trips varied in terms of the time of travel from a high of over an hour (for extended routes) to fifteen minutes (for short runs in the commercial district). Reviewers rode the Metrorail and Metromover systems end-to-end at different times and, to survey the vehicle identification systems, boarded and exited trains at different stations.

This report is based upon information collected from management staff interviews; discussions with bus operators; observations by the review team; and documents provided by MDTA's Chief of Fair Employment and Labor Practices, which included the following items:

- Most recent fixed route system map
- Detailed route schedules
- Fixed route operator manual
- List of MDTA's modes of transit
- Copy of MDTA's stop announcement and vehicle and/or passenger identification policies
- Copies of training materials that include references to stop announcement and vehicle and/or passenger identification policies
- Copies of notices and other documents which are designed to inform employees of the stop announcement and vehicle and/or passenger identification policies
- Copies of reports and memoranda regarding monitoring activities and internal findings

Listed below are some of the documents reviewed and interviews conducted to gather information and data contained in this report:

- **Statement of Policy** - MDTA's "On Board Announcements" policy statement dated July 1, 1994 (which was reissued in 1997 and again on June 22, 1998), was examined and compared with the requirements of 49 CFR section 37.167(b).
- **Dissemination of Policy Statement** - The record of written communications from MDTA's Assistant Directors for Bus and Rail Operations to bus and rail operators and other personnel were examined. These records included Special Notices and materials used in training. In addition, discussions were held with a union shop-steward, supervisors, and employees regarding their awareness and knowledge of the onboard announcement and vehicle identification policies.
- **ADA Compliance Monitoring** - The County Office of ADA Compliance Monitoring's onboard compliance reports for 1996 and 1997 were reviewed to assess MDTA's prior level of compliance with ADA requirements. In addition, officials from the County Office of ADA compliance were interviewed regarding the bus operation's stop announcement and vehicle/passenger identification activities.
- **Surveys of Stop Announcement and Vehicle/Passenger Identification Systems** MDTA's bus and rail systems were traveled by reviewers who rode selective buses and trains and recorded information relative to the locations and times of boarding and disembarking, vehicle numbers, and whether the required announcements were made internally and externally.

An exit interview was held with MDTA's Director, Deputy Director, Assistant Director for Buses, Assistant Director for Rails, Director of Human Resources, and the Chief of Fair Employment and Labor Practices who indicated sincere interest in the outcome of the assessment.

MDTA's response to FTA's preliminary report is incorporated in this final report on page 22.

SECTION VI SURVEY RESULTS

TABLE A: SUMMARY OF FINDINGS

DOT ADA REGULATIONS	MDTA's POLICIES	FINDINGS
<p>49 CFR, section 37.167(b) - On fixed route systems, the entity shall announce stops as follows: (1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location. (2) The entity shall announce any stops on request of an individual with a disability.</p>	<p><u>Stop Announcements:</u> Buses: vehicle operators must announce stops. Metrorail: vehicle operators must announce stops. Metromover: voice system is automatic.</p>	<p>A majority of bus operators failed to make the required announcements. Of 21 bus trips surveyed: - All of the required stops were announced during four trips (19%). - Some of the required stops were announced on three bus trips (14%). - The required stops were not announced on 14 bus trips (67%).</p> <p>All Metrorail stations were announced during all trips. All Metromover stations were announced during all trips.</p>

SECTION VII

FINDINGS AND RECOMMENDATIONS

Stop Announcement Issues Involving Metrobuses

MDTA's stop announcement policy is consistent with the requirements set forth in the DOT ADA regulations. On June 22, 1998, the Assistant Director for Bus Operations and Maintenance issued the following directive on stop announcements:

All OPERATORS on ALL BUSES must announce transfer points, major intersections and destinations, and a sufficient number of locations along a route to keep visually impaired passengers oriented to where they are.

Also on June 22, 1998, the Division Superintendent (Bus) issued to operators the following memorandum on the subject, ADA On Board Announcement:

"EFFECTIVE IMMEDIATELY", every two hours, (ON THE HOUR) Radio Control shall make an All Call to remind/instruct bus operators [of] compliance with the on board announcements at transfer points, major intersections, destination point, etc., as required by ADA ...

Other documents presented for review by the reviewers demonstrated that MDTA's stop announcement policy: (1) was issued and disseminated to vehicle operators in 1994, 1997 and 1998; and (2) is presented as part of bus and rail operator training courses. Bus operators have attended a refresher training course on ADA requirements.

Tables 1 and 2: *Fixed Route Bus Stop Announcement Frequencies*, presented at the end of this section, show that a majority of the bus operators in the stop announcement survey failed to announce the required stops. The table shows that:

- (1) On July 20, 1998, reviewers made 11 survey trips: (a) the operator driving on route #16 made all of the required stop announcements; (b) the operators on the remaining 10 routes failed to make any of the required announcements.
- (2) On July 21, 1998, reviewers made 10 survey trips: (a) the operators driving on routes #42, #12, and #17 made all of the required stop announcements; (b) the operators driving on routes #27 and #37 made some of the required stop announcements, and (c) the operators on the remaining five routes failed to make any of the required announcements.

On some of the trips, reviewers (and passengers) heard the bi-hourly radio message reminding operators to make stop announcements; therefore, a case cannot be made that operators who failed to make the required announcements were unaware of the requirement. In an effort to

understand why, in the face of management officials' encouragement and instructions, a large percentage of operators did not make the required announcements, reviewers conducted personal interviews regarding stop announcements at the Northeast Garage with bus operations personnel, a union shop-steward, a supervisory bus operator, and two bus operators.

Personal Interviews With Bus Operations Personnel

Reviewers learned that Transport Workers Union Local 291, in its collective bargaining agreement with Miami-Dade County and instructions to its membership, supported enforcement of the requirement for stop announcements. The supervisory bus operator indicated that while the union and management were in accord with enforcement of the stop announcement requirement, the penalty for not complying with the requirement was not severe enough to change the behavior of those who refuse to make the announcements. The supervisor said that many drivers felt that having to make the announcement was an imposition, added work for which they were not being sufficiently compensated.

On the other end of the spectrum, bus operators said that the problem was one of safety, claiming that current intercom equipment requires holding the microphone with one hand while manipulating dials to activate the intercom and driving the bus at the same time. They acknowledged that on vehicles equipped with goose-neck microphones which do not require the operator to use his hands in order to make announcements, it is easier to hold a steady and safe course in traffic and make stop announcements.

Recommendations:

Most MDTA bus operators do not make stop announcements as required by the DOT ADA regulations. Although MDTA has the proper policy in place, it does not appear to adequately enforce it. This lack of emphasis may give bus operators the impression that making stop announcements is an issue of low importance. We acknowledge that based on internal findings of noncompliance, MDTA has instituted various practices, including a refresher ADA training course, to increase the level of compliance in this area. In addition to the steps already taken, we recommend the following:

1. Review the penalty structure for failing to follow the stop announcement policy. It may be necessary to raise the level in order to alter the behavior patterns of bus operators who refuse to make stop announcements.
2. Consider giving performance awards and public acknowledgement to bus operators based on their performance in making stop announcements.

3. Continue to stress, as part of the job of a bus operator, the importance of complying with ADA requirements. Remain adamant that the stop announcement policy must be followed.
4. Consider implementing a "secret rider" monitoring program in which every bus driver is evaluated at least once per year.
5. Consider enlisting the assistance of disability advocate groups to become involved in addressing this deficiency.

Stop Announcement Issues Involving Metrorail and Metromover

Metrorail train operators must also meet stop announcement requirements. Train operators are instructed to:

announce the NEXT station, when leaving from a station where a stop has just been made, and then again while approaching the NEXT station.

Reviewers found that during survey trips, train operators correctly announced each station as instructed. However, there were differences among train operators in the clarity of enunciating the names of stations. Some operators spoke with precision and clarity, while a few others did not enunciate with clarity. In addition, there was an inconsistency among train operators in announcing the next station, when leaving from a station where a stop had just been made.

Metromover is an automated system, without onboard personnel. Stop announcements have been programmed into an AVA, which is activated by radio waves when trains approach each station. Reviewers found that all station stops were announced correctly.

Table 4: *Metrorail and Metromover Stations*, presented at the end of this section, shows the names of the 21 stations in the Metrorail and Metromover systems.

Recommendations

Metrorail and Metromover appear to make the required stop announcements. Metromover's AVA system was found to be precise and convenient in announcing all of the stations on each run. Train operators were found to have announced all of the stations on each run, but some train operators did not enunciate the names of some stations clearly and some train operators were inconsistent in announcing the next station when leaving from a station and again when arriving at the next station. It is recommended that MDTA:

1. train operators to pronounce with clarity the names of Metrorail stations; and
2. train operators to follow the procedure to announce the next station when leaving from a station.

Vehicle/Passenger Identification Issue Involving Metrobuses

The booklet, *Bus Operator Training On The Americans With Disabilities Act*, includes instruction in ADA requirements for "bus drivers," including the following scenario:

DO NOT EXPECT A PERSON WHO IS BLIND/VISUALLY IMPAIRED TO FLAG THE BUS. If a driver sees a person who is blind (they will usually either have a dog with them or a white cane) at a bus stop they should pull the bus up so that the door opens in front of the person. The driver should tell the person the route number and/or destination. The person who is blind can use the bus driver's voice as a guide to locate the door of the bus. Drivers will need to keep talking to the blind person until they locate the door of the bus.

Although this is the stated MDTA policy, it does not appear to be implemented as such by bus drivers. Several of the persons with disabilities that we interviewed stated that there is an unwritten policy/operating procedure that passengers waiting at stops must "flag" a bus to indicate that they want to ride. One reviewer noted that he noticed at smaller stops served by multiple routes, drivers would slow the bus and wait to see if he was going to flag them down. If he didn't signal, the bus would continue on without stopping.

During the off-peak period when very few other passengers were nearby, a reviewer displaying a white cane stood at three different locations where a number of buses converged, to survey MDTA's vehicle/passenger identification procedures. The reviewer was standing at the curb in front of the shelter in a very obvious location, and was at no time hidden in a crowd. Table 3, *Bus System Vehicle/Passenger Identification Frequencies*, presented at the end of this section, shows that in 24 observations, only one bus operator pulled the bus up so that the door opened in front of the person with the cane and announced the route number and destination of the vehicle. In most cases, the buses were brought to the stop without any special regard for the person with the white cane and no identifying information as to the buses number or destination was announced for that person's benefit. Several buses drove past the reviewer, who was standing next to the bus shelter in the middle of the bus pull-out area, and stopped at the *front* of the pull-out area. This was done even though there were no buses waiting to pull in behind.

MDTA's stated policy does not appear to capture the entire intent of the DOT ADA regulations at section 37.167(c) which requires a method by which the waiting passenger can identify the vehicle or a method by which the passenger can be identified. Many persons with invisible

disabilities may need this type of assistance, yet cannot be identified simply by observation. The policy does not appear to serve those persons.

Recommendations

It was not clear why so few drivers made no effort to assist the person at the bus stop holding a white cane. It may have been due to a number of factors: the operator did not observe that a person with a cane was at the bus stop, or did not recognize the cane as a symbol of visual impairment, or perceived the circumstances as requiring a special effort. Whatever the reason, MDTA should devote the necessary resources to ensure bus driver compliance in this area. The reviewers' recommendations are similar to those previously listed:

1. Review the penalty structure for failing to follow the vehicle/passenger identification policy.
2. It may be necessary to raise the penalty level in order to alter the behavior patterns.
3. Consider giving performance awards to bus operators based on their performance in following the vehicle/passenger identification policy.
4. Continue to stress, as part of the job of a bus operator, the importance of complying with ADA requirements. Remain adamant that the vehicle/passenger identification policy must be followed.
5. Consider implementing a "secret rider" monitoring program in which every bus driver is evaluated at least once per year.
6. Consider enlisting the assistance of disability advocate groups to become involved in addressing this deficiency.

Vehicle/Passenger Identification Issue Involving Metrorail and Metromover

Both Metrorail and Metromover have AVA systems that appear to function in accordance with the vehicle identification requirements.

**Central Florida Regional Transportation Authority
(LYNX)**

**Assessment of ADA Complementary Paratransit
Service
Capacity Constraints**

May 25-28, 1999

Summary of Observations

Prepared for

**Federal Transit Administration
Office of Civil Rights
Washington, D.C.**

Prepared by

**JDG Associates, Inc.
with
Multisystems, Inc.**

Final Report

CONTENTS

Purpose of the Assessment	1
Background	2
Overview of the Assessment	6
Observations Regarding Trip Denials	9
Observations Regarding Eligibility Determinations	12
Observations Regarding On-Time Performance	16
Observations Regarding Trip Length	21
Observations Regarding Telephone Capacity	23
Other Observations	26
Summary of Findings and Recommendations	28

Attachment 1. A+ Link "ADA Program Riders Guide"

Attachment 2. Original On-Site Assessment Schedule

Attachment 3. A+ Link Combined ADA and TD Eligibility Application Form

Attachment 4. A+ Link Eligibility Form Letters

Attachment 5. Summary On-Time Performance Data for 766 Trips Made on
April 19, 1999

Attachment 6. LYNX's Response to the Preliminary Report

Purpose of the Assessment

Public entities which operate fixed route transportation services for the general public are required by the U. S. Department of Transportation (USDOT) regulations implementing the Americans with Disabilities Act of 1990 (ADA) to also provide complementary paratransit service for persons who, because of their disability, are unable to use the fixed route system. These regulations (49 CFR Parts 27, 37, and 38) include six service criteria that must be met by ADA Complementary Paratransit service programs. Section 37.135(d) of the regulations requires that paratransit services meet these criteria by January 26, 1997.

The Federal Transit Administration (FTA) is responsible for ensuring compliance with the ADA and the USDOT regulations that implement this civil rights law. As part of its compliance efforts, FTA, through the FTA Office of Civil Rights, conducts periodic assessments of fixed route transit and ADA Complementary Paratransit services operated by grantees.

An on-site assessment of ADA Complementary Paratransit service provided by the Central Florida Regional Transportation Authority (also known as LYNX) was conducted May 25-28, 1999. The assessment was conducted for the FTA Office of Civil Rights by JDG Associates, Inc. of San Antonio, Texas and Multisystems, Inc. of Cambridge, Massachusetts. The assessment focused on compliance of the LYNX ADA Complementary Paratransit service with one specific regulatory service criteria - the "capacity constraints" criteria. Section 37.131(f) of the regulations requires that ADA Complementary Paratransit services be operated without capacity constraints.

This report summarizes the observations and findings of the on-site assessment of LYNX's ADA Complementary Paratransit service. A description of key features of the LYNX ADA Complementary Paratransit service is first provided. A description of the approach and methodology used to conduct the assessment is then provided. Observations and findings related to each element of the capacity constraint criteria are then summarized.

As the assessment of paratransit capacity constraints was being conducted, other service compliance issues were noted. These included service policies and practices that may need to be reviewed for compliance with other parts of the regulations. These additional observations and findings are presented in the "Observations Regarding Other Issues" section of this report.

Finally, the major findings of the assessment are summarized in the last section of this report. Some recommendations of the review team for addressing issues identified are also provided. LYNX's response to the assessment is incorporated as Attachment 6.

Background

The Central Florida Regional Transportation Authority (LYNX) provides public transit services in the Orlando, Florida area. Service is provided to residents in a three-county area that includes Orange, Osceola, and Seminole Counties. In addition to fixed route and ridesharing services, LYNX provides paratransit service, known as A+ Link.

A+ Link combines three separate paratransit service. These include:

ADA Complementary Paratransit service. This service is provided to persons determined ADA Complementary Paratransit eligible by the A+ Link staff. The service is described in more detail below.

Agency-sponsored transportation. Under Florida law, a County Transportation Coordinator (CTC) is designated in each county. All local and regional agencies which provide or purchase transportation with state funding are required to coordinate their efforts through the CTC. LYNX serves as the CTC for Orange, Osceola, and Seminole Counties. As part of this program, LYNX has contracts with several human service agencies to coordinate the provision of transportation for clients. The most significant agency client services provided are medical transportation for Medicaid clients, and daily transportation to work and work training programs for clients of mental health, mental retardation, and rehabilitation services.

Transportation Disadvantaged (TD) service. Funding is provided to local CTCs by the Florida Commission for the Transportation Disadvantaged (FCTD). This funding is used to provide transportation for persons who are determined "transportation disadvantaged." Persons eligible for this service include seniors, persons with disabilities, persons with low-incomes, and children at risk, who do not have access to publicly-funded transportation and who do not have or cannot afford private transportation. Because the TD program is intended to provide for transportation that is not available from other agencies or sources, it is often referred to as the "non-sponsored" transportation service. A Local Coordinating Board (LCB), comprised of local human service agency representatives and local officials, establishes policies for the TD program. In the LYNX tri-county area, the LCB has set service priorities for the TD program. Highest priority trips are for life-sustaining medical services, including dialysis, chemotherapy and radiation, and hypobolic treatment. Second priority is given to trips for other medical services and for food shopping. Third priority is given for trips to work and to school. Funding for the program is limited and the potential population is quite large. A+ Link staff noted that the system is able to meet first priority trips and some second priority trips.

Description of the ADA Complementary Paratransit Service

A+ Link ADA Complementary Paratransit service is provided for trips that have both their origin and destination within $\frac{3}{4}$ mile of a fixed route. Service is provided Monday through Sunday and on holidays from 5:00 am until 1:00 am. A flat fare of \$1.50 per one-way trip is used. Trip

requests can be placed up to the close of business on the day before service and are accepted up to 14 days in advance. Trip reservations are accepted 7 days a week from 8:00 am until 5:00 pm. Under the ADA Complementary Paratransit program, trip requests for all trip purposes are accepted and are served without prioritization.

All trip requests are received at a central reservations and scheduling office. The central reservations/scheduling function used to be performed by a private contractor, but in early 1999 was brought "in-house" and is now staffed by LYNX employees. After all trip requests have been received on the day before the day of service, manifests are prepared for established runs for each contracted service provider. An automated scheduling system assigns requests to these designated runs. Schedulers review the manifests and make final adjustments before they are given to the service providers. Trips that are not assigned by the automated system to a run are either referred to a taxi service or are put on a "999" run and given to the service providers to be "same day dispatched." Schedulers also review and revise standing order trips and overall run structure on an ongoing basis.

When customers call, they are asked to provide their desired arrival or appointment times for the "going trip" and the desired pick-up time for their "return trip." On the going trip, customers are then asked to be ready to be picked-up either 60 minutes prior to their appointment time or 90 minutes prior to their stated appointment time (depending on the length of the trip and the time of the day). For return trips, customers are asked to be ready from their scheduled pick-up time until 30 minutes after this time.

A+ Link vehicles are operated by four private contractors. The service area is divided into four zones and each contractor is assigned trips that originate in that area. At the time of the review, these contractors, and the number and type of vehicles operated by each, were:

Contracted Service Providers	Fleet Description
900 Transit, Inc.	54 vehicles total (25 standard vans, 25 vans with lifts, 4 sedans)
Seminole Transportation Services	39 vehicles total (12 standard vans, 20 vans with lifts, 2 lift equipped minibuses, 5 sedans)
Lakeside Alternatives	27 vehicles total (17 standard vans, 9 vans with lifts, 1 sedan)
Ace Special and Personal Transportation, Inc.	16 vehicles total (8 standard vans, 8 vans with lifts)

Each contract service provider is responsible for hiring, training, and supervising drivers, for providing trips as scheduled by A+ Link and in accordance with A+ Link policies, and for maintaining vehicles. Each contract service provider has its own dispatcher or dispatchers who oversee daily operations.

On the day of service, if customers need to cancel or change trips, or need to check on a ride, they call a central customer service/dispatch office that is staffed by LYNX employees (located together with the central reservations and scheduling office). One LYNX customer service/dispatch staff person is assigned to work with each of the four service providers. For

"Where's my ride?" calls, the LYNX dispatcher will contact the service provider dispatcher while the customer is on hold. The service provider dispatcher will then contact the driver for an ETA. Information is then relayed back to the customer through the LYNX customer service/dispatcher. Cancellations and trip changes are recorded and then relayed to the appropriate service provider by the LYNX staff.

If scheduling or service delivery problems arise during the day, service provider dispatchers are able to refer trips back to the central LYNX dispatch office. LYNX dispatchers will then attempt to get another service provider to accept the trip. If no other provider is able to serve the trip, it will be referred to a taxi company and served at meter rate. LYNX encourages service providers to use this centralized back-up system if operational issues or scheduling problems are encountered. Service providers are asked to refer trips back to LYNX dispatch at least one hour before the appointment time so that alternatives can be arranged without delaying the trip.

The central A+ Link office also takes all calls for general service information, handles eligibility determinations, takes all customer comments and complaints, and manages and administers the overall system.

A copy of the A+ Link "ADA Program Riders Guide" is provided as Attachment 1.

At the time of the assessment, the A+ Link service was receiving about 20,000 one-way trip requests per month from customers under the ADA Complementary Paratransit program.

Policies and Service Standards Related to Capacity Issues

LYNX has established several service standards and policies related to trip denials, missed trips, on-time performance, travel time, and phone capacity for the A+ Link service. These are described below.

Trip Denials: The A+ Link staff reported that they have adopted a policy of accepting and serving all eligible trip requests (trips within the service area and hours of operation) made by persons who are ADA Complementary Paratransit eligible.

Missed Trips: The A+ Link staff reported that it is the policy of A+ Link to honor and serve all trips scheduled unless canceled by the customer. If trips are missed due to customer no-show or carrier error and customers call and request that the trip still be served, the vehicle will be asked to return or another vehicle (or a taxi) will be dispatched to serve the trip.

On-Time Performance: On-time performance is defined differently by A+ Link for the going versus the return trip. For the going trip, on-time performance is defined by both the pick-up and the drop-off. Service is on-time if the pick-up is made within the 60-90 minute "ready time" and if customers arrives at their destinations no later than the appointment time. For the return trip, the service is considered on-time if drivers arrive for customers from the scheduled pick-up time but no more than 30 minutes past the scheduled pick-up time.

Travel Time: The formal standard set by LYNX for travel time is that trips should take no longer than "twice the time for the most direct route." While this sets a general standard, it is difficult to operationalize. In practice, LYNX staff reported that they use a standard of no more than 60-90 minutes on-board. The different upper limits for travel time depend on the trip length and the time of day (peak/non-peak). Staff noted that they use a general standard of 60 minutes for trips up to 13 miles in length and 90 minutes for longer trips.

Phone Capacity: Staff reported that the standard used by LYNX for telephone service is that the average hold time for calls should not exceed two (2) minutes.

Overview of the Assessment

As noted above, this assessment focused on compliance with the paratransit capacity constraints requirements of the regulations. Several possible types of capacity constraints are identified by the regulations. These include "wait listing" trips, or patterns or practices which result in a significant number of trip denials, untimely pick-ups, or excessively long trips. Capacity constraints also include other operating policies or practices which tend to significantly limit the amount of service to persons who are ADA Complementary Paratransit eligible.

To assess each of these potential types of capacity constraints, the assessment focused on observations and findings regarding:

- trip denials and "wait listing" of trips;
- on-time performance; and
- travel times.

Observations and findings related to two other practices and policies that can affect paratransit use were also developed. These included:

- determinations of ADA Complementary Paratransit eligibility; and
- telephone capacity.

ADA Complementary Paratransit eligibility determinations were assessed to ensure that system use was not impacted by inappropriate denials of eligibility for the service. Telephone capacity was assessed because access to reservations and customer service staff is a critical part of using a paratransit service.

The assessment first involved the collection and review of key service information prior to the on-site visit. This information included:

- a description of how the LYNX paratransit service is structured;
- copies of current service provider contracts;
- a copy of the operator manual which details service policies and practices to drivers and employees;
- the "Rider's Guide," which details service policies to customers; and
- a description of the service standards adopted by LYNX related to on-time performance, trip denials, travel times, and telephone service.

Additional information was requested to be available during the on-site visit. This included:

- copies of completed driver manifests for recent months;
- six months of service data, including the number of trips requested, scheduled, denied, canceled, no-shows, missed trips, and trips provided;

- a breakdown of trips requested, scheduled, and provided in each of the counties served by LYNX;
- detailed information about any trips denied in the last six months including origin and destination information, day and time information, and customer information;
- detailed information about trips in the last six months that exceeded the travel time standard set by LYNX;
- telephone call management records; and
- a listing of recent customer complaints related to capacity issues (trip denials, on-time performance, travel time, phone access).

In addition to the review of data, the assessment team also conducted telephone interviews with six customers and advocates identified through complaints filed with the FTA Office of Civil Rights. Information about recent experiences with LYNX paratransit service was obtained.

The on-site assessment began with an opening conference, held on May 25 at 9:00 am. LYNX representatives in attendance were: Mr. Leo Auger, Executive Director; Mr. Bill Schneeman, Director of Operations; Ms. Belinda Balleras, Manager of Grants; Ms. Patti Bryant, Grants Administrator; Mr. Ron Jones, Manager of the A+ Link service; and Mr. Dennis Dee, Manager of Administration for the A+ Link service. Representing the FTA review team were Ms. Donna Gonzalez and Mr. Marshall Mendez of JDG Associates, Inc., and Mr. Russell Thatcher of Multisystems, Inc. Mr. Frank Billue, FTA's Region IV Civil Rights Officer, participated in the opening conference by telephone. Mr. Billue opened the meeting by explaining the purpose of the ADA assessments being conducted by FTA. He thanked LYNX staff for their assistance in providing the information requested and with on-site visit arrangements. Donna Gonzalez and Russell Thatcher then reviewed the proposed assessment schedule. A copy of the original review schedule is provide as Attachment 2. Final arrangements and plans were made for the staff and departments which would be visited each day. Mr. Auger indicated that the LYNX staff was available for any assistance needed during the assessment and noted that the information from the assessment would be helpful to LYNX in its ongoing review and monitoring of the A+ Link paratransit program.

Following the opening conference, the assessment team met with Ron Jones and Dennis Dee of A+ Link and reviewed the data that had been made available in advance and the data that was available on-site. The team was then given a tour of the central A+ Link administrative offices, which included a review of the reservation and scheduling systems, customer service/dispatch area, and introductions to other administrative staff. As part of the tour, the automated reservations/scheduling/dispatch system used by LYNX was explained.

On Wednesday, May 26, the review team observed the reservations process at the central office and data on the handling of trip requests was collected. The three assessment team members sat with three different reservationists and recorded calls as they were received. The handling of trip requests was recorded. Eligibility records were also reviewed and the eligibility determination staff was interviewed. On the afternoon of the 26th, the customer service/dispatch function was observed at the central office and data on service issues was collected. The scheduling process was also reviewed and run manifests for Thursday, May 27 were obtained.

On Thursday, May 27, the dispatch and operations of three of LYNX's four contracted service providers was observed. Several runs were randomly selected for each provider and drivers performing those runs were asked to radio in the exact times of each pick-up and drop-off. On-time performance was observed in this way for both the morning and afternoon peak periods.

On Friday morning, May 28, the dispatch and operation of the fourth service provider was observed by one assessment team member. Other assessment team members tabulated the results of reservations and dispatch observations for presentation at the exit conference.

Throughout the week, the service data provided by LYNX, was reviewed and analyzed. A major part of the review involved developing on-time performance statistics from a sample day of service. From the completed driver manifests made available by LYNX, the assessment team selected Monday, April 19 for this detailed analysis. Actual pick-up and drop-off times recorded by drivers were compared to pick-up and drop-off times scheduled. Scheduled times were also compared to pick-up and appointment times initially requested by customers.

The exit conference was held at 3:00 pm on May 28. Preliminary findings were presented by the assessment team and these findings were discussed with LYNX staff.

Observations Regarding Trip Denials

As indicated in the "Overview of the Assessment" section of this report, information regarding trip denials and "wait listing" of trips was collected in three ways. These were:

1. A review of service statistics provided by LYNX for the ADA Complementary Paratransit program;
2. First-hand observation of trips requested and trips scheduled in the reservation and scheduling process; and
3. Interviews with customers and advocates.

LYNX Service Records

Service records for the period from November, 1998 through April, 1999 were obtained from LYNX. Table 1 below shows the number of ADA Complementary Paratransit trip requests received, those that were scheduled on vehicle runs in advance, those that were referred to taxis or "same day scheduled" by service providers, and the number of trip requests denied. LYNX authorizes a set number of vehicle runs per carrier each day. Trips that are scheduled on these runs the day before the day of service are recorded as "scheduled." If schedulers are unable to include trips on these established runs, they will either refer trips to a taxi company for service or will transmit the trips to a service provider as "unscheduled." Service providers will then serve these trips by adding them to vehicle runs on the day of service (as space becomes available on runs) or will refer them back to LYNX to be served by taxis.

As shown in Table 1, LYNX records indicate that there were no ADA Complementary Paratransit service trip denials during this recent six month period. All 88,372 ADA Complementary Paratransit trip requests were scheduled, either in advance, on taxis, or on the day of service by the service providers. The data also indicates that the vast majority of trips are scheduled onto established runs in advance. Only about 30-50 trip requests per day are referred to taxis or "same day dispatched" by operators.

Table 1. ADA Complementary Paratransit Trip Requests, Scheduled Trips, and Trip Denials, November, 1998 through April, 1999

Month	Trips Requested	Trips Scheduled in Advance	Trips Taxied or Same Day Scheduled	Trips Denied
November, 1998	16,259	15,712	547	0
December	16,571	16,023	548	0
January, 1999	16,991	16,419	572	0
February	17,943	17,250	693	0
March	20,608	19,306	1302	0
April	19,878	18,709	1169	0
TOTALS	108,250	103,419	4,831	0

LYNX staff did indicate that there are trip denials under the Transportation Disadvantaged (TD) program. They estimated that approximately 100 trips per day are denied. These tend to be trips that are not high priority trips as defined by that program.

Reservations/Scheduling Observations

As part of the on-site assessment, the trip reservations process was observed during the peak morning request time (8:00 am until 10:00 am) on Wednesday, May 26. Requests being taken by three different reservationists were recorded and the handling of these requests was noted. Information collected for each request included the date of the trip being requested, the time requested, the customer's name and type of eligibility, the origin and destination, whether the customer was ambulatory or uses a wheelchair, and whether the trip was scheduled, denied, or wait listed. If trips were scheduled, the time scheduled was also noted to determine if times offered were within one hour of the times requested.

Information for a total of 127 trip requests was collected. Of these, 45 requests were by customers shown on the reservation screen to be ADA Complementary Paratransit eligible, 36 were from customers who were agency clients (Medicaid), and 46 were from customers who were TD eligible.

All ADA trip requests observed were accepted for scheduling by the reservationists. One customer called for a same day trip and this request was not accepted as it was not within the service policy to do same day trips.

It was also noted that a very high percentage of the ADA Complementary Paratransit trip requests were for service on the next day. Table 2 below shows the distribution of ADA Complementary Paratransit trip requests by the number of days in advance of the day of service. As shown, 55% of all requests recorded were for trips on the next day (May 27th). Nine percent were for trips two days out (May 28th). This distribution of trip requests by day of service

indicates that customers feel confident that they can wait until the day before service to place their requests. It is an indication that trip denials are not a concern of customers who are using the system.

**Table 2. Distribution of ADA Complementary Paratransit Trip Requests Made on 5/26/99
by
Number of Days in Advance of Day of Service**

# of Days in Advance	1	2	3-7	8-14
# of Trips Requested	25	4	7	9
% of Total Requests	55%	9%	16%	20%

Customer/Advocate Interviews

As part of the assessment, six customers and advocates were interviewed by phone for input about the service. Those contacted included paratransit riders, human service agency staff persons, and members of local advocacy organizations.

Input was requested specifically about capacity constraint issues, including trip denials and "wait listing" of trips. While several of those contacted expressed concern about on-time performance and other issues, none indicated that trip denials or "wait listing" were concerns for customers who are determined ADA Complementary Paratransit eligible.

Findings

1. *Based on data provided by LYNX, on-site service observations, and customer/advocacy interviews, there do not appear to be any denials of trips requested by persons who are ADA Complementary Paratransit eligible. The additional, flexible capacity provided by local taxis appears to allow LYNX to accommodate all trip requests and manage fluctuations in demand.*
2. *Based on data reviewed and first-hand observations, LYNX does not appear to "wait list" any ADA Complementary Paratransit eligible trip requests.*
3. *There do appear to be denials of trips requested by persons who are TD eligible, mainly for trips that are considered a lower priority under that program.*

Observations Regarding ADA Complementary Paratransit Eligibility Determination

As described in the "Background" section of this report, LYNX provides three different kinds of paratransit services – ADA Complementary Paratransit, agency-sponsored transportation, and "non-sponsored" or Transportation Disadvantaged (TD) service, which is funded by the State of Florida. Eligibility for agency-sponsored service is determined by each organization that purchases transportation from LYNX under this program. Eligibility for the ADA and TD services is determined using the same "A+ Link Paratransit Transportation Eligibility Application." As explained by staff, it is LYNX's goal to present the A+ Link service as a seamless paratransit system. This way, customers do not have to understand or be concerned about the various funding sources that support the different programs. Using the information in the single, combined application form, LYNX staff determines if applicants are eligible for ADA service, "non-sponsored" service, or both. The application process was developed through a locally developed process with the Orange, Osceola and Seminole Counties Joint Local Coordinating Board.

On Wednesday, May 26, the review team met with and interviewed the LYNX staff person responsible for reviewing applications for service eligibility. A copy of the application form used for the ADA and TD programs was obtained and is provided as Attachment 3. Completed applications that were submitted in the months of April and May, 1999 were reviewed. The logic and process used to make determinations was discussed, and questions about ADA Complementary Paratransit eligibility concepts were asked. From this interview, it was clear that the staff person assigned to eligibility determination had a thorough and clear understanding of ADA Complementary Paratransit eligibility. She understood the issues of basing decisions on functional abilities, considering most limiting conditions, and conditional eligibility. She also had an excellent understanding of disabilities and the possible functional abilities and limitations that might be associated with various types of disabilities.

As part of the interview, copies of recent applications from individuals who were determined not to be ADA Complementary Paratransit eligible were requested. A total of 31 applications were reviewed from individuals who had been determined only "TD Eligible." Table 3 below provides a summary of key information from these applications. For applicants, the table notes if they reside in a nursing home or not, what mobility aids they indicated they use, if statements in the application indicated they had the functional ability to use fixed route service, and the types of trip needs indicated in the application (types of trip needs was a question in the application). Applicants are identified by number rather than name to protect their confidentiality. Copies of these applications are on file with the review team should additional detail be needed.

Based on information in the applications (mobility aids used and functional abilities stated), many of the persons determined only TD eligible probably would have some level of ADA Complementary Paratransit eligibility. Twenty-five (25) of the 31 applicants clearly indicated in the application an inability to use fixed route. Twenty (20) if these applicants indicated that they

used a wheelchair or other mobility aid, which would suggest some issues with getting to and using fixed route transit. Four (4) applicants appeared to have the ability to use transit and were applying mainly because the distance to the nearest bus stop was 1-2 miles or more. Two applications did not contain enough information to determine if ADA as well as TD eligibility was appropriate.

Table 3. Summary of Applicants Determined TD but not ADA Complementary Paratransit Eligible

Applicant #	Nursing Home Resident (Y/N)?	Mobility Aids Used	Functional Ability to Use Fixed Route (Y/N)?	Types of Trip Needs Indicated
1	Y	Wheelchair	N	Medical
2	Y	None	N	Medical
3	N	Wheelchair	N	Medical
4	Y	Wheelchair	N	Medical
5	Y	Wheelchair	N	Medical
6	Y	Wheelchair	N	Medical
7	N	None	N	Medical
8	N	None	N	Medical
9	Y	Wheelchair	N	Medical
10	N	Walker/cane	N	Medical
11	N	Walker/cane	No information	Medical
12	Y	Wheelchair	N	Medical
13	N	No information	No information	Medical
14	Y	Wheelchair	N	Not indicated
15	N	Wheelchair	N	Medical
16	N	Walker/cane	N	Medical
17	N	None	Y	Work
18	Y	Wheelchair	N	Not indicated
19	Y	Wheelchair	N	Medical
20	N	None	Y	Medical
21	N	Wheelchair	N	Medical
22	N	Walker/cane	N	Medical
23	Y	None	N	Medical
24	Y	None	N	Medical
25	Y	Wheelchair	N	Medical
26	Y	Wheelchair	N	Not indicated
27	Y	Wheelchair	N	Medical
28	N	None	Y	Work
29	N	Wheelchair	N	Medical
30	N	Wheelchair	N	Medical
31	N	None	Y	Medical

Based on review of applications submitted in late April and early May, 1999.

LYNX staff was asked why applicants who clearly had functional limitations were made TD eligible but not ADA eligible. Staff explained that TD-only eligibility was provided if applicants indicated that they only needed medical transportation. Dialysis, radiation treatment, and other critical medical transportation was given highest priority in the TD program. As TD eligible customers, this service would be provided. Certain scheduling benefits for requesting these medical trips were also offered only under the TD program and these customers would benefit from that service advantage. It was also noted that for shorter trips, the \$1.00 TD fare was less than the ADA Complementary Paratransit fare. Essentially, TD eligibility was granted because it was felt that for the medical trips needed, the TD program would provide the best and most convenient service to the customer.

While the TD program may provide better service for medical trips made by these applicants, it is likely that it would be less advantageous for other trip purposes. The priorities and capacity constraints within the TD program make it probable that these individuals may not be able to travel for non-food shopping, general personal business, or other lower priority trips. As noted in the "Observations Regarding Trip Denials" section of this report, LYNX estimates that about 100 requests for TD service are denied each day. These are primarily for lower priority TD trip requests.

A review of the application material also showed that applicants are not given information about the benefits of each program and do not specifically request eligibility under one program or the other. It is possible that, knowing the benefits available under the TD program, applicants may choose to only apply for that service if they truly had no non-medical trip needs. On the other hand, if they knew non-medical service might be capacity constrained, they might choose to apply for both ADA and TD eligibility.

Also, a review of the letters of determination sent to applicants indicated that applicants are not told if they are not ADA Complementary Paratransit eligible. The letters simply state that they are eligible under the "Transportation Disadvantaged (TD) program" or that "Fixed Route Bus Service will accommodate your transportation needs." These letters also do not provide specific detail about why ADA Complementary Paratransit eligibility was denied or indicate that applicants can appeal the determination if they are only TD eligible or if they are not ADA or TD eligible. LYNX appears to use form letters for notification of final eligibility determinations. Sample copies of current determination letters are provided in Attachment 4.

This issue may impact a significant number of LYNX's paratransit customers. In a March 1, 1999 letter to FTA, LYNX reported that 13% of customers are ADA Complementary Paratransit eligible while 24% are TD eligible (the remainder are agency clients).

Findings and Recommendations:

1. *It is not appropriate for LYNX to assume that applicants who indicate a need for medical transportation are only interested in TD eligibility. In the absence of a specific indication from applicants that they only want to be considered for eligibility under the TD program, LYNX should consider whether each applicant might first be ADA Complementary Paratransit eligible. Where such assumptions have already been made for existing customers, eligibility for ADA Complementary Paratransit should be reviewed and customers who are also ADA Complementary Paratransit eligible should be notified.*
2. *Applicants who are not given ADA Complementary Paratransit eligibility (those made only TD eligible or those denied any paratransit) should be informed that they have a right to appeal the determination. The process to appeal should also be explained. Also, for applicants told that fixed route service can meet their transportation needs, the specific reasons for this determination (specific answers given or information provided) should be indicated. Applicants determined in the past to not be ADA Complementary Paratransit eligible should also be notified that they have a right to appeal that initial determination.*
3. *Persons with disabilities who live outside of the service area should be considered for ADA Complementary Paratransit eligibility based on their functional abilities rather than where they live.*

Observations Regarding On-Time Performance

The observation and review of on-time performance was conducted in the following ways:

- Input on issues related to on-time performance was obtained from customers, advocates, and local human service staff.
- On-time performance for the past six months was reviewed by service provider using scheduled and actual pick-up and drop-off times entered into the LYNX service database.
- Completed driver manifests for Monday, April 19, 1999 were obtained and the appointment and pick-up times originally requested by customers were obtained from LYNX's computer database. Requested, scheduled, and actual pick-up and drop-off times for this randomly selected day of service were then analyzed.
- Dispatch was observed first-hand at each of the four contract service provider locations for the morning and afternoon peak periods. This was done at 900 Transit, Seminole Transportation, and Lakeside Alternatives on Thursday, May 27, 1999. Dispatch at Ace Special and Personal Transportation was observed on the morning of Friday, May 28.

All six customers/advocates contacted before and during the on-site visit cited on-time performance as the major service capacity constraint issue. All cited it as a fairly serious concern of riders and local agencies.

On-time performance based on data in the A+ Link trip database is shown in Table 4 below. Trip data from November, 1998 through April, 1999 was used to develop these percentages.

**Table 4. A+ Link On-time Performance, Period from November 1, 1998 – April 30, 1999
(based on scheduled and actual times in LYNX's trip database)**

	Service Provider				TOTAL
	900	Ace	Lakeside	Seminole	
On-time	88%	76%	84%	83%	84%
1-15 minutes late	6%	10%	9%	9%	8%
16-30 minutes late	3%	8%	4%	5%	4%
31-45 minutes late	1%	4%	2%	1%	2%
46+ minutes late	1%	2%	2%	2%	2%

As noted in the "Background" section of this report, LYNX has established a formal standard for on-time performance of 85%. On-time performance is calculated in the following way:

- For the "going trip," drop-offs that are on or before the scheduled appointment (or desired arrival) time; and

- For the "return trip," pick-ups that are not more than 30 minutes after the scheduled pick-up time.

As shown in Table 4, overall on-time performance using the above two standards was 84%. This means that 84% of all drop-offs and pick-ups were no later than the scheduled appointment time or no more than 30 minutes after the scheduled return pick-up time. It should also be noted that 8% of the trips that were recorded as "late" were only 1-15 minutes late (either an arrival 1-15 minutes after the scheduled appointment time, or 31-45 minutes after the scheduled return pick-up time). On-time performance for this period ranged from a low of 76% for Ace Transportation to a high of 88% for 900 Transit. Based on LYNX's goal of having 85% of all trips performed on-time, this trip data suggests that, overall, the service is close to the standard, but is somewhat below the standard in the Ace service area.

It is important to note two issues regarding the above on-time calculations made using computer trip data. First, LYNX typically bases on-time calculations on the actual versus the scheduled pick-up and drop-off times. Occasionally, though, actual appointment and pick-up times are adjusted in the scheduling process to make trips fit into runs that are being created. If times are adjusted within acceptable "windows" (e.g., the 30 minute return pick-up window), there is no follow-up contact with the customer. If times have to be adjusted beyond this acceptable window, follow-up with the customer, to inform them of the new scheduled time, would be initiated. This could affect the on-time performance of the service as viewed by the customer (who is basing the performance on times they had originally requested and had agreed upon in the reservations process).

To conduct a detailed analysis of on-time performance for the randomly selected day of Monday, April 19, that considered both scheduled and requested times, copies of completed manifests for runs performed on that day were obtained. A computer print-out of requested appointment and pick-up times for that day was also obtained. The manifests were then cross-checked with the summary of original requested times, and any variation was noted. Actual times recorded by vehicle operators were then compared to times requested by customers. This process was followed for a sample of 766 one-way trips – 431 "going" trips, and 335 "return" trips. Attachment 5 contains summary print-outs for the trips analyzed, indicating the sample size by service provider.

Table 5 on the following page shows on-time performance for April 19, 1999 based on the above review process. Early performance of trips as well as late performance is shown. Early performance could include pick-ups before the requested return trip pick-up time, or pick-ups before the systems "ready window" (as noted in the "Background" section of this report, customers are asked to be ready 60-90 minutes before their appointment/desired drop-off time – depending on distance and time of day).

Using LYNX's approach of considering only late trips as not on-time, this sample data is very comparable to the LYNX computer trip records. For the sample day of April 19, 85.4% of all trips reviewed were either dropped-off before the appointment time or picked-up no later than 30 minutes after the return pick-up time. This compares closely to the 84% on-time performance from trip records for November, 1998 through April, 1999.

Table 5. A+ Link On-Time Performance for a Sample of 766 Trips on April 19, 1999
(based on requested appointment/pick-up times and actual times recorded by operators)

	Service Provider				TOTAL
	900	Ace	Lakeside	Seminole	
Going Trips - Pick-Ups					
91+ minutes before appointment	2 (1.9%)	4 (3.3%)	3 (3.4%)	1 (0.8%)	10 (2.3%)
61-90 minutes before appointment	21 (20.4%)	24 (19.7%)	25 (28.7%)	20 (16.8%)	90 (20.9%)
0-60 minutes before appointment	77 (74.8%)	89 (73.0%)	54 (62.1%)	98 (82.4%)	318 (73.8%)
1+ minutes after appointment	3 (2.9%)	5 (4.1%)	5 (5.7%)	0 (0%)	13 (3.0%)
Going Trips - Drop-Offs					
61+ minutes early	3 (2.9%)	2 (1.6%)	0 (0%)	1 (0.8%)	6 (1.4%)
46-60 minutes early	6 (5.8%)	5 (4.1%)	5 (5.7%)	4 (3.4%)	20 (4.6%)
31-45 minutes early	21 (20.4%)	20 (16.4%)	12 (13.8%)	22 (18.5%)	75 (17.4%)
0-30 minutes early	67 (65.0%)	62 (50.8%)	54 (62.1%)	66 (55.5%)	249 (57.8%)
1-15 minutes late	5 (4.9%)	18 (14.8%)	8 (9.2%)	19 (16.0%)	50 (11.6%)
16-30 minutes late	1 (1.0%)	11 (9.0%)	6 (6.9%)	5 (4.2%)	23 (5.3%)
31+ minutes late	0 (0%)	4 (3.3%)	2 (2.3%)	2 (1.7%)	8 (1.9%)
Return Trips - Pick-Ups					
31+ minutes early	5 (5.3%)	2 (3.5%)	6 (5.6%)	3 (3.9%)	16 (4.8%)
16-30 minutes early	5 (5.3%)	5 (8.8%)	6 (5.6%)	5 (6.6%)	21 (6.3%)
1-15 minutes early	22 (23.2%)	7 (12.3%)	20 (18.7%)	10 (13.2%)	59 (17.6%)
0-30 minutes late	59 (62.1%)	41 (71.9%)	69 (64.5%)	39 (51.3%)	208 (62.1%)
31-45 minutes late	3 (3.2%)	2 (3.5%)	1 (0.9%)	15 (19.7%)	21 (6.3%)
46-60 minutes late	1 (1.1%)	0 (0%)	4 (3.7%)	2 (2.6%)	7 (2.1%)
61+ minutes late	0 (0%)	0 (0%)	1 (0.9%)	2 (2.6%)	3 (0.9%)

The sample trip data also shows, however, that many pick-ups and drop-offs are well before the pick-up window or the appointment times. About 23.2% of pick-ups on the going trip were more than 60 minutes before the appointment time. More than 23% of drop-offs on the going trip were 31 or more minutes early (before the appointment time) and 6% were 46 or more minutes early. Similarly, about 29% of return pick-ups happened before the requested pick-up time.

There was some variation in the sample versus six-month data regarding performance by individual providers. Again, based only on "late" trips using the LYNX standards, the performance on the sample day of Lakeside and 900 was 89% and 95% respectively. Performance by Ace was 80% and for Seminole was 77%. The lower than standard performance for Ace was consistent, but the sample numbers for Seminole were well below the six-month sample.

In many cases, early trip performance is not an on-time problem. First-hand observations of the provider dispatch operations indicated that many return pick-ups are early because customers call and request an earlier than scheduled pick-up. LYNX and its operators will accommodate these requests if possible. Many early "going" pick-ups are also a result of group trips where several customers are grouped on a run going to the same destination. Often, the travel time on these trips is more than 60 minutes and the earlier time is established in the standing order scheduling process and is well-known by the customer.

On the other hand, early arrivals on going trips could be an issue. First-hand dispatch observations showed many instances where customers were picked-up 45-60+ minutes before their appointment times and transported directly to their destinations in far less than 45-60 minutes (often only 10-20 minutes). As a result, the arrival was well before the appointment time. Based on our observations, this seemed to be occurring for two reasons:

1. First, the automated scheduling system builds-in a considerable amount of slack time for grouping of trips. Of the typical 60 minute pick-up window, calculated travel time may only be 10-20 minutes, but 40-50 minutes of slack is left for grouping. If other trip requests are not received which can be grouped, a direct trip results and the arrival is very early.
2. Second, it appeared that some operators arrive early for pick-ups, if possible, to then be in a better position to stay on schedule throughout the run if problems arise. On some runs, this seemed to be a regular practice.

The official operating policy does not require customers to board vehicles before the 60-90 minute pick-up window or before the scheduled return pick-up time. However, if other passengers are on-board, customers may feel pressured to leave early. Also, if early pick-ups occur on a regular basis for customers (which appears to be the case), the stated policies regarding boarding times and windows may begin to be viewed with less confidence and trust.

Finally, on-time performance for the on-site week of May 25-28 was reviewed for patterns for specific programs, individuals, or areas. This analysis and on-site observations suggest that late pick-ups and drop-offs are fairly randomly distributed and are not occurring with greater frequency for specific customers. Late performance appears to be based more on traffic and

other operating issues during peak service hours. Given the fairly random nature of on-time performance, it is assumed that on-time performance is about the same for TD riders and for ADA customers. On-time performance does, however, appear to be lower than 85% on a consistent basis for some providers. This suggests that customers in some parts of the service area receive lower than acceptable service on a regular basis.

Findings and Recommendations:

1. *Untimely service which occurs randomly for about one in every six trips (85% on-time), could begin to become significant for some customers and could serve to be a constraint on their use of the service. An 85% standard is also well below typical accepted performance levels for fixed route service. While it could be argued that there are many more operating variables in paratransit (which could make a higher goal harder to achieve), this difference between modes is already captured in the way that "on-time" service is measured. For fixed route service, a run is typically "on-time" only if it is within 5-10 minutes of the schedule. In paratransit, a 60-90 minute pick-up window is employed for the going trip and a 30 minute window is used for the return pick-up. Using these different measures of on-time service to account for the difference in modes, similar performance (90+%) should be achieved for the services to be considered comparable.*
2. *For one (or possibly two) of the service providers, on-time performance of closer to 80% could certainly be considered significant and could be a capacity constraint.*
3. *If "very early" trips were to also be considered in the on-time standard (for example, trips with arrivals more than 30 minutes early), the system performance would be about 6% lower than what is currently reported.*

Observations Regarding Trip Length

The observation and review of travel time/trip length was performed in the following ways:

- Input on issues related to travel time was obtained from customers, advocates, and local human service staff.
- All ADA trips with on-board travel times in excess of 60 minutes for the two-week period from Sunday, April 25 through Saturday, May 8, 1999 were reviewed using trip data contained in the LYNX automated reservations/scheduling/dispatch system.
- Travel times for Monday, April 19, 1999 (selected as a sample day of service) were reviewed.

Of the six customers/advocates contacted before and during the on-site visit, only one mentioned travel time as a major issue. Concern was expressed about the long ride times that were a result of extensive grouping of trips. While this person noted that grouping was able to keep the cost of service low, and that funding was limited, concern was expressed for the few customers at the beginning of each tour who rode sometimes for two or more hours each way. A transportation coordinator at one local agency that was served regularly by A+ Link also noted that ride times were long. When asked if long rides were keeping people from participating in the program, this person noted that the rides were inconvenient to clients but were not causing people to leave the program or not participate.

During the two-week period from April 25, 1999 through May 8, 1999, the A+ Link service provided about 7,700 one-way trips under the ADA program. Of these trips, 7,444 (97%) were provided in 60 minutes or less. One hundred and twenty-nine (129) trips (or 1.7%) took between 61 and 90 minutes. Ninety-four (94) trips (or 1.2%) took between 91 and 120 minutes. Twenty-four trips (0.3%) took from 121 to 150 minutes, and 9 trips (0.1%) were longer than 150 minutes. Therefore, about 127 trips (1.6%) exceeded the maximum 60-90 minute travel time standard that LYNX has established for the service.

A review of the trips in excess of 90 minutes showed that these 127 trips were taken by 89 individual customers. For 73 of these customers, only one long ride was recorded. These are most likely single occurrences resulting from operational problems. For 16 customers, though, repeated long rides were recorded during this two-week period. A few of these long trips appeared to be for individuals going to work at various places. Several other long rides appeared to be associated with long group runs for certain work sites or human service programs. In particular, long rides for customers traveling to and from Goodwill Industries and the Veranda Rehabilitation Center were noted.

A review of trips taking more than 90 minutes for Monday, April 19, 1999 also identified several long group runs for customers going to work training programs. On this day of service, it was noted that 18 customers had rides of between 93 and 150 minutes traveling to Quest North,

Observations Regarding Telephone Capacity

As noted in the "Background" section of this report, the standard established for phone service for the A+ Link program is that the average hold time should not exceed two (2) minutes. The standard does not state over what period of time this average is to be calculated.

Information and observations on telephone service and capacity included:

- Input from customers and advocates contacted in advance of the assessment or while on-site;
- Information from the A+ Link telephone management reporting system; and
- First-hand observations in both the reservations office and the customer service/dispatch office.

None of the six customers and advocates contacted mentioned phone capacity as a major issue. It was noted as an inconvenience at times and there was a recognition that certain times (from 8-9 in the morning) were a busy time for reservations.

The telephone system used by LYNX monitors calls received and accepted, hold times, and calls abandoned. Telephone service is monitored separately for the reservations lines and the customer service/dispatch lines. While on-site, management reports for several selected days were obtained and reviewed. The reports obtained summarized calls for half-hour increments throughout the day. Table 6 on the following page summarizes the average daily hold time and the number of calls abandoned for each day reviewed. It also indicates the hold times and number of abandoned calls for the busiest periods of each day.

As shown, average daily hold times ranged from 1:31 to 4:16 for reservations. Five of the 7 weekdays analyzed were under 2:00 average hold and the other two days ranged from 2-3 minutes. Sunday, May 9 showed the longest average hold times for reservations. Hold times for customer service/dispatch ranged from 1:34 to 2:59 with three days under 2:00 and four from 2-3 minutes.

For reservations, about 4% of all calls are abandoned. For customer service, about 9% of calls received are abandoned. Our observations suggest that some calls to customer service are abandoned if customers are calling to check on a ride and either the vehicle arrives as they are checking or they hang-up to go look for the vehicle again.

While the average daily hold times were close to the established 2 minute standard (with the exception of one Sunday in reservations), there were periods of the day when hold times could become excessively long. In reservations, hold times were long first thing in the morning (8-9 am) and often during the noon hour. Hold times were also sometimes long between 2 and 4 pm.

Table 6. Summary of Telephone Service Information for Selected Days

Function/ Date	Average Hold Time (min:sec)	Total Calls Received	Calls Abandoned	Peak Hold Times
Reservations				
4/29/99 (Thursday)	1:31	421	6	From 8-8:30 am hold time was 2:39; From 2:30-3 pm hold time was 3:42
4/30/99 (Friday)	2:40	454	34	Hold time was 7:38 from 12:30-1 pm and 6:07 from 1:30-2 pm. Hold times were 3-4 minutes from 8-9:30 am and at times between 11 am and 4:30 pm
5/1/99 (Saturday)	2:57	170	7	Hold time was 8:35 from 2-2:30 pm and was 11:57 from 2:30-3 pm. Hold times were 3-4 minutes for several periods throughout the day.
5/3/99 (Monday)	3:05	675	38	Hold time was 6:48 from 2:30-3 pm and 5:16 from 3:30-4 pm. Hold time was 3-4 minutes for most of the rest of the day.
5/5/99 (Wednesday)	1:33	479	4	Hold time was 3:18 from 8-8:30 am.
5/6/99 (Thursday)	1:54	524	13	Hold time was 3-4 minutes from 11:30 am-1:30 pm and was 3:20 from 4-5 pm.
5/7/99 (Friday)	1:57	484	14	Hold time was 4:04 from 8-8:30 am and 3:09 from 1-1:30 pm.
5/8/99 (Saturday)	1:49	154	10	Hold time was 4:14 from 12:30-1 pm and 4:35 from 2:30-3 pm.
5/9/99 (Sunday)	4:16	59	6	Hold time was 6-12 min. for six different half hour periods and 3-6 min. for four other periods.
Customer Service/Dispatch				
4/29/99 (Thursday)	1:54	641	26	Hold time was 12:28 from 6:30-7 am and was 4-5 min. from 5-6 am, noon-1, and 9:30-10 pm
4/30/99 (Friday)	2:41	566	52	Hold time was 6:54 from 7-7:30 am and 4-5 minutes from noon-1:30 pm.
5/1/99 (Saturday)	2:16	285	33	Hold time was 7:10 from 6-6:30 am and 4-5 min. during 4 ½ hr periods from 2:30-8:30 pm
5/3/99 (Monday)	2:59	847	92	Hold time was 13:51 from 9:30-10 pm and 6-7 min. from noon-1 pm.
5/5/99 (Wednesday)	1:34	737	23	Hold time was 5-11 minutes from 9:30 pm to midnight.
5/6/99 (Thursday)	2:46	813	106	Hold time was 8:09 from 11:30 pm to midnight; 5:21 from 10-10:30 am; and 4:23 from 4-4:30 pm.
5/7/99 (Friday)	1:48	668	42	Hold time was 13:52 from 4:30-5 am; was 5-7 min. from 8-9 pm; and was 4:05 from 8-8:30 am
5/8/99 (Saturday)	2:04	375	48	Hold time was 4:20 from 5-5:30 pm
5/9/99 (Sunday)	2:29	251	30	Hold time was 5:32 from 5-5:30 am; was 4- min. from 6-8 pm; 4-7 min. from 10:30-11:30 pm.

In customer service/dispatch, hold times were longest in the early morning (4:30-8:00 am), around the noon hour, and late in the evening.

Our observations of the operations indicated that staffing issues did arise around the noon hour when many reservationists or customer service staff would break for lunch. We also observed the 8-9 am reservations "crunch" as TD trip requests for the next day were called-in. In the morning, staff from customer service would back-up the reservations staff. Reservationists would assist in dispatch in the afternoon.

Findings and Recommendations:

- 1. There appear to be certain days and times when phone capacity can cause customers to be inconvenienced. While this appears to be a clear customer service and quality of service issue, it does not appear to be serious enough to cause customers to not use the service. There appear to be many times of the day when trip requests can be made without delay. The busy reservation period appears to be well known by customers and is an issue for the TD program rather than for ADA service.*
- 2. LYNX should establish a more comprehensive standard for telephone service that can address peak period issues. The current standard does not address the period of time within which average hold times are to be evaluated. It should also indicate the goal for the amount of time that the standard is met. For example: Hold times less than two minutes for 95% of the half-hour periods measured. A maximum average hold time might also be considered. For example: No periods measured with hold times in excess of 5 minutes.*
- 3. Many of the periods when phone service is below desired standards appear to be related to staffing issues. This includes weekend times and lunch times during weekdays.*

Other Observations

During the course of the assessment, a number of non-capacity issues were noted that should be reviewed by LYNX to ensure full compliance with ADA regulations. These were:

- Page 3 of the "ADA Program Riders Guide" (see Attachment 1) states that "Reservations must be placed at least 24 hours in advance..." Next-day service, which is required by the regulations is technically different from 24-hour advance notice service. While we observed that LYNX does in fact provide next day service, the Riders Guide should be revised to avoid any confusion on this issue.
- Page 2 of the "ADA Program Riders Guide" states that, in addition to a personal attendant, "you may have companions travel with you, on a space available basis..." Please note that the regulations require that a personal attendant and one companion be accommodated at all times and that additional companions (beyond the one that is guaranteed) ride on a space available basis.
- Page 8 of the "ADA Program Riders Guide" states that "Children under the age of fifteen (15) must be accompanied by an adult." Unless there is a similar policy on fixed route for persons who do not have disabilities, this policy might be considered discriminatory. According to staff, the fixed route system has no comparable age limit.
- The no-show policy could be considered too restrictive. First, no-shows are defined to include trips that customers cancel less than 4 hours before the scheduled appointment time. Given that this is an advance reservation service and that plans and appointments will change, considering a cancellation that is called in 2-3 hours in advance as a no-show could be viewed as a very liberal interpretation of the concept of no-shows. Given that the vast majority of trips are pre-routed, it is also unclear what operational advantage is gained by having notice of a trip cancellation 4 rather than 1-2 hours in advance. We observed that most of the re-routing of trips occurred 1-2 hours in advance of scheduled appointment times. Second, the Riders Guide should also note that customers are charged with no-shows only if circumstances are within their control (in keeping with Section 37.125(h)(1) of the regulations). The no-show warning letter that we reviewed only made allowances if customers were in the hospital and could not call in a cancellation. Third, the no-show policy does not indicate how a "pattern" of service abuse is determined. Over what period of time do four no-shows result in a two-week suspension? After the 4th no-show and two-week suspension, does a single no-show (the 5th occurrence) result in an additional 30-day suspension? And, does one more (the 6th occurrence) result in a one year suspension? Over what period of time are the 5th and 6th no-shows considered? Fourth, going from a 30-day suspension for 5 occurrences to a one year suspension for a 6th occurrence could be considered an unreasonable penalty. The regulations require that suspensions be for a "reasonable period of time." Finally, mention of service suspension for no-shows should also include information about an appeals process.

- Page 4 of the “ADA Program Riders Guide” suggests that reservationists will schedule specific pickup times and then asks customers to “be ready and waiting for the driver 15 minutes before the pickup time you are given.” This is not consistent with the service policy as described by staff or the actual practice that we observed. Once customers stated an appointment time, they were asked to be ready 60-90 minutes before this appointment time and told that the vehicle could arrive any time within that period. This apparent inconsistency in the Riders Guide could be causing misunderstandings between operations and customers.

Summary of Findings and Recommendations

Summary of Findings

Based on the data that was collected and reviewed, and on on-site observations and conversations with local customers and advocates, the LYNX A+ Link ADA Complementary Paratransit service appears to meet several elements of the capacity constraints requirements. Specifically, the ADA Complementary Paratransit service:

- appears to accept all trip requests made by persons who have been determined ADA Complementary Paratransit eligible and whose trips are eligible.
- appears to not have any waiting lists for ADA Complementary Paratransit eligible trip requests.
- appears to have travel times that are reasonable and not excessive for the vast majority of ADA Complementary Paratransit trips. Travel times for some customers on group runs to local agency programs are quite long, however, and should be reviewed by LYNX with customer and agency input. It does not appear, however, that the travel times for these group trips is limiting service to customers.
- appears to provide phone service that is somewhat inconvenient to customers, but which does not appear to be a capacity constraint. LYNX may wish, however, to address phone capacity as a general customer service issue.

The assessment identified some aspects of the A+ Link ADA Complementary Paratransit service which do appear to impact significantly on the potential use of the service. These areas, which should be reviewed by LYNX, include:

- the practice of making certain applicants for A+ Link service eligible for TD service only based on stated trip needs. LYNX should review all applicants for ADA Complementary Paratransit eligibility unless applicants specifically indicate they are seeking only TD service eligibility. The advantages and limitations of both types of service should also be clearly explained if applicants are asked to indicate their desired eligibility. Corrective actions, as noted in the eligibility section of this report, should be taken for persons who have been determined TD eligible only in the past.
- the letters used to notify applicants of eligibility determinations. For applicants determined not to be ADA Complementary Paratransit eligible, determination letters should include specific reasons why this decision was made. Information about the eligibility appeals process should also be provided.
- on-time performance in some parts of the service area. One (and possibly two) of the service providers appear to be late for about 20% of all trips provided.

- the standard used to determine on-time performance. Customers appear to be arriving more than 30 minutes early to appointments 23% of the time and more than 45 minutes early about 6% of the time. Some consideration should be given in the service monitoring process to excessively early arrivals. Also, the standard for ADA Complementary Paratransit that sets a goal of 85% on-time performance is somewhat below the level of service typically adopted for transit programs.
- the standard used by LYNX to assess telephone service should be strengthened to better account for variations in the level of phone service at specific times of the day.

Summary of Recommendations

As part of the assessment, a number of service issues and possible approaches to service improvement were raised by staff, contractors, and customers. They are listed below for LYNX's information and consideration.

1. All five vehicles identified by Seminole Transportation as spares were sedans. Some accessible spares should be available at all carriers.
2. It was noted that a large number of the lift-equipped vehicles in the fleet had "short" roof caps that did not provide for stand-up headroom in the vehicles. Ambulatory entrance for these vehicles was also either through the front passenger door (which involves maneuvering around the "buddy seat") or as a standee on the lift (with low headroom). Entrance and exit for customers who are semi-ambulatory is particularly difficult. These vehicles are often used in ambulatory service to help with grouping and productivity. LYNX should consider including vehicles in the fleet (such as full-raised-top vans or minibuses) that can more adequately serve both ambulatory and non-ambulatory customers.
3. The 60-90 minute pick-up window, which requires that customers be ready for the vehicle to arrive an hour to an hour and a half before their appointment time, is somewhat outdated for larger systems. Most larger systems use more advanced scheduling software that can give customers a more exact idea of the pick-up time. Shorter "ready windows" (typically 30 minutes) can then be used around the agreed upon pick-up time. Such systems are much more customer friendly and result in less confusion about vehicle arrival times.
4. It appears that the dispatch function could be improved with improved and integrated technology. A common system at LYNX and all of the service providers would seem to improve information sharing and communications between LYNX's central dispatch function and the service providers.
5. If appointment and/or return pick-up times are adjusted in the scheduling process, a way to indicate on the manifests the originally requested time should be developed. This will help ensure that providers and customers have a similar understanding of agreed upon drop-off and pick-up times.

6. Current contracts could be more specific about the role of the centralized dispatch service provided by LYNX. For example, contracts should more formally define when service providers should refer "problem trips" back to central dispatch. They could also specify when all "999" trips should either be scheduled or "RTOed." More formal contractual arrangements should also be developed with local taxi companies for back-up service. It was observed that taxi companies provide back-up service "at their pleasure" and can refuse trips that are referred by LYNX.
7. On-time and travel time information should be collected from taxi companies for the trips that are "cabbed." Better monitoring of this part of the service should be developed.
8. Given the many companies involved in the service, periodic "Manager's Meetings" (perhaps bi-weekly) could be sponsored to address recent service issues. To focus these meetings on system issues (rather than provider specific problems/exceptions), agenda items could be requested in advance from providers. This type of cooperative process and open communication has been successful in other systems.

Jacksonville Transportation Authority (JTA)

Assessment of ADA Paratransit Service Capacity Constraints

June 8-11, 1999

Summary of Observations

Prepared for

**Federal Transit Administration
Office of Civil Rights
Washington, D.C.**

Prepared by

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May 30, 2000

CONTENTS

Purpose of the Assessment	1
Background	2
Overview of the Assessment	6
Observations Regarding Trip Denials	9
Observations Regarding ADA Paratransit Eligibility Determination ...	13
Observations Regarding On-Time Performance	17
Observations Regarding Trip Length	27
Observations Regarding Telephone Capacity	29
Other Observations	33
Summary of Findings and Recommendations	35

- Attachment 1. Duval County CTC "Riders Guide"**
- Attachment 2. Original On-Site Assessment Schedule**
- Attachment 3. Summary Service Statistics Provided by JTA**
- Attachment 4. Most Recent JTA/Intelitran Contract Extension Letter**
- Attachment 5. Intelitran/CTS Combined ADA and TD Eligibility Application Form**
- Attachment 6. Reduced Fare Program Information**
- Attachment 7. Sample Manifests Showing Unrealistic Scheduling**
- Attachment 8. Scheduling System Parameters**
- Attachment 9. Telephone MIS Reports**

Purpose of the Assessment

Public entities which operate fixed route transportation services for the general public are required by the U. S. Department of Transportation (USDOT) regulations implementing the Americans with Disabilities Act of 1990 (ADA) to also provide complementary paratransit service for persons who, because of their disability, are unable to use the fixed route system. These regulations (49 CFR Parts 27, 37, and 38) include six service criteria which must be met by complementary paratransit service programs. Section 37.135(d) of the regulations requires that paratransit services meet these criteria by January 26, 1997.

The Federal Transit Administration (FTA) is responsible for ensuring compliance with the ADA and the USDOT regulations which implement this civil rights law. As part of its compliance efforts, FTA, through the FTA Office of Civil Rights, conducts periodic assessments of fixed route transit and complementary paratransit services operated by grantees.

An on-site assessment of complementary paratransit service provided by the Jacksonville Transportation Authority (JTA) was conducted June 8-11, 1999. The assessment was conducted for the FTA Office of Civil Rights by JDG Associates, Inc. of San Antonio, Texas and Multisystems, Inc. of Cambridge, Massachusetts. The assessment focused on compliance of the JTA ADA paratransit service with one specific regulatory service criteria - the "capacity constraints" criteria. Section 37.131(f) of the regulations requires that complementary paratransit services be operated without capacity constraints.

This report summarizes the observations and findings of the on-site assessment of JTA's ADA paratransit service. A description of key features of the JTA ADA paratransit service is first provided. A description of the approach and methodology used to conduct the assessment is then provided. Observations and findings related to each element of the capacity constraint criteria are then summarized.

As the assessment of paratransit capacity constraints was being conducted, other service compliance issues were noted. These included service policies and practices that may need to be reviewed for compliance with other parts of the regulations. These additional observations and findings are presented in the "Observations Regarding Other Issues" section of this report.

Finally, the major findings of the assessment are summarized in the last section of this report. Some recommendations of the review team for addressing issues identified are also provided.

Background

The Jacksonville Transportation Authority (JTA) provides public transit services in the greater Jacksonville area. This includes both fixed route and paratransit service. ADA paratransit service is provided as part of a countywide, coordinated paratransit program called the Community Transportation System (CTS). Intelitran, a private, for-profit company that serves as an administrative broker, manages the CTS.

The CTS program combines three separate paratransit services. These include:

ADA complementary paratransit service for the JTA. This service is provided to persons determined ADA paratransit eligible by the Intelitran staff. The service is described in more detail below.

Agency-sponsored transportation. Under Florida law, a County Transportation Coordinator (CTC) is designated in each county. All local and regional agencies, which provide or purchase transportation with state funding are required to coordinate their efforts through the CTC. Intelitran serves as the CTC for Duval County (which includes Jacksonville). As part of this program, Intelitran has contracts with several human service agencies to coordinate the provision of transportation for clients. The most significant agency client services provided are medical transportation for Medicaid clients, and daily transportation to work and work training programs for clients of mental health, mental retardation, and rehabilitation services.

Transportation Disadvantaged (TD) "non-sponsored" service. The Florida Commission provides funding to local CTSs for the "Transportation Disadvantaged (FCTD). This funding is used to provide transportation for persons who are determined "transportation disadvantaged." Persons eligible for this service include seniors, persons with disabilities, persons with low-incomes, and children at risk, who do not have access to publicly-funded transportation and who do not have or cannot afford private transportation. Because the TD program is intended to provide for transportation that is not available from other agencies or sources, it is often referred to as the "non-sponsored" transportation service. A Local Coordinating Board (LCB), comprised of local human service agency representatives and local officials, establishes policies for the TD program. In Duval County, the LCB has set service priorities for the TD program. As described in the Duval County TD Coordinating Board Handbook for 1999, highest priority is given to trips for life-sustaining medical services, including dialysis, chemotherapy and radiation. Second priority is given to trips for other medical services. Third priority is given to trips to school and to work. Fourth priority is given to trips for social/shopping/recreational purposes. Intelitran staff noted that funding for the TD service is limited and that trip priorities are used for this service when demand exceeds available funding (note that this is not the ADA paratransit service).

Description of the ADA Paratransit Service

The JTA contracts with Intelitran to provide ADA paratransit service as part of the overall Community Transportation System. Based on information in the "Duval County Community Transportation Services Rider's Guide," ADA paratransit service levels and policies include:

Service Area: ADA paratransit service is provided to all trips with origins and destinations within $\frac{3}{4}$ of a mile of JTA non-commuter fixed routes

Days and Hours: ADA paratransit service is provided Monday through Saturday from 5:00 am until 10:30 pm. Sunday and holiday service is provided between 5:30 am and 8:30 pm.

Response Time: Trip requests must be placed Monday through Friday, from 8:00 am to 5:00 pm. The reservation office is not open on weekends or on holidays (including New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas). Reservations must be placed one day in advance and are accepted up to 14 days in advance.

Fares: Depending on trip length, ADA paratransit fares are either \$1.25, \$1.50, or \$2.25 per one-way trip.

Trip Purposes: All trip purposes are served without prioritization.

All trip requests are received at a central reservations and scheduling office. The central reservations/scheduling function is staffed by Intelitran employees. After all trip requests have been received on the day before the day of service, manifests are prepared for established runs for each contracted service provider. An automated scheduling system assigns requests to these designated runs. Schedulers review the manifests and make final adjustments before they are given to the service providers. Trips that are not assigned by the automated system to a run are referred to a taxi company. Schedulers also review and revise standing order trips and overall run structure on an ongoing basis.

When customers call, they are asked to provide their desired arrival or appointment times for the "going trip" and the desired pick-up time for their "return trip." On the going trip, customers are then usually asked to be ready to be picked-up 60 minutes prior to their stated appointment/desired arrival time. Sometimes, for long trips, a pick-up time more than 60 minutes prior to the appointment may be given. For return trips, customers are asked to be ready from their scheduled pick-up time until the vehicle arrives.

CTS vehicles are operated by three private contractors. The service area is divided into three zones and each contractor is assigned trips that originate in that area. These contractors, Contractors and the number and type of vehicles operated by each, at the time of the review, are shown in the table below.

Table 1. CTS Contract Carriers and Fleet Information

Contracted Carriers	Vehicles
Browning Transportation	6 school buses 4 standard vans 20 lift-equipped vans
Buggs Transportation, Inc.	6 sedans 17 lift-equipped vans
Dan Beth Medical Supply Company	14 sedans 28 lift-equipped vans

Each contract carrier is responsible for hiring, training, and supervising drivers, for providing trips as scheduled by Intelitran, for operating service in accordance with LCB and Intelitran policies, and for maintaining vehicles. Each contract service carrier has its own dispatcher or dispatchers who oversee daily operations.

On the day of service, if customers need to cancel or change trips, or need to check on a ride, they call a central customer service/dispatch office that is staffed by Intelitran employees (located together with the central reservations and scheduling office). For "Where's my ride?" calls, the Intelitran dispatcher will contact the service provider dispatcher while the customer is on hold. The service provider dispatcher will then contact the driver for an ETA. Information is then relayed back to the customer through the Intelitran customer service/dispatcher. Cancellations and trip changes are recorded and then relayed to the appropriate service provider by the Intelitran staff.

If scheduling or service delivery problems arise during the day, service provider dispatchers are able to refer trips back to the central Intelitran dispatch office. Intelitran dispatchers will then attempt to get another service provider to accept the trip. If no other provider is able to serve the trip, it will be referred to a taxi company and served at meter rate. Intelitran encourages service providers to use this centralized back-up system if operational issues or scheduling problems are encountered. Service providers are asked to refer trips back to Intelitran dispatch at least one hour before the appointment time so that alternatives can be arranged without delaying the trip.

The central Intelitran office also takes all calls for general service information, handles eligibility determinations, takes all customer comments and complaints, and manages and administers the overall system.

A copy of the Duval County "Community Transportation Services Rider's Guide" is provided as Attachment 1.

At the time of the assessment, the overall CTS service was providing about 61,000 one-way trips per month, of which about 17,500 trips were for the JTA's ADA paratransit program.

Policies and Service Standards Related to Capacity Issues

The LCB has established several service standards and policies related to on-time performance, travel time, and phone capacity for the CTS service. These are included in Appendix G of the "1999 Duval County Transportation Disadvantaged Coordinating Board Handbook." The JTA accepts these standards for its ADA paratransit service. Standards are described below.

On-Time Performance: On-time performance is defined as trips where customers arrive at their destinations no later than their desired arrival/appointment time. The goal established for on-time performance is 75% of trips provided. This goal applies to all contract service providers. It does not apply to taxi trips.

Travel Time: The Handbook states that "Whenever possible, the length of time a passenger is on a vehicle should be one hour or less. Particular care shall be taken when scheduling return trips for dialysis patients, to minimize the length of the trip."

Phone Capacity: The handbook states that "Call in-take will be monitored to ensure that callers are not on hold for more than 4 minutes at any time of day."

The Handbook for the CTS service does not include a standard regarding trip denials or missed trips.

Overview of the Assessment

As noted above, this assessment focused on compliance with the paratransit capacity constraints requirements of the regulations. Several possible types of capacity constraints are identified by the regulations. These include "wait listing" trips, or patterns or practices which result in a significant number of trip denials, untimely pick-ups, or excessively long trips. Capacity constraints also include other operating policies or practices which tend to significantly limit the amount of service to persons who are ADA paratransit eligible.

To assess each of these potential types of capacity constraints, the assessment focused on observations and findings regarding:

- trip denials and "wait listing" of trips;
- on-time performance; and
- travel times.

Observations and findings related to two other practices and policies that can affect paratransit use were also developed. These included:

- determinations of ADA paratransit eligibility; and
- telephone capacity.

ADA paratransit eligibility determinations were assessed to ensure that system use was not impacted by inappropriate denials of eligibility for the service. Telephone capacity was assessed because access to reservations and customer service staff is a critical part of using a paratransit service.

The assessment first involved the collection and review of key service information prior to the on-site visit. This information included:

- a description of how the JTA's ADA paratransit service is structured;
- copies of current service provider contracts;
- a copy of the operator manual which details service policies and practices to drivers and employees;
- the "Rider's Guide," which details service policies to customers; and
- a description of the service standards adopted by JTA related to on-time performance, trip denials, travel times, and telephone service.

Additional information was requested to be available during the on-site visit. This included:

- copies of completed driver manifests for recent months;
- six months of service data, including the number of trips requested, scheduled, denied, canceled, no-shows, missed trips, and trips provided;

- a breakdown of trips requested, scheduled, and provided in defined areas served by the JTA;
- detailed information about any trips denied in the last six months including origin and destination information, day and time information, and customer information;
- detailed information about trips in the last six months that exceeded the travel time standard set by the JTA;
- telephone call management records; and
- a listing of recent customer complaints related to capacity issues (trip denials, on-time performance, travel time, phone access).

In addition to the review of data, the assessment team also conducted telephone interviews with three human service agency staff persons whose clients frequently use the ADA paratransit service. The Chairperson of the JTA's Citizens' Advisory Committee was also interviewed.

The on-site assessment began with an opening conference, held on Tuesday, June 8 at 9:00 am. In attendance were: Mr. Michael Blaylock, JTA Director, Mr. Danny Ours, JTA Deputy Director, Mr. Darrell Smith, JTA Manager of Service Planning, Ms. Janice Sampson, JTA Contract Compliance Administration, Ms. Joyce O'Brien, Intelitran General Manager, Mr. Darryl Mauney, Intelitran Manager, Ms. Denise Bunnewith, Senior Planner for the City of Jacksonville, and Mr. Jim Bowen, Chairman of the JTA Citizens' Advisory Committee (CAC). Representing the FTA review team were Ms. Donna Gonzalez and Ms. Linda Armstrong of JDG Associates, Inc., and Mr. Russell Thatcher of Multisystems, Inc. Mr. Frank Billue, FTA's Region IV Civil Rights Officer, participated in the opening conference by telephone. Mr. Billue opened the meeting by explaining the purpose of the ADA assessments being conducted by FTA. He thanked JTA staff for their assistance in providing the information requested and with on-site visit arrangements. Donna Gonzalez and Russell Thatcher then reviewed the proposed assessment schedule. A copy of the original review schedule is provide as Attachment 2. Final arrangements and plans were made for the staff and departments which would be visited each day. Mr. Blaylock explained the structure of coordinated paratransit in Duval County and the history of ADA paratransit service. He also noted that the City is conducting a service review and that they have begun a review process with the community. Ms. Denise Bunnewith explained the roles of various organizations in the coordinated program. She also noted that an effort has been undertaken to promote fixed route service as a way to manage the growing need and demand. She noted that the system serves 4,500-4,700 unduplicated riders per month. Mr. Jim Bowen then reviewed some of the service issues from a customer perspective. He noted, in particular, on-time performance issues and apparent problems recruiting and retaining drivers.

Following the opening conference, the assessment team met with Mr. Danny Ours to review service issues. The team then met with Ms. Joyce O'Brien and Darryl Mauney and reviewed the data that had been made available in advance and the data that was available on-site. The team was then given a tour of the central Intelitran administrative offices, which included a review of the reservation and scheduling systems, customer service/dispatch area, and introductions to other administrative staff. As part of the tour, the automated reservations/scheduling/dispatch system used by Intelitran was explained.

On Wednesday, June 9, the review team observed the reservations process at the central office and data on the handling of trip requests was collected. The three assessment team members sat with three different reservationists and recorded calls as they were received. The handling of trip requests was recorded. Eligibility records were also reviewed and the eligibility determination staff was interviewed. On the afternoon of the 26th, the customer service/dispatch function was observed at the central office and data on service issues was collected. The scheduling process was also reviewed and run manifests for Thursday, May 27 were obtained.

On Thursday, June 10, the dispatch and operations of the three contract carriers was observed. Several runs were randomly selected for each provider and drivers performing those runs were asked to radio in the exact times of each pick-up and drop-off. On-time performance was observed in this way for both the morning and afternoon peak periods.

Throughout the week, the service data provided by the JTA was reviewed and analyzed. A major part of the review involved developing on-time performance statistics from a sample day of service. From the completed driver manifests made available by the JTA, the assessment team selected Wednesday, May 12 for this detailed analysis. Actual pick-up and drop-off times recorded by drivers were compared to pick-up and drop-off times scheduled. Scheduled times were also compared to pick-up and appointment times initially requested by customers.

The exit conference was held at 3:00 pm on June 11. The assessment team presented preliminary findings and discussed these findings with JTA, City, and CAC representatives.

Observations Regarding Trip Denials

As indicated in the "Overview of the Assessment" section of this report, information regarding trip denials and "wait listing" of trips was collected in three ways. These were:

1. A review of service statistics provided by JTA for the ADA paratransit program;
2. First-hand observation of trips requested and trips scheduled in the reservation and scheduling process; and
3. Interviews with customers and advocates.

JTA Service Records

Summary statistics on the ADA paratransit service from November 1998 through April 1999 were obtained from the JTA. These statistics show total trips requested, trips scheduled, and trips provided for the period. A copy of the summary service information is provided in Attachment 3. Information was also obtained from Intelitran, the service broker, about the number of trips provided and the number of trips denied for the period from January 1997 through April 1999. This information is provided below in Table 2.

While there is a slight discrepancy in the reported number of trips provided between the JTA and Intelitran, the reports indicate that there have been no denials of ADA trip requests since October of 1998. There were trip denials, however, from March of 1997 through September of 1998. During some months, the number and percentage of denials was quite high, reaching 15.6% in both August and September of 1998.

Funding of ADA Paratransit Services

According to the JTA staff, the elimination of trip denials after September 1998 was a result of an increase in the budget for the ADA paratransit service. To review the history of funding of ADA paratransit services, copies of the contract between the JTA and Intelitran for ADA paratransit service were obtained and reviewed. The original contract was dated February 18, 1991 and extended through September 30, 1992. Since October of 1992, single year extensions of the contract have been executed. A copy of the most recent contract extension, which is valid through September 30, 1999, is provided as Attachment 4.

Table 2. ADA Paratransit Trips Provided and Denied, January, 1997-April, 1999

Month, Year	ADA Trips Provided	ADA Trips Denied
January, 1997	11,258	0
February	10,528	0
March	11,128	77
April	11,665	152
May	11,875	543
June	11,249	972
July	10,686	1,325
August	10,476	1,650
September	9,607	1,672
October	11,378	1,648
November	10,135	1,087
December	10,435	824
January, 1998	11,120	897
February	10,493	211
March	13,009	346
April	10,060	365
May	9,985	472
June	11,386	987
July	10,275	1,203
August	9,907	1,835
September	10,009	1,854
October	13,040	0
November	12,863	0
December	12,383	0
January, 1999	13,372	0
February	13,800	0
March	15,816	0
April	14,876	0

Table 3. Monthly and Annual Budget Maximums for ADA Paratransit Service

Fiscal Year	Monthly Budget Maximum	Annual Budget Maximum
10/1/91-9/30/92	\$71,000	\$750,000
10/1/92-9/30/93	\$110,000	\$1,460,000
10/1/93-9/30/94	Not indicated	\$1,460,000
10/1/94-9/30/95	\$157,500	\$2,100,000
10/1/95-9/30/96	\$147,250	\$1,860,000
10/1/96-9/30/97	\$155,000	\$1,860,000
10/1/97-9/30/98	\$155,000	\$1,860,000
10/1/98-9/30/99	\$196,666	\$2,360,000

Each annual contract extension specifies a maximum annual amount for ADA paratransit service. The letters also indicate a maximum monthly amount that can be billed. Table 3 above shows the annual and monthly budget maximums for ADA paratransit budget from FY91/92 through FY98/99 (the current year).

Intelitran bills the JTA for service on a "grid" basis. For each trip provided, the number of grids to be billed is determined based on the length of the trip. The "grids" refers to the number of map grids traversed by the trip. Essentially, then, the payment basis combines trips and miles. The greater the number of trips provided, the more that is billed (assuming that average trip length and grids per trip remain fairly constant).

Given the contract funding maximums, Intelitran tracks the funding available each month for ADA paratransit service. A screen that shows available funding is available to reservationists. Prior to October of 1998, this information was used by reservationists to decide if ADA trip requests could be accepted. Since October 1998, Intelitran staff indicated that the JTA wants all ADA trips served, and reservationists do not deny trips based on available ADA funding.

Funding was apparently adequate to meet all expressed ADA paratransit demand through FY95/96. In FY96/97, however, while the service was level-funded, demand increased and trips began to be denied (beginning in March, 1997). Despite a systemwide trip denials rate between 11-15% between July of 1997 and September of 1997, the service was again level-funded for FY97/98. As noted above, denials increased significantly toward the end of the last fiscal year. In response, the budget was increased by \$500,000. This has apparently been adequate to meet all expressed demand through April 1999.

It is important to note that, in the current fiscal year, Intelitran has billed a total of \$1,499,175 for the first seven months of the year (or an average monthly amount of \$214,168). A total of \$860,825 (or \$172,165 per month) remains for the rest of the fiscal year. It was noted that monthly service use has in the past been lower during the summer months. It would have to be significantly lower, though, for all trips to continue to be served this year.

Reservations/Scheduling Observations

As part of the on-site assessment, the trip reservations process was observed during the peak morning request time (8:00 am until 10:00 am) on Wednesday, June 9th. Requests being taken by three different reservationists were recorded and the handling of these requests was noted. Information collected for each request included the date of the trip being requested, the time requested, the customer's name and type of eligibility, the origin and destination, whether the customer was ambulatory or uses a wheelchair, and whether the trip was scheduled, denied, or wait listed. If trips were scheduled, the time scheduled was also noted to determine if times offered were within one hour of the times requested.

Information for a total of 70 round-trip requests (140 one-way trip requests) was collected. All ADA trip requests observed were accepted for scheduling by the reservationists.

It was also noted that a reasonable percentage of trip requests were for service on the next day. Twenty round-trip requests (28%) were for the next day (June 10). Another 23 requests (33%) were for trips from 2-7 days in advance. The final 27 requests (39%) were for trips from 8-14 days in advance. While a higher percentage of trips from 1-7 days in advance might be expected, this distribution indicates that customers feel comfortable waiting until the day before to place trip requests. The relatively high percent of requests from 8-14 days in advance could be due to the high percentage of medical trips provided. It might also be due to a lingering sense of need to place trips well in advance by customers who may still remember significant trip denials last fiscal year.

Customer/Advocate Interviews

As part of the assessment, four customers and local agency staff were interviewed by phone for input about the service. Those contacted included paratransit riders, human service agency staff persons, and members of local advocacy organizations.

Input was requested specifically about capacity constraint issues, including trip denials and "wait listing" of trips. While several of those contacted expressed concern about on-time performance and other issues, none indicated that trip denials or "wait listing" were concerns for customers who are determined ADA paratransit eligible. One person mentioned that it was difficult to get standing order trips for clients, but said that clients could call for each trip if a standing order was not provided.

Findings

1. *Based on data provided by the JTA and contractors, on-site service observations, and customer/advocacy interviews, there do not appear to be any significant current denials of trips requested by persons who are ADA paratransit eligible.*
2. *Based on data reviewed and first-hand observations, the JTA does not appear to "wait list" any ADA paratransit eligible trip requests.*
3. *There have been significant trip denials in the past and if the practice of limiting trips based on monthly budget maximums is reinstated, there could be denials in the future. To avoid past budget problems, the JTA should develop an approach for more accurately forecasting demand each fiscal year. A procedure/policy for addressing funding needs should demand begin to exceed predicted levels early in the fiscal year should also be considered.*

Observations Regarding ADA Paratransit Eligibility Determination

As described in the "Background" section of this report, Intelitran makes determinations of eligibility for both the JTA's ADA paratransit service and the countywide TD service. Eligibility for agency-sponsored service is determined by each organization that purchases transportation from Intelitran as part of the CTS system. Eligibility for the ADA and TD services is determined using the same four-page application form (see Attachment 5). Using the information in the single, combined application form, Intelitran staff determines if applicants are eligible for ADA service, TD "non-sponsored" service, or both.

On Tuesday, June 8, the review team met with and interviewed the Intelitran staff person responsible for reviewing applications for service eligibility. The logic and process used to make determinations was discussed, and questions about ADA paratransit eligibility concepts were asked. From this interview, it appeared that the staff person assigned to eligibility determination had a good understanding of ADA paratransit eligibility. She understood the issues of basing decisions on functional abilities, considering most limiting conditions, and conditional eligibility.

In this interview, the staff person noted that it is the JTA policy to limit ADA paratransit eligibility to persons who live in the ADA paratransit service area. Page 1 of Appendix G of the 1999 Duval County TD Handbook appears to confirm this policy. It states that "Disabled persons living within $\frac{3}{4}$ mile of a bus route but not capable of utilizing the fixed route service are eligible for the complementary paratransit service of the Jacksonville Transportation Authority." Several examples were noted where applicants were given TD eligibility only because they lived outside of the $\frac{3}{4}$ mile corridors. Based on the information in these applications, these individuals appeared to be ADA paratransit eligible.

One determination also pointed out a possible misinterpretation in a question in the application. The applicant indicated that they used a manual wheelchair and crutches, and indicated that they could not use JTA fixed route buses. In response to the first question in Section E of the application, which asks "Is there any condition which the community transportation provider should be aware of?" the person indicated "none." This answer was interpreted to indicate that the person did not have a disability and the applicant was denied eligibility. Question 1 of Section E is apparently supposed to be used by applicants to indicate disability information. The wording of the question, though, is quite vague.

The Intelitran staff person indicated that she receives 7-15 application a day (about 200 per month). Formal statistics on the number of applications approved by program and the number denied were not available. Based on the sample of applications from April and May, there appeared to be very few denials of eligibility.

It was noted that when applications are incomplete, applicants are contacted by phone and missing information is verbally requested. The application is then put "on hold" until additional information is received. There is no written follow-up for incomplete applications.

It was also noted that there is no written documentation of the determination. Applicants who are denied do not receive a letter of any kind. Applicants who are approved are notified by phone and sent a Rider's Guide. Their eligibility is then entered into the computer customer file.

The application form also appears to gather limited information. For example, for persons with mobility disabilities, the only information obtained is: (1) whether or not the person can use accessible buses, (2) how far they can travel with and without a mobility aid, (3) what type of mobility aids they use, and (4) if they need a personal assistant. No information is obtained about the impacts of environmental or architectural barriers on the ability of applicants to get to and from fixed route stops. The decision therefore appears to be geared to the ability to "use accessible buses" rather than the functional ability to get to and from fixed route stops (commonly recognized to be the most difficult part of using fixed route service).

The Intelitran staff person also appears to have limited time for making eligibility determinations. In addition to reviewing about 200 applications per month, she also serves as the supervisor for the reservations process, as is the secretary for the company Vice-President. Decisions therefore appear to be made based mainly on information in the application, with limited follow-up with professionals or applicants.

Reduced Fare Program

Intelitran also makes eligibility determinations for JTA for their reduced fare program. A copy of the application material for this program is provided in Attachment 6.

Through interviews with staff, it was determined that if individuals who are ADA or TD eligible apply for and receive a reduced fare card, a notation is added in their file that they have this pass. This note then appears on the "Daily Trip Entry" screen each time the customer calls for a paratransit ride. If reservationists see that the person calling for a paratransit ride has a reduced fare card, they are instructed to ask the customer why they are not able to use the bus for that trip.

This process appears to be a simplified way of implementing trip eligibility. Application for a reduced fare card is used as a way to identify customers who can use fixed route service -- at least for some trips. Once customers have received a reduced fare card, they must then indicate each time they call for a paratransit trip why they cannot use the bus. The reservationist might then make a decision on the trip's eligibility based on what is verbally indicated.

While this process does not appear to result in many denials of trips by reservationists, it does establish a procedure that could very easily be used inappropriately. As noted above, the initial application form contains little information about conditions of eligibility and there are no formal

determinations that actually set conditions of eligibility. There is therefore no information on file about the person's functional abilities that can be used to compare to any reasons that might be stated for the need for a paratransit ride. In the absence of any conditional eligibility information, developed through a formal eligibility process (which must include a chance to appeal any conditions of eligibility that are set) Intelitran staff is ill suited to judge trip eligibility from verbal responses to questions of need asked in the reservation process. The process does create a situation which could easily result in reservationists making inappropriate determinations of eligibility. The Intelitran manager noted that if this were to occur and the person called her or another supervisor to question the reservationists decision, they would ensure that the person received a paratransit ride. This places the burden on the customer to call and appeal the decision. The supervisor or manager would also not have information on which to base a trip eligibility decision. If the policy would be to automatically overturn any denials of trip eligibility made by reservationists, the logic and utility of the entire process must be questioned.

Findings:

1. *The JTA and LCB should revise their policy of using place of residence to make eligibility determinations. Determinations of ADA paratransit eligibility should be made on the basis of functional ability to use fixed route service, regardless of place of residence. Location is only an issue in determining if specific trip requests are ADA paratransit eligible. Applicants denied ADA paratransit eligibility in the past due to place of residence should be notified and decisions revised as appropriate.*
2. *In accordance with Section 37.125(d) of the USDOT's ADA regulations, determinations concerning eligibility must be made in writing. For determinations that limit eligibility (denials, TD only, or conditional ADA eligibility) the written notification must contain the specific reasons for the decision. In accordance with paragraph (e) of the same section, documentation of eligibility must also be provided to persons determined eligible for ADA paratransit service. The documentation must include the name of the eligible individual, the name of the issuing transit provider, the telephone number of the transit provider's paratransit coordinator, an expiration date for eligibility, and any conditions or limitations on the individual's eligibility including the use of a personal attendant. Appropriate documentation should be provided to all person who have been determined ADA paratransit eligible in the past.*
3. *The application process appears to be very informal and loosely administered. In addition to the lack of documentation noted above, there do not appear to be thorough statistics regarding determination outcomes. Also, the application form requests limited information and limited staff time is allocated to this function. The entire process, as currently administered, creates a situation where inaccurate decisions can easily be made. This could include decisions that may not "strictly limit" the issuance of ADA paratransit eligibility as required by Section 37.125 of the regulations (and which inflate ADA paratransit demand) as well as decisions which may not appropriately protect the rights of eligible applicants. It*

is recommended that the JTA thoroughly review the entire process used by Intelitran to determine ADA paratransit eligibility.

- 4. The process of highlighting customers' reduced fare eligibility on paratransit trip reservation screens and informally questioning trip eligibility of those who have reduced fare privileges should be reviewed. Without more detailed conditional eligibility information obtained through the eligibility process, this procedure only subjects these customers to a second, informal trip eligibility review without any basis for deciding if the reasons stated for the need for paratransit are valid. At worst, this continual questioning of the validity of the person's trip requests might be viewed as a practice to discourage these persons from calling for paratransit service.*

Observations Regarding On-Time Performance

The observation and review of on-time performance was conducted in the following ways:

- Input on issues related to on-time performance was obtained from customers, advocates, and local human service staff;
- On-time performance statistics reported by Intelitran and the JTA were reviewed;
- Completed driver manifests for Wednesday, May 12, 1999 were obtained and the appointment and pick-up times originally requested by customers were obtained from Intelitran's computer database. Requested, scheduled, and actual pick-up and drop-off times for this randomly selected day of service were then analyzed.
- Dispatch was observed first-hand at each of the three contract service provider locations for the morning and afternoon peak periods on Thursday, June 10.

As noted in the "Background" section of this report, the JTA accepts the on-time standard adopted by the County LCB, which is:

- For the "going trip," drop-offs that are on or before the scheduled appointment (or desired arrival) time.

A goal of 75% on-time has been adopted. The standard does not consider late pick-ups for return trips, very early arrivals at a destination, or arrivals for a "going" pick-up that are before the 60+ minute "ready window."

Customer/Advocate Interviews

All four customers/advocates contacted during the on-site visit cited on-time performance as a major service capacity constraint issue. All cited it as a fairly serious concern of riders and local agencies.

Reported On-Time Performance

Data on on-time performance for the six months from November 1998 through April 1999 was provided by the JTA at the opening conference. This data is provided as Attachment 3. As shown, systemwide on-time performance was reported ranging from 98.4% to 99.8%. It was noted, however, that these percentages are developed using only a small number of actual late trips. It was noted that untimely trips are only tracked if they are called-in to the Intelitran customer service office *and* the customer service representative remembers to record the call as a

late trip. It was acknowledged that late trips that are called-in and recorded probably make-up only a small fraction of all untimely trips.

As indicated below, a review of sample, completed manifests suggests that on-time performance is far below the percentages reported to the JTA by Intelitran. Even though 98-99% on-time performance was being reported, staff that were interviewed seemed to know that on-time performance was an issue. In fact, page 5 of the recently revised "Rider's Guide" states that "Our vehicles will often run late during periods of peak demand, rush-hours, or during severe weather. Whenever possible, you should try to schedule your going and return trips between 10:00 am and 2:00 pm or after 5:30 pm or on weekends. During these periods you will experience the least amount of waiting time."

In subsequent conversations with Intelitran management, it was discovered that drivers do record actual pick-up and drop-off times on daily manifests, but *this information is not tabulated*. Intelitran indicated that they also are not in the practice of taking a random sample of completed manifests to estimate actual on-time performance.

Sample On-Time Performance

As noted above, completed driver manifests for a randomly selected day of service – Wednesday, May 12, 1999 – were obtained and analyzed. A computer print-out of requested appointment and pick-up times for that day was also obtained. The manifests were then cross-checked with the summary of original requested times, and any variation was noted. Actual times recorded by vehicle operators were then compared to times requested by customers. This process was followed for a sample of 1,617 one-way trips – 818 "going" trips and 799 "return" trips. Pick-up and appointment times requested by customers were compared to actual times recorded by drivers. Table 4 below provides the results of this analysis. Because ADA, TD, and sponsored riders are often mixed on the same runs, it appeared that on-time performance was relatively equal for all riders.

Table 4 on the following page shows on-time performance for May 12, 1999, based on the above review process. Early performance of trips as well as late performance is shown. Early performance could include pick-ups before the requested return trip pick-up time, or pick-ups before the systems "ready window" (as noted in the Background" section of this report, customers are asked to be ready 60 minutes before their appointment/desired drop-off time – depending on distance and time of day.

For going trips, using the JTA's standard of drop-offs no later than the appointment/desired arrival time, Table 4 shows that only 46.0% of all trips reviewed were dropped-off before the appointment time; 54.0% of the customers were dropped off after the requested appointment/desired arrival time. Based only on "late" trips using the JTA standards, the performance on the sample day of Dan Beth, Buggs, Browning and Taxi trips were 36.3%, 47.3%, 56.8%, 53.6% respectively. This on-time performance is well below the 75% goal established by JTA.

Table 4. Intelitran On-Time Performance for a Sample of 1,617 Trips on May 12, 1999
 (based on requested appointment/pick-up times and actual times recorded by operators)

	Service Provider				TOTAL
	Dan Beth	Buggs	Browning	Taxi	
Going Trips - Pick Ups					
91+ minutes before appointment	3 (0.8%)	2 (2.2%)	30 (11.3%)	5 (6.0%)	40 (4.9%)
61-90 minutes before appointment	18 (4.8%)	6 (6.6%)	46 (17.3%)	11 (13.1%)	81 (9.9%)
0-60 minutes before appointment	287 (76.1%)	77 (84.6%)	175 (65.8%)	58 (69.0%)	597 (73.0%)
1+ minutes after appointment	69 (18.3%)	6 (6.6%)	15 (5.6%)	10 (11.9%)	100 (12.2%)
Going Trips - Drop Offs					
61+ minutes early	1 (0.3%)	0 (0%)	0 (0%)	0 (0%)	1 (0.3%)
46-60 minutes early	0 (0%)	0 (0%)	8 (3.0%)	4 (4.8%)	12 (1.5%)
31-45 minutes early	1 (0.3%)	4 (4.4%)	7 (2.6%)	11 (13.1%)	23 (2.8%)
0-30 minutes early	135 (35.8%)	39 (42.9%)	136 (51.1%)	30 (35.7%)	340 (41.6%)
1-15 minutes late	93 (24.7%)	20 (22.0%)	50 (18.8%)	11 (13.1%)	174 (21.3%)
16-30 minutes late	78 (20.7%)	18 (19.8%)	27 (10.2%)	11 (13.1%)	134 (16.4%)
31+ minutes late	69 (18.3%)	10 (11.0%)	38 (14.3%)	17 (20.2%)	134 (16.4%)
Return Trips - Pick Ups					
31+ minutes early	2 (0.1%)	3 (2.8%)	2 (0.8%)	3 (2.5%)	10 (1.3%)
16-30 minutes early	11 (3.4%)	4 (3.8%)	1 (0.4%)	3 (2.5%)	19 (2.4%)
1-15 minutes early	35 (10.8%)	6 (5.7%)	54 (21.4%)	7 (5.9%)	102 (12.8%)
0-30 minutes late	244 (75.5%)	41 (38.7%)	163 (64.7%)	88 (74.6%)	536 (67.1%)
31-45 minutes late	15 (4.6%)	13 (12.3%)	11 (4.4%)	3 (2.5%)	42 (5.3%)
46-60 minutes late	5 (1.5%)	10 (9.4%)	6 (2.4%)	3 (2.5%)	24 (3.0%)
61+ minutes late	11 (3.4%)	29 (27.4%)	15 (6.0%)	11 (9.3%)	66 (8.3%)

As noted above, the JTA standard does not address on-time performance for the return trip. A commonly used standard is that pick-ups for the return trip should occur no earlier than the requested pick-up time and no more than 30 minutes after the requested pick-up time. By this common standard, the sample data in Table 4 shows 61.7% of trips were within the aforementioned window; 16.4% were early and 16.5% were picked up more than 30 minutes after the requested pick-up.

The sample trip data also shows that many pick-ups and drop-offs are well before the pick-up window or the appointment times. About 14.8% of pick-ups on the going trip were more than 60 minutes before the appointment time. More than 4.4% of drop-offs on the going trip were 31 or more minutes early (before the appointment time) and 1.6% were 46 or more early. Similarly, about 16.4% of return pick-ups happened before the requested pick-up time.

In many cases, early trip performance is not an on-time problem. First-hand observations of the provider dispatch operations indicated that many return pick-ups are early because customers call and request an earlier than scheduled pick-up. The JTA and its operators will accommodate these requests if possible. Many early "going" pick-ups are also a result of group trips where several customers are grouped on a run going to the same destination. Often, the travel time on these trips is more than 60 minutes and the earlier time is established in the standing order scheduling process and is well-known by the customer.

On the other hand, early arrivals on going trips could be an issue. First-hand dispatch observations showed many instances where customers were picked-up 45-60+ minutes before their appointment times and transported directly to their destinations in far less than 45-60 minutes (often only 10-20 minutes). As a result, the arrival was well before the appointment time. Based on our observations, this seemed to be occurring for two reasons:

1. First, the automated scheduling system builds-in a considerable amount of slack time for grouping of trips. Of the typical 60 minute pick-up window, calculated travel time may only be 10-20 minutes, but 40-50 minutes of slack is left for grouping. If other trip requests are not received which can be grouped, a direct trip results and the arrival is very early.
2. Second, it appeared that some operators arrive early for pick-ups, if possible, to then be in a better position to stay on schedule throughout the run if problems arise. On some runs, this seemed to be a regular practice.

The official operating policy does not require customers to board vehicles before the 60-90 minute pick-up window or before the schedule return pick-up time. However, if other passengers are on-board, customers may feel pressured to leave early. Also, if early pick-ups occur on a regular basis for customers (which appears to be the case), the stated policies regarding boarding times and windows may begin to be viewed with less confidence and trust.

On-Site Observations

On-time performance was observed for selected runs on Thursday, June 10. These observations were made at the carrier offices. Drivers for selected routes were asked to radio-in pick-ups and drop-offs and these were compared with scheduled times. Five runs were monitored at Dan Beth (002, 006, 009, 016, and 027). Six runs were monitored at Buggs (007, 101, 104, 106, 107, and 110). Five runs were monitored at Browning (001, 007, 011, 015, and 017). Observations were made during the morning from about 6:00 am to 10:30 am.

A total of 108 going trips were monitored. Customers were dropped-off on or before their appointment times in 70 cases (65% of the time). Customers arrived after the stated appointment time 38 times (35%). Of the trips considered on-time (arrivals before the stated appointment time), it was noted that customers arrived more than 30 minutes early 7 times (6.5% of the time).

Service Provider Understanding of On-Time Performance

While review team members were at service provider locations to observe performance, dispatchers were asked to describe the CTS on-time performance standard. While all seemed to understand that they could not arrive later than the appointment time, there were different understandings of on-time service for other aspects of trips. The Dan Beth dispatcher indicated that going trip drop-offs could be 15-20 minutes before the scheduled drop but not later than the scheduled drop. He indicated that return trip pick-ups could be 15-20 minutes before the scheduled pick-up time. Browning staff indicated that they thought they could make pick-ups 15 minutes before or after the scheduled time on both going and return trips. Browning was unclear about the standard for drop-offs on the going trip. In general, the providers seemed to be unclear about on-time performance standards.

Scheduling of Trips and Runs Created by Intelitran

While observing operations at each of the service provider sites, team members discussed on-time performance with provider dispatchers and other staff. Each provider appeared to recognize that on-time performance was a problem. According to these staff persons, the runs that were provided by Intelitran were often impossible to perform. Several examples of unrealistic scheduling were identified by dispatchers for the day being observed (June 10). For example, copies of portions of manifests for June 10 that were noted by the staff at Dan Beth are provided in Attachment 7. Some examples of unrealistic scheduling contained in these manifests are:

- Manifest DAN001 included two 9:00 am drop-offs at 4108 Blanding Blvd. in Jacksonville and also a 9:00 am pick-up at 11565 Harts Road in Paradise pines/Old Turtle Creek. The Dan Beth dispatcher estimated that, at this time of day, it would take 30-45 minutes to get from the drop-off to the pick-up.

- Manifest DAN005 included two 10:00 am drop-offs at 2843 University Blvd. N. in Jacksonville, and a 10:00 am pick-up at 12387 Silent Brook Tr. N. The Dan Beth dispatcher noted that this combination would set the driver back by 20-25 minutes even if she was running on time at 10 am.
- Manifest DAN008 included an 8:20 am pick-up at 2618 W 28th Street in Jacksonville, then an 8:26 pick-up at 1557 W 26th Street (of a customer who uses a wheelchair), then an 8:29 am pick-up at 1741 W 11th Street, then an 8:30 am pick-up at 1169 W 29th Street, then an 8:35 am pick-up at 1510 W 2nd Street, then an 8:41 am drop-off at 655 W. 8th Street. While the scheduling only gave the driver 21 total minutes to make these 5 pick-ups and one drop-off, it actually took the driver 47 minutes.
- Manifest DAN010 included a 12:14 pm pick-up at 333 E Ashley Street (of a customer who uses a wheelchair) and a 12:19 pm drop-off at 1325 San Marco Blvd. (also of a customer who uses a wheelchair). Only 5 total minutes are allowed to board and disembark both customers (using the lift) and to travel between these points – which the dispatcher estimated would take 10-15 minutes.
- Manifest DAN010 included pick-ups at 1:30 pm of 7 customers at the Community Rehab Center at 623 Beechwood Street in Jacksonville, a 1:42 pm drop-off of one rider at 1963 W 17th St, a 1:45 pm drop of a customer at 1737 W 27th St, and a 1:50 drop-off of two customers at 1550 W 9th Street. A total of 20 minutes is provided to board 7 customers at the Rehab center and then drive to 3 different locations for drop-offs.
- Manifest DAN014 included two 12:00 n drop-offs at 2392 Edgewood Ave. N, a 12:04 pm drop-off at 5045 Soutel Drive, a 12:06 pm drop-off at 4626 Wrico Drive, a 12:17 pm pick-up at 621 W 44th Street (of a customer using a wheelchair), a 12:27 pick-up at 1326 W 10th Street, and a 12:31 drop-off at 655 W 8th Street (of a customer using a wheelchair). A total of 31 minutes is provided for travel between these six different points, plus loading and unloading of passengers (including two who use wheelchairs).

The above examples represent only some of the unrealistic scheduling noted by carrier dispatchers for only a portion of one carrier's runs. Other carriers reported similar problems.

These specific examples were then reviewed with the Intelitran schedulers. They agreed that scheduling is often too tight and acknowledged that it could cause on-time performance problems. They indicated, however, that they didn't feel they had an option – they were being asked to schedule trips on a set and limited number of runs without exceeding a set number of "taxied" trips.

Scheduling System Parameters

In order to enable the computer scheduling system to place trips on the limited number of runs available, Intelitran has apparently adjusted the system's scheduling parameters. A print-out of

the scheduling parameters was obtained (see Attachment 8). A review of the parameters at the time of the on-site visit showed the following settings:

- Peak travel speeds of 18 mph up to 5 miles and 32 mph at 20 miles;
- Of-peak travel speeds of 22 mph up to 5 miles and 40 mph at 20 miles;
- A "Squeeze Multiplier" of 1.25, and a "Squeeze Factor" of 2 minutes.

By industry standards, 18 mph travel speeds during peak hours is optimistic at best. By comparison, the speed parameter used in Orlando (which had the same scheduling system) for peak times was 10 mph up to 17 miles. In most systems, paratransit travel speed settings at peak hours are commonly between 10-15 mph. The off-peak speed setting in Jacksonville is similarly overly optimistic.

The "Squeeze Multiplier" allows the computer to expand the actual calculated time available. For example, if a trip from Point A to Point B was calculated to take 20 minutes, using a "Squeeze Multiplier" of 1.25 would allow the computer to schedule 25 minutes of travel in this 20 minute time period (an extra 5 minutes, or a 25% increase).

The Squeeze Factor then adds an extra amount of time. For example, if calculated time is 20 minutes, applying a Squeeze factor of 2 minutes would let the computer schedule 22 minutes of time in this 20 minute slot.

The combination of all of these parameters appears to enable the automated scheduling system used by Intelitran to schedule more trips on runs than perhaps should be scheduled. The initial "calculated time" for a trip is optimistic given the travel speed settings. An extra 25% plus two minutes is then added to this time. So, for example, if an estimated travel time of 20 minutes is initially optimistically calculated, 27 minutes worth of service will be scheduled in this time period.

Intelitran staff indicated that some overbooking is done to counteract cancellations and no-shows. It was acknowledged, though, that extra trips scheduled do not always fit neatly into time slots created by cancellations and no-shows. While paratransit systems do sometimes have a policy of overbooking to counteract cancellations and no-shows, the amount of overbooking in the JTA system seems excessive. By comparison, the LYNX system in Orlando, which uses a similar software system, uses a Squeeze Multiplier of 1.1 (but no Squeeze Factor) to do some overbooking. The parameters used by Intelitran seem overly tight.

Changes to Requested Times

When customers call to place a trip request they will either state a desired arrival/appointment time (for going trips) or a desired pick-up time (for return trips). In some cases, if the requested times cannot be scheduled, the reservationist may negotiate these times. After this request and negotiation process is completed, the final requested pick-up or appointment times are recorded in the automated scheduling system.

After pick-up and appointment times have been taken and negotiated with customers, schedulers will adjust these times in order to fit all trip requests on the runs available. A final "scheduled pick-up" or "scheduled drop-off" time is then recorded on the manifest.

Where the original requested/agreed times vary from the scheduled times, the manifests show the scheduled times – information about the originally requested time is not included. This has the potential to cause miscommunications between operators and customers regarding the ready times and ready windows. For example, if a customer originally requests a 2:00 pm return trip pick-up and this time is changed to 2:15 pm, the customer will be looking for the vehicle 15 minutes before the driver will arrive. If the driver arrives at 2:30 (15 minutes after the scheduled time – which the carrier may feel is good performance) the customer sees this as a pick-up that is 30 minutes late. Similarly, the customer may indicate that they have a 9:00 am appointment. If this appointment time is adjusted to 8:45 am and the driver gets the person there 20 minutes early (again seen as good performance), the customer is actually arriving 35 minutes before the stated appointment time.

To determine how widespread and significant these time changes were, the requested versus scheduled pick-up and appointment/drop-off times for May 12, 1999 were analyzed. Table 5 below shows the results of this analysis. On May 12, a total of 2,593 trips were scheduled. Of these, the pick-up or appointment times for 1,313 trips (50.6%) had been changed. For going trips, the stated appointment times had been adjusted up to 15 minutes earlier than requested in 519 cases, between 16 and 30 minutes early in 216 cases, and more than 30 minutes early 4 times. If it is assumed that the number of going trips is about half of the daily total, this means that the stated appointment time was changed by 15 minutes 40% of the time, and more than 15 minutes about 17% of the time. Return pick-up times were adjusted up to 15 minutes later than originally requested in 387 instances, between 16 and 30 minutes in 127 cases, and more than 30 minutes later than requested in 25 instances. Again, assuming that return trips made up half of all trips, this means that about 30% of all return times were adjusted up to 15 minutes later than requested and another 12% were adjusted more than 15 minutes later than requested.

In 21 cases, appointment times were actually adjusted in the scheduling process to be *after* the times indicated by customers. This would mean that even if the driver was exactly on-time, the customer would be late for her appointment. Similarly, return pick-up times were adjusted earlier than the time requested in 14 cases.

Driver Recruitment and Retention

Several of the people interviewed, including service provider staff, Intelitran staff, and JTA staff, indicated that a major factor affecting service performance was the ability of the service providers to recruit and then retain qualified drivers. Intelitran and the service providers indicated that they would like to increase the number of runs. Vehicles were apparently available at some of the providers to do this, but it was indicated that it was difficult to find, train, and retain drivers for additional runs.

Service providers also indicated that turnover was very high. The manager of Dan Beth reviewed his personnel records and indicated that in the last two and one-half years, he has hired 610 people to maintain a workforce of about 75 drivers. This translates into an annual turnover rate of about 320%. When asked what drivers were paid, the Dan Beth Manager indicated that drivers start at \$6.25 per hour and that pay can increase over time to a maximum of \$7.00 per hour. He also indicated that there are no benefits provided to drivers.

Table 5. Changes Made to Requested Times for Trips Requested on May 12, 1999.

Difference Between Requested and Scheduled Times	Number of Times Adjusted	% of Total Trips	% of Going or Return Trips ¹
Going Trips			
Appointment time adjusted 1-15 minutes earlier than requested	519	20.0%	40.0%
Appointment time adjusted 16-30 minutes earlier than requested	216	8.3%	16.6%
Appointment time adjusted 31+ minutes earlier than requested	4	0.2%	0.4%
Appointment time adjusted to be later than time requested.	21	0.8%	1.6%
Return Trips			
Return pick-up adjusted 1-15 minutes later than requested	387	14.9%	29.8%
Return pick-up adjusted 16-30 minutes later than requested	127	4.9%	9.8%
Return pick-up adjusted 31+ minutes later than requested	25	1.0%	2.0%
Return pick-up adjusted to be earlier than requested time	14	0.5%	1.0%
TOTALS	1,313	50.6%	NA

¹ Assumes that going trips are about half of all trips and that return trips are about half of all trips.

Intelitran and service providers indicated that low pay was related to low reimbursement rates from sponsoring agencies and the JTA. Contract records show that the unit rate of reimbursement for ADA paratransit trips has remained the same (\$1.45 per grid for group trips, and \$1.80 per grid for random trips) since October of 1995. Intelitran also reported that its true rate (the rate charged to other sponsoring agencies) was \$2.06 per grid for random trips. As a result of contract extensions without cost adjustments, Intelitran was paying providers hourly rates that ranged from \$23.00 to \$26.00 (depending on the type of vehicle).

Findings:

1. *JTA should require that on-time performance be monitored based on actual recorded pick-up and drop-off times. This could be using 100% information or could be a statistically-significant sample of completed manifests. Also, once manifest information begins being monitored, the JTA should require that as part of the monitoring process, the broker randomly check the accuracy of times recorded by drivers. This could be done by observing vehicles at selected pick-up/drop-off points and then comparing recorded times with times on the manifests.*
2. *Standard should be expanded to more thoroughly address all aspects of on-time performance. The standard currently only addresses timely arrival at the destination for the going trip. Timely arrivals of vehicles to pick customers up for return trips is not addressed. The standard should address untimely return pick-ups (e.g., pick-ups more than 30 minutes after the requested return pick-up time), early drop-offs (e.g., drop-offs more than 30 minutes before the appointment/desired arrival time), and untimely going trip pick-ups (pick-ups before the "ready window" that has been communicated to the customer).*
3. *The JTA should re-evaluate its 75% goal for on-time performance. This goal is well below accepted performance levels for fixed route service. While it could be argued that there are many more operating variables in paratransit (which could make a higher goal harder to achieve), this difference between modes is already captured in the way that "on-time" service is measured. For fixed route service, a run is typically "on-time" only if it is within 5-10 minutes of the schedule. In paratransit, a 60-90 minute pick-up window is employed for the going trip and a 30 minute window is used for the return pick-up. Using these different measures of on-time service to account for the difference in modes, similar performance (90+%) should be achieved for the services to be considered comparable.*
4. *The sample data developed by the review team suggests that on-time performance for the JTA's ADA paratransit service could be as low as 60.6%. This level of performance could easily be considered to be significant and a constraint on the use of the service.*
5. *Driver recruitment and retention appears to be a significant problem. It most likely is contributing to the poor level of service provided.*
6. *Low driver wages appear to be related to low reimbursement rates provided by the JTA to Intelitran and the resulting low hourly contract rates between Intelitran and the service providers.*

Observations Regarding Trip Length

The observation and review of travel time/trip length was performed in the following ways:

- Input on issues related to travel time was obtained from customers, advocates, and local human service staff.
- Travel times for Wednesday, May 12, 1999 (selected as a sample day of service) were reviewed.

Sample Trip Length Data

Travel time was calculated from information contained in the completed manifests for May 12, 1999. Table 5 below shows travel times for each of the carriers.

A review of 1,613 trips completed on May 12, 1999 revealed that 80.5% were provided in 60 minutes or less. One hundred and eighty-eight (11.7%) took between 61 and 90 minutes. Eighty-seven (5.4%) took from 91-120 minutes. Twenty-seven (1.7%) took from 121 to 150 minutes; and 13 trips (0.8%) exceeded 151 minutes. Therefore, about 315 (19.5%) exceeded the maximum 60 minute travel time standard that JTA has established for the service.

A review of the trips in excess of 60 minutes on this day identified several long group runs for customers going to work training programs and other local human service programs. On this day of service, it was noted that 74 customers had rides of between 91 and 173 minutes traveling to programs such as Triumph Industries; ARC Duval, and Pine Castle School. Twenty of these customers traveled over two hours each way.

Table 6. On-Board Travel Time by Carrier for May 12, 1999

Time On-Board	Dan Beth	Buggs	Browning	Taxi	Total
0-60 minutes	604 (86.3%)	161 (81.7%)	370 (71.3%)	163 (82.7%)	1,298 (80.5%)
61-90 minutes	63 (9.0%)	30 (15.2%)	81 (15.6%)	14 (7.1%)	188 (11.7%)
91-120 minutes	23 (3.3%)	5 (2.5%)	48 (9.2%)	11 (5.6%)	87 (5.4%)
121-150 minutes	8 (1.1%)	1 (0.5%)	15 (2.9%)	3 (1.5%)	27 (1.7%)
151+ minutes	2 (0.3%)	0 (0%)	5 (1.0%)	6 (3.0%)	13 (0.8%)
Totals	700 (100%)	197 (100%)	519 (100%)	197 (100%)	1,613 (100%)

The JTA staff noted that, in some cases, parents or guardians have requested early pick-ups or late drop-offs to accommodate their work schedules. It was recognized, however, that some group tours were very long and that not all customers are riding for these times by choice.

The Intelitran staff noted that, in some cases, parents or guardians have requested early pick-ups or late drop-offs to accommodate their work schedules. It was recognized, however, that some group tours were very long and that not all customers are riding for these times by choice.

Customer/Advocate Interviews

Of the four customers/advocates contacted before and during the on-site visit, two mentioned travel time as a major issue. One was the transportation coordinator for a local dialysis center and one coordinated transportation for a work training program. Concern was expressed about the long ride times that were a result of extensive grouping of trips. One person noted that on some of the long group rides, school buses without air conditioning are used.

One person noted that the agency they represent performs an annual client satisfaction survey. The two items that are consistently reported as problems are the long ride times and the lack of air conditioning on vehicles. This agency has in the past tried to develop transportation separate from the CTS program and indicated that it may have to do this in the future if these two issues are not resolved.

While both people noted that grouping was able to keep the cost of service low, and that they recognized that funding was limited, concern was expressed for the few customers at the beginning of each tour who rode sometimes for two or more hours each way.

Findings:

- 1. Systemwide, the JTA service provides about 80.5% of all ADA paratransit trips within a reasonable travel time (60-90 minutes). There are, however, a small number of customers attending work training and other local agency programs who regularly experience excessive ride times. This appears to be due primarily to the grouping of trips for these programs in order to provide daily service with the fewest vehicle hours. The ride times do not appear to be causing clients of these agencies to choose not to travel or to find other alternatives. Therefore, ride times do not appear to be a "capacity constraint." For some customers, however, these long ride times may be very inconvenient. Also, the complaints and concerns of some of these customers may not be adequately represented by parents, guardians, or agency staff. The JTA should review the group runs to programs noted above and get feedback on the level of service experienced from riders, parents, and guardians.*

Observations Regarding Telephone Capacity

As noted in the "Background" section of this report, the standard established for phone service for the Duval County CTS Program is that the average hold time should not exceed four (4) minutes at any time of the day. This standard also requires that the phone service be monitored to ensure that this goal is met. The JTA adopts this standard for the ADA paratransit service, which is part of the countywide CTS program.

Information and observations on telephone service and capacity included:

- Input from customers and advocates contacted in advance of the assessment or while on-site;
- Information from the Intelitran telephone management reporting system;
- First-hand observations in both the reservations office and the customer service/dispatch office; and
- Calls made by the review team to the CTS reservations office.

Customer/Advocate Interviews

Three of the four customers and local human service agency staff who were interviewed cited telephone hold times as a problem. Two people specifically cited problems in the morning and in the afternoon hours. One customer said that even after the call is first answered, there are long holds if you are transferred to customer service/dispatch. This person also noted that it is not only hold times that are a problem, but getting through at all. She said that she often has to call several times to get a free line.

Intelitran Phone MIS Records

Intelitran indicated that they have a total of 23 phone lines which come into the central office. Two are administrative lines and another three are district lines (also administrative). CTS service calls are handled by 18 lines which rollover to either reservations or customer service/dispatch. Of these, three are dedicated to customer service/dispatch.

At the time of the on-site visit, Intelitran was meeting with phone service representatives to develop a phone reporting system. This appears to have been done in order to respond to FTA's request for phone MIS records. Phone records for Tuesday, June 8 and Thursday, June 10 were prepared at the review teams request and are provided as Attachment 9. Records were apparently not prepared and available for prior days.

Table 7 below summarizes calls answered, calls abandoned, and average delay time (hold time) all lines (including administrative lines) for Thursday, June 10. Information is provided for each hour of the day. A similar breakdown was not generated for June 8th as Intelitran was just beginning to work with the phone service company on the format of reports.

Table 7. Phone Records, All Intelitran Lines by Time of Day, Thursday, June 10, 1999

Time Period	Calls Answered	Calls Abandoned	Average Delay (min:sec)
4-5 am	1	0	0:02
5-6	12	3	1:36
6-7	28	4	0:52
7-8	40	14	1:44
8-9	131	13	1:15
9-10	118	18	1:37
10-11	103	29	1:57
11-12	141	22	1:07
12 n-1 pm	86	6	0:46
1-2 pm	105	12	0:36
2-3	121	7	0:43
3-4	114	18	1:09
4-5	96	8	0:29
5-6	26	4	1:26
6-7	0	0	0:35
7-8	0	1	0:35
8-9	0	0	0:33
9-10	0	0	0:32
10-11	0	4	0:32
11-12 midnight	0	0	0:33
12-1 am	0	0	0:33
TOTALS	1,122	163	1:09

Table 8 provides a summary of total daily calls received, answered, abandoned, and average delay times (hold times) for just the reservation and customer service/dispatch lines for both June 8 and June 10. Separate information is provided for the reservation lines and for the customer service lines.

Table 8. Average Daily Phone Service Data for Only Reservations and Customer Service/Dispatch Lines, June 8 and June 10, 1999

Date/Function	Total Calls	Calls Answered	Calls Abandoned	Average Delay (min:sec)
Reservations				
Tuesday, 6/8/99	673	598	28	1:31
Thursday, 6/10/99	525	469	20	1:20
Cust. Serv./Dispatch				
Tuesday, 6/8/99	856	748	109	3:02
Thursday, 6/10/99	790	653	138	3:13

As shown in Table 7, the average hold time on all lines does not appear to be significant at any time of the day. For times when the reservation office is open (8 am to 5 pm), the average hold time ranged from 29 seconds (4-5 pm) to 1:57 (10-11 am).

Table 8, however, indicates that while hold times for reservations are low (about 1:20-1:31), the hold times to reach customer service/dispatch are much more significant (over 3 minutes). With an average daily hold time of over 3 minutes, it is probable that customer service hold times exceed the 4 minute standard at certain times of the day. From the reports provided, though, it is not possible to evaluate customer service hold times by time of day. It appears that the hourly report only records the initial hold time before the call is answered. If the call is then transferred to customer service by a reservationist, this second hold time does not appear to be captured.

For reservations, about 4% of all calls are abandoned. For customer service, about 9% of calls received are abandoned. Our observations suggest that some calls to customer service are abandoned if customers are calling to check on a ride and either the vehicle arrives as they are checking or they hang-up to go look for the vehicle again.

While the average daily hold times were below the established 4 minute standard, it is likely that hold times at certain times of the day for customer service/dispatch do exceed the standard. Accurate information to evaluate hold times for various times of the day was not, however, available.

Review Team Test Calls

To follow-up on information from customers that there were problems getting through on the Intelitran lines, the review team placed several calls to the main CTS line (393-4200) between 2:00 and 5:00 pm on Wednesday, June 9. Table 9 below summarizes the results of these calls.

Table 9. Test Calls to CTS Service Line, June 9, 1999

Time of Calls	Total Calls Made	# of "Busy" Signals	# That Went to Recording
2:15 pm	6	2	4
3:00 pm	20	16	4
4:50 pm	9	4	5

As shown, it appears that in the afternoons there is a high probability that customers have to call multiple times to get a free line. At 3:00, an average of 4 calls had to be made to get a free line, and at 4:50, about 2 calls had to be made to get through.

Findings:

- 1. The phone reports available at the time of the on-site visit were not adequate to thoroughly analyze phone hold times and capacity issues. A report that captures hold times by hour separately for reservations and customer service should be developed. The JTA and Intelitran should be sure that hold times for both the initial call and for calls transferred from reservations to dispatch are tracked.*
- 2. There appear to be certain times of the day when phone capacity can cause customers to be inconvenienced. Getting a free line appears to be a problem at peak call times. Hold times for customer service/dispatch may also at times exceed the established standard and would be an inconvenience. While this appears to be a clear customer service and quality of service issue, it does not appear to be serious enough to cause customers to not use the service (not a "capacity constraint"). It is recommended, though, that the JTA address customer service hold times and overall phone capacity (number of lines available). An inability to reach the central dispatch service is not only a customer inconvenience, but could be contributing to unreported cancellations and no-shows.*
- 3. Hold times in customer service appears to be an issue of staffing during peak periods. JTA and Intelitran should consider ways to provide additional customer service capacity at peak times.*

Other Observations

During the course of the assessment, a number of non-capacity issues were noted that should be reviewed by the JTA to ensure full compliance with ADA regulations. These were:

1. Page 4 of the latest (April, 1999) "Duval County CTS Rider's Guide" states that reservations must be placed Monday through Friday, from 8 am to 5 pm. It further indicates that "Weekend and Monday appointments must be called in no later than 5:00 pm on the Friday before the day of service" and that the reservations office is closed on six holidays. JTA and Intelitran staff confirmed these reservations hours and policy during the on-site visit. Section 37.131(b) of the USDOT's ADA regulations requires that reservations be accepted on a next day basis. Given that JTA's ADA paratransit service operates seven days a week, arrangements to accept trip requests on the weekends and on holidays that precede a day of service must be made.
2. As noted in the "Background" section of this report, ADA paratransit service operates Monday through Friday from 5:00 am to 10:30 pm and on Sundays and holidays from 5:30 am to 8:30 pm. A review of the non-commuter fixed route schedules showed that fixed route operates 4:09 am (WS8) to 1:51 am (Beaches 1) weekdays. Saturday fixed route hours are 5:03 am (NS5 and NS6) to 1:46 am (Beaches 1). Sunday fixed route service is provided from 5:24 am to 12:16 am (Beaches 1). On weekdays, 16 of the 37 fixed routes start before 5 am, 8 start before 4:30 am, 14 routes go past 10:30 pm, 9 past 11:00 pm, 4 past 11:30 pm, and 2 past midnight. On Saturdays 9 fixed routes are operated past 10:30 pm, 7 past 11:00 pm, 5 past 11:30 pm, and 3 past midnight. Nine (9) of the 22 routes that operate on Sundays operate past the 8:30 pm paratransit hours, and 5 operate past 10:00 pm. As required by Section 37.131(e) of the regulations, the JTA must extend ADA paratransit hours to be the same as the fixed route hours. Note that paratransit hours only need to be extended in those fixed route corridors that go beyond the current paratransit hours. JTA may want to consider Establishing a smaller "late night" paratransit service area.
3. Page 10 of Rider's Guide says "Attendants are allowed only if required by the rider in order to complete the trip." Please note that personal attendants often travel with ADA eligible riders to assist them with life activities at the destination (reading, lifting, eating, etc.) If an attendant is needed for these purposes, they must be allowed to ride at no fare as well.
4. Page 7 of the Rider's Guide states that "Children under age fifteen (15) must be accompanied by an adult unless special arrangements have been made in advance." Unless there is a similar policy on fixed route for persons who do not have disabilities, this policy might be considered discriminatory. According to staff, the fixed route system has no comparable age limit.

5. Page 10 of the Rider's Guide says that "special event routes" not included in ADA service area. Please note that, if these are operated as local rather than commuter-type services, complementary paratransit service must be provided, even if the service is of limited duration.
6. The Duval County CTS Handbook says passengers must be ready 60 minutes before the pick-up time. This should instead state that passengers must be ready 60 minutes before their appointment/scheduled arrival time. While the correct policy appears to be well-known, we would suggest that the Handbook be corrected to avoid having persons advised incorrectly by members of the Board.

Summary of Findings and Recommendations

Summary of Findings

Based on the data that was collected and reviewed, and on on-site observations and conversations with local customers and advocates, the JTA's ADA paratransit service appears to be in compliance with several elements of the capacity constraints requirements. Specifically, the ADA paratransit service:

- appears to accept all trip requests made by persons who have been determined ADA paratransit eligible and whose trips are eligible.
- appears to not have any waiting lists for ADA paratransit eligible trip requests.
- appears to have travel times that are reasonable and not excessive for the vast majority of ADA paratransit trips. Travel times for some customers on group runs to local agency programs are quite long, however, and should be reviewed by the JTA with customer and agency input. It does not appear, however, that the travel times for these group trips is limiting service to customers.

JTA RESPONSE: Travel times for groups have improved. Intelitran created and filled an agency coordinator position to increase customer service and satisfaction.

- appears to provide phone service that is somewhat inconvenient to customers, but which does not appear to be a capacity constraint. The JTA may wish, however, to address phone capacity as a general customer service issue.

JTA RESPONSE: Customer service/reservationists have been increased from eight to twenty-six; telephone hours have been extended to 5:00 AM to 10:30 PM, Monday through Saturday, and 6:00 AM to 8:30 PM on Sunday; and five additional telephone lines have been installed with one being dedicated to cancellation calls.

The assessment identified some aspects of the JTA's ADA paratransit service which do appear to impact significantly on the potential use of the service. These areas, which should be reviewed by the JTA, include:

- the practice of making applicants for CTS service eligible for ADA service based on the applicant's place of residence. Applicants denied ADA paratransit eligibility in the past due to place of residence should be reviewed and decisions revised as appropriate.

JTA RESPONSE: Intelitran has trained the eligibility determination person, has established an appeal procedure, has notified persons denied that their application

may have been improperly evaluated, and they now provide written confirmation of determination.

- on-time performance. Sample data indicated that on-time performance could be as low as 60.6%. On-time performance could be considered a limitation on the use of the service by ADA paratransit eligible persons and a capacity constraint.

JTA RESPONSE: On-time performance is improving as a result of the addition of two more carriers (5 total) and 30 more vehicles. Also, the scheduling software has been modified to include dividing and assigning carriers to pick-up and return in specific zip code zones.

- the standard used to determine on-time performance. Customers appear to be arriving more than 30 minutes early to appointments 4.4% of the time and more than 45 minutes early about 1.6% of the time. Some consideration should be given in the service monitoring process to excessively early arrivals. Also, the standard for ADA paratransit that sets a goal of 75% on-time performance is somewhat below the level of service typically adopted for transit programs.

JTA RESPONSE: Arrival times are complicated by the Florida Community Transportation Coordinator statutes that combine the movement of ADA, Medicaid, and Transportation Disadvantaged on the same vehicles. Some improvement has occurred as a result of changes in current Intelitran management, scheduling, and vehicle capacity improvements. Emphasis is continuing to refine and improve the ADA arrival times.

Several other non-capacity ADA compliance issues were also identified. The JTA should review and take appropriate corrective actions to address the following issues:

- Applicants should be notified in writing of the outcome of the review of their eligibility for ADA paratransit service. Where applicants are found to be eligible (either conditionally or unconditionally), the written notification should contain all of the information required by Section 37.125(d) of the USDOT's ADA regulations. Where applicants are found to be ineligible or if their eligibility is limited (conditional eligibility), the notification should contain specific reasons for the determination and should provide information about the appeals process (see Section 37.125 of the regulations).

JTA RESPONSE: Intelitran trained its staff on ADA eligibility requirements implemented an appeal procedure and provides written confirmation of eligibility determination.

- As noted in the "Observations Regarding ADA Paratransit Eligibility Determination" section of this report, the practice of informally questioning the eligibility of trip requests made by persons who have applied for a reduced fare pass should be reviewed. The current practice could easily be misused to deny or inappropriately discourage trips.

JTA RESPONSE: Intelitran immediately removed all information from the reservation/scheduling database, which was made available to the reservationists/schedulers, which made reference to a customer's possession of a reduced fare pass.

- Trip reservation days and hours should be expanded in accordance to Section 37.131(b) of the regulations.

JTA RESPONSE: Customer service/reservationists have been increased from eight to twenty-six; telephone hours have been extended to 5:00 AM to 10:30 PM, Monday through Saturday, and 6:00 AM to 8:30 PM on Sunday; and five additional telephone lines have been installed with one being dedicated to cancellation calls.

- ADA paratransit service hours should be expanded to be the same as fixed route hours, in accordance with Section 37.131(e) of the regulations.

JTA RESPONSE: ADA paratransit service hours are currently meeting the Transportation Disadvantaged Service Plan that requires service until 10:30 PM. This service plan requirement was based on the decreased level of fixed route service after 10:30 PM and the large geographic area (850 square miles) of Duval County. These service hours will be reviewed by June 2001 for inclusion in the next Request for Proposal.

- The JTA policy regarding complementary paratransit service in areas where "special event" fixed route service is provided should be revised (see item 5 in the "Other Observations" section of this report).

JTA RESPONSE: The special event service is a commuter/flyer service and as such can be excluded. But we are reviewing our ability to provide ADA paratransit service to special events. Target completion is June 2001.

- Section of the "Rider's Guide" regarding accommodating attendants and requiring attendants for children under the age of 15 should be made consistent with regulatory requirements (see items 3 and 4 in the "Other Observations" section of this report).

JTA RESPONSE: The current requirement is for Medicaid customers, but does not clarify the requirement for ADA customers. The Rider's Guide will be changed, as it relates to ADA customers, and ready for distribution by May 15, 2000.

Recommendations

As part of the assessment, a number of service issues and possible approaches to service improvement were raised by staff, contractors, and customers. They are listed below for JTA's information and consideration.

1. The JTA should require that Intelitran track and report on-time performance based on actual pick-up and drop-off information contained in the run manifests. This could be done on a sampling basis or for all trips.

JTA RESPONSE: Subsequent to the FTA assessment, Intelitran initiated this. The JTA intends to work with Intelitran to continue this type of reporting.

2. The scheduling parameters used by Intelitran should be reviewed and revised to ensure that workable runs are developed and provided to carriers.

JTA RESPONSE: The JTA randomly selected manifest and reviewed the schedule to determine if it was workable. Manifests are improving, but there are still improvements being made.

3. Two factors in on-time performance appear to be: the rates paid to Intelitran and to the service provider; and the resulting wages paid to drivers. The JTA should look more closely at the current rates of reimbursement and the wage rates of service provider. Consideration should be given to contracting changes that will help ensure that driver recruitment and retention does not adversely impact service quality.

JTA RESPONSE: JTA agrees that the next request for proposal requires criteria that will provide reasonable compensation to the drivers and providers. The changes under consideration include identifying ways in which the Community Transportation Coordinator can reduce providers fuel cost and assist in establishment of a group benefits package. The Request for Proposal is to be completed in June 2001.

4. More accurate information about actual pick-up and drop-off times for trips referred to taxis should be developed.

JTA RESPONSE: Intelitran has re-organized the distribution of work to carriers into designated zip code zones and they are adding carriers and vehicles. Taxi trips are being reduced and monitored more effectively.

5. If appointment and/or return pick-up times are adjusted in the scheduling process, a way to indicate on the manifests the originally requested time should be developed. This will help ensure that providers and customers have a similar understanding of agreed upon drop-off and pick-up times.

JTA RESPONSE: The JTA will include this in its development of processes in conjunction with its assuming the role of Community Transportation Coordinator in 2001.

6. The 60-90 minute pick-up window, which requires that customers be ready for the vehicle to arrive an hour to an hour and a half before their appointment time, is somewhat outdated for larger systems. Most larger systems use more advanced scheduling software that can give customers a more exact idea of the pick-up time. Shorter "ready windows" (typically 30 minutes) can then be used around the agreed upon pick-up time. Such systems are much more customer friendly and result in less confusion about vehicle arrival times.

JTA RESPONSE: The JTA will include this in its development of processes in conjunction with its assuming the role of Community Transportation Coordinator in 2001.

7. Given the many companies involved in the service, periodic "Manager's Meetings" (perhaps bi-weekly) could be sponsored to address recent service issues. To focus these meetings on system issues (rather than provider specific problems/exceptions), agenda items could be requested in advance from providers. This type of cooperative process and open communication has been successful in other systems.

JTA RESPONSE: Intelitran implemented this very recommendation in February 2000. They conduct monthly meetings and they have improved communications among providers and service to the customer.

8. A way to monitor the practices and performance of the broker should be developed. Current contract structures create an incentive for the broker to accept and schedule more trips than can be actually be performed on time. The performance of the broker in terms of reservations and phone capacity should also be more closely monitored.

JTA RESPONSE: This is one of the primary reasons the JTA staff is recommending to its Board of Directors that we become the Duval County Community Transportation Coordinator. We have a vested interest in reducing paratransit trips. We can place greater emphasis on travel training and other initiatives that will reduce paratransit trips and transfer them to fixed route trips. We will also focus much greater attention on quality control of the broker.

**Central Midlands Council of Governments
(DART)**

**Assessment of ADA Complementary Paratransit
Service
Capacity Constraints**

July 13-16, 1999

Summary of Observations

Prepared for

**Federal Transit Administration
Office of Civil Rights
Washington, D.C.**

Prepared by

JDG Associates, Inc.

Final Report

CONTENTS

Purpose of the Assessment	1
Background	2
Summary of Findings	5
Overview of the Assessment	7
Observations Regarding Trip Denials	10
Observations Regarding ADA Complementary Paratransit Eligibility Determinations	13
Observations Regarding On-Time Performance	15
Observations Regarding Trip Length	20
Observations Regarding Telephone Capacity	22
Other Observations	23
Attachment 1. DART ADA Riders Guide Brochure	
Attachment 2. Original On-Site Assessment Schedule	
Attachment 3. DART ADA Eligibility Application Form	
Attachment 4. DART Eligibility Form Letters	
Attachment 5. Summary On-Time Performance Data for 160 Trips Made on June 29, 1999	
Attachment 6. CMCOG's Response to FTA's Preliminary Assessment Report	

Purpose of the Assessment

Public entities that operate fixed route transportation services for the general public are required by the U. S. Department of Transportation (DOT) regulations implementing the Americans with Disabilities Act of 1990 (ADA) to also provide complementary paratransit service for persons who, because of their disability, are unable to use the fixed route system. These regulations (49 CFR Parts 27, 37, and 38) include six service criteria that must be met by ADA Complementary Paratransit service programs. Section 37.135(d) of the regulations requires that paratransit services meet these criteria by January 26, 1997.

The Federal Transit Administration (FTA) is responsible for ensuring compliance with the ADA and the USDOT regulations that implement this civil rights law. As part of its compliance efforts, FTA, through the FTA Office of Civil Rights, conducts periodic assessments of fixed route transit and ADA Complementary Paratransit services operated by grantees.

An on-site assessment of the ADA Complementary Paratransit service (DART) provided by the South Carolina Electric and Gas Company (SCE & G) and Central Midland Council of Governments (CMCOG) was conducted July 13-16, 1999. The assessment was conducted for the FTA Office of Civil Rights by JDG Associates, Inc. of San Antonio, Texas. The assessment focused on compliance of the DART ADA Complementary Paratransit service with one specific regulatory service criteria - the "capacity constraints" criteria. Section 37.131(f) of the regulations requires that ADA Complementary Paratransit services be operated without capacity constraints.

This report summarizes the observations and findings of the on-site assessment of DART's ADA Complementary Paratransit service. A description of key features of the DART ADA Complementary Paratransit service is first provided, followed by a description of the approach and methodology used to conduct the assessment. Observations and findings related to each element of the capacity constraint criteria are then summarized.

As the assessment of ADA Complementary Paratransit capacity constraints was being conducted, other service compliance issues were noted. These included service policies and practices that may need to be reviewed for compliance with other parts of the regulations. These additional observations and findings are presented in the "Observations Regarding Other Issues" section of this report.

Major findings of the assessment are summarized in the last section of this report, and some recommendations for addressing the issues identified are also provided. CMCOG's response to the draft report of findings is incorporated into this final report at Attachment 6.

Background

Public mass transit in the Columbia, South Carolina, metropolitan area is provided by South Carolina Electric and Gas Company, a private South Carolina corporation and wholly owned subsidiary of SCANA Corporation. The Central Midlands Council of Governments is the Designated Recipient of FTA funds. As such, CMCOG has the legal responsibility for meeting federal compliance standards, although under the terms of the contract between the entities, CMCOG may not interfere with the management decisions and "normal functions" of the SCE&G fixed route and ADA Complementary Paratransit operations.

SCE&G provides ADA Complementary Paratransit service through Laidlaw Transit Services, Inc., a private corporation in the business of providing services to the transportation industry. Laidlaw was selected through a competitive bidding process to manage and operate the paratransit system, known as the Dial-A-Ride Transit (DART) service in the Columbia, South Carolina, metropolitan area.

Description of the ADA Complementary Paratransit Service

DART ADA Complementary Paratransit service is provided for trips that have both their origin and destination within $\frac{3}{4}$ mile of a fixed route. Service is provided Monday through Sunday and on holidays from 6:00 a.m. until midnight. A flat fare of \$1.50 per one-way trip is charged. Trip requests can be placed up to the close of business on the day before service and are accepted up to 14 days in advance. Trip reservations are accepted seven days a week from 9:00 a.m. until 5:00 p.m., and cancellations are accepted seven days a week from 6:00 a.m. until midnight. Under the ADA Complementary Paratransit program, trip requests for all trip purposes are accepted and are served without prioritization. "Late" trip requests (those not placed before 5:00 p.m. of the day prior to service) are served only if they can be scheduled on an existing route without changing the existing schedule.

DART vehicles are operated by Laidlaw, which is responsible for hiring, training and supervising drivers, and for providing trips as scheduled. All vehicles and equipment used by Laidlaw in providing the DART service are owned by CMCOG and leased to Laidlaw. Vehicle maintenance and repair is financed and performed by SCE&G at the central bus maintenance facility, with daily inspections and cleaning performed by Laidlaw drivers.

All trip requests are received at a central reservations and scheduling office staffed by Laidlaw employees. When customers call, they are asked to provide their desired arrival or appointment times for the "going trip" and the desired pick-up time for their "return trip." The ride is entered on the reservation clerk's data terminal and pick-up times are scheduled. If a ride is not available

for the requested pick-up time, then times are negotiated and the customers are given a scheduled pick-up time up to one hour before or after the time requested by the customer. Customers are then asked to be ready to be picked up at any time within a pick-up window of 20 minutes, either 5 minutes prior to or 15 minutes after their scheduled pick-up times. If a ride is not available for the times requested, the trip is accepted and placed on standby. The customer is instructed to call back the day prior to service to receive the scheduled pick-up time.

The scheduler reviews and revises standing order trips and overall run structure on an ongoing basis throughout the day. After all trip requests have been received on the day before the day of service, manifests are prepared for established runs for each contracted service provider. An automated scheduling system, currently PASS 3.92 for DOS, assigns requests to these designated runs. The scheduler reviews the manifests and makes final adjustments before they are given to the drivers.

On the day of service, if customers need to cancel or change trips, or need to check on a ride, they call a central customer service/dispatch office that is staffed by Laidlaw employees (located together with the central reservations and scheduling office.) Calls from customers inquiring on the status of rides are referred to the dispatcher, who contacts the driver for an ETA while the customer is on hold. Cancellations and trip changes are recorded and then relayed to the drivers by the Laidlaw dispatcher.

If scheduling or service delivery problems arise during the day, the scheduler and dispatcher take steps to re-route rides as necessary. When routes are running late, customers are called and given new estimated arrival times.

The central DART office also takes all calls for general service information and customer comments and complaints. Eligibility inquiries are referred to the Coleman Group, a third party private contractor that handles eligibility certification under contract with SCE&G.

A copy of the DART ADA program riders' guide, in the form of a brochure, is provided as Attachment 1.

At the time of the assessment, the DART service was receiving nearly 7,000 one-way trip requests per month from customers under the ADA Complementary Paratransit program.

Policies and Service Standards Related to Capacity Issues

Service standards and policies related to trip denials, missed trips, on-time performance, travel time, and phone capacity have been established for the DART service. These are described below.

DART Policies and Service Standards:

Trip Denials: The DART staff reported that they have adopted a policy of accepting and serving a minimum of 95% to 96% of all eligible trip requests (trips within the service area and hours of operation) made by persons who are ADA Complementary Paratransit eligible.

Missed Trips: The DART staff reported that it is the policy of DART to honor and serve all trips scheduled unless canceled by the customer. If trips are missed due to customer no-show or carrier error and customers call and request that the trip still be served, the vehicle will be asked to return or another vehicle will be dispatched to serve the trip.

On-Time Performance: On-time performance is defined as any trip where the driver arrives at the pick-up location no later than the 20-minute "pick-up window" given to the customer (from 5 minutes before through 15 minutes after the scheduled pick-up time). A drop-off is considered on time if it is no later than the specified appointment time and no earlier than 40 minutes prior to the scheduled drop-off time. The goal set by DART is to achieve 90% on-time performance. [A second pick-up window consisting of 15 minutes before and 30 minutes after the scheduled pick-up time has been established for reporting and information purposes, but is not used in measuring or rating DART's on-time performance.]

Travel Time: DART has set separate ride length goals for peak periods of operation and normal periods. The goals are to provide rides no longer than 60 minutes during normal operation and no longer than 75 minutes during peak periods.

Phone Capacity: Staff reported that there are currently no standards set for maximum hold times for telephone service.

Summary of Findings

The following summarizes the findings made as a result of the assessment. The bases for these findings are addressed in other sections of this report. The findings should be used as the basis for any corrective actions proposed by CMCOG. Recommendations are also included in the report for CMCOG's consideration in developing corrective actions.

Findings Regarding ADA Complementary Paratransit Eligibility Determinations

1. DART's ADA Complementary Paratransit eligibility determination process appears to meet the requirements of the DOT ADA regulations.
2. Applicants who are denied ADA Complementary Paratransit eligibility are informed of the specific reason for the denial, and that they have a right to appeal the determination. The appeals process is thoroughly explained. Those applicants who are told that fixed service can meet their transportation needs are given the specific reasons for this determination.
3. DART does not perform testing to ascertain the applicants' functional abilities.

Findings Regarding Findings Regarding On-Time Performance

1. DART's on-time performance rate at the time of the assessment was approximately 57%, which indicates a capacity constraint under 49 CFR section 37.131(f)(3)(i)(A).
2. Untimely service, which occurs randomly for about three in every five trips, could be significant for many customers and could serve to be a constraint on their use of the service.
3. The 20-minute pick-up window, which requires that drivers arrive no more than 5 minutes earlier than the scheduled pick-up time is somewhat restrictive.

Findings Regarding Trip Length

1. At the time of the assessment, DART provided about 94% of all ADA Complementary Paratransit trips within its stated goal for travel time.
2. A small number of customers attending work training and other local agency programs appear to regularly experience excessive ride times.

Findings Regarding Telephone Capacity

1. It appears that trip requests can be made without delay most of the time. Customers seem to be familiar with the busy reservation periods and appear to be able to adjust the times that they call in order to avoid the peak periods.

Findings Regarding Other Observations

1. Under the heading of "FARES", the DART Service brochure/riders' guide states that "companions are allowed to ride on a space available basis." Please note that the DOT ADA regulations require that a personal care attendant, if needed, shall be allowed to ride. Personal care attendants may not be charged a fare. In addition, one companion shall be allowed to ride at the eligible rider's request, and additional companions may ride on a space available basis. The transit authority may charge the companions the same fare as the eligible rider.
2. Literature published and distributed that relates to or describes the ADA Complementary Paratransit service should refer to the ADA. The DART riders' guide/brochure does not contain any reference to the ADA.
3. Team members learned while on-site of a parent who had requested that her severely disabled son be picked up very early and dropped off very late in order to accommodate her own work schedule. As a result, her son remains on the DART vehicle for hours each day (before his day care center opens in the morning and after it closes in the afternoon) unattended. Requests of this nature adversely impact the rider as well as the service's ability to accommodate other riders on that route.

Overview of the Assessment

As noted above, this assessment focused on compliance with the paratransit capacity constraints requirements of the regulations. Several possible types of capacity constraints are identified by the DOT ADA regulations. These include waiting lists for access to service, or patterns or practices that result in a significant number of trip denials, untimely pick-ups, or excessively long trips. Capacity constraints also include other operating policies or practices that tend to significantly limit the amount of service to persons who are ADA Complementary Paratransit eligible.

To assess each of these potential types of capacity constraints, the assessment focused on observations and findings regarding:

- trip denials and waiting lists;
- on-time performance; and
- travel times.

Observations and findings related to two other practices and policies that can affect paratransit use were also developed. These included:

- determinations of ADA Complementary Paratransit eligibility; and
- telephone capacity.

ADA Complementary Paratransit eligibility determinations were assessed to ensure that system use was not impacted by inappropriate denials of eligibility for the service. Telephone capacity was assessed because access to reservations and customer service staff is a critical part of using a paratransit service.

The assessment first involved the collection and review of key service information prior to the on-site visit. This information included:

- a description of how the DART paratransit service is structured;
- copies of current service provider contracts;
- a copy of the operator manual which details service policies and practices to drivers and employees;
- the DART "Rider's Guide," which details service policies to customers; and
- a description of the service standards adopted by DART related to on-time performance, trip denials, travel times, and telephone service.

Additional information requested to be available during the on-site visit included

- copies of completed driver manifests for recent months;
- six months of service data, including the number of trips requested, scheduled,

- denied, canceled, no-shows, missed trips, and trips provided;
- a breakdown of trips requested, scheduled, and provided in each of the counties served by DART;
- detailed information about any trips denied in the last six months including origin and destination information, day and time information, and customer information;
- detailed information about trips in the last six months that exceeded the travel time standard set by DART;
- telephone call management records; and
- a listing of recent customer complaints related to capacity issues (trip denials, on-time performance, travel time, phone access).

In addition to the review of data, the assessment team also conducted telephone interviews with six customers and advocates identified through DART's trip records. Information about recent experiences with DART ADA Complementary Paratransit service was obtained.

The on-site assessment began with an opening conference, held on July 13, 1999, at 9:00 a.m. Representatives on behalf of the transit system in attendance were: Mr. Curtis L. Hamilton, Transit Manager, SCE&G; Ms. Mitzi Teel, Director of Transportation and Communications, CMCOG; and Mr. Jim Gauthier, Project Manager, Laidlaw Transit. Representing the FTA review team were Ms. Donna Gonzalez, Ms. Aurora Rivas and Ms. Linda Armstrong of JDG Associates, Inc. Mr. Frank Billue, FTA's Civil Rights Officer in Region IV, participated in the opening conference by telephone. Mr. Billue opened the meeting by explaining the purpose of the ADA assessments being conducted by FTA. He thanked the CMCOG, SCE&G and Laidlaw staff for their assistance in providing the information requested and with on-site visit arrangements. Ms. Gonzalez then reviewed the proposed assessment schedule. A copy of the original review schedule is provided as Attachment 2. Final arrangements and plans were made for the staff and departments that would be visited each day. Ms. Teel indicated that the CMCOG staff was available for any assistance needed during the assessment and expressed the hope that the information from the assessment would be helpful to all the entities in their ongoing efforts to monitor and improve the DART ADA Complementary Paratransit program.

Following the opening conference, the assessment team met with Ms. Teel and Mr. Gauthier to review the data that had been made available in advance and the data that was available on-site. The team was then given a tour of the Central Midland administrative offices, and from there proceeded to the Laidlaw central office with Mr. Gauthier. The team was introduced to the Laidlaw staff, and given a tour of that facility, which included a view of the reservations and scheduling systems, as well as the customer service/dispatch area. As part of the tour, the automated reservations/scheduling/dispatch system used by DART was explained.

On Wednesday, July 14, the review team observed the reservations process at the central office and data on the handling of trip requests was collected. Two assessment team members sat with two different reservation clerks and recorded calls as they were received. The handling of trip

requests was recorded. The scheduling process and dispatch operations were also observed. The Laidlaw staff consisted primarily of one dispatcher, one scheduler, two reservation clerks and a receptionist/customer service representative. All staff members except the dispatcher were trained to handle trip requests and cancellations when needed, particularly during peak times. The work areas for the staff members were in close proximity, allowing observation of various operations simultaneously. Trip data was collected and reviewed by team members along with Mr. Gauthier, who provided explanations of the various reports supplied, and additional data was collected for analysis.

The review team randomly selected Tuesday, June 29, 1999, for purposes of developing on-time performance statistics. Wednesday afternoon was devoted to gathering and tabulating data for trips performed on this sample day of service. Completed driver manifests from that day were obtained from Laidlaw for this detailed analysis. Actual pick-up and drop-off times recorded by drivers were compared to pick-up and drop-off times scheduled, and tabulations were made to identify late and early pick-ups and drops. Scheduled times were also compared to pick-up and appointment times initially requested by customers.

On Thursday, July 15, the dispatch operations were scheduled to be observed by team members. Several runs were randomly selected on Wednesday after scheduling was completed, and driver manifests were requested for those runs. Drivers performing those runs were to be asked to radio in the exact times of each pick-up and drop-off so that on-time performance could be observed in this way for both the morning and afternoon peak periods. However, inclement weather conditions persisted throughout the day, with extremely heavy rainfall, creating abnormal traffic conditions and precluding meaningful observation of the dispatch operation. Instead, the review team gathered, tabulated and analyzed additional records from DART's database for the week of June 28 through July 2, 1999, to develop statistics to assess its on-time performance history.

On Thursday afternoon, one of the review team members interviewed Mr. Sylvester Coleman, President of the Coleman Group, the contractor responsible for eligibility determinations. Mr. Coleman explained all aspects of the eligibility determination procedure, including the application process, the criteria for eligibility, and the appeals process. Eligibility records, including applications, determination letters and records of recent decisions were reviewed.

Throughout the week, the service data provided by Laidlaw was reviewed and analyzed. A major part of the review involved developing statistics for trip denials, on-time performance, and other capacity constraint issues from Laidlaw's database. Contacts were made with various customers, advocates and agency health care workers to gain information as to the community's perception of the service provided with regard to capacity constraints issues.

The exit conference was held at 11:00 a.m. on July 16, 1999. Preliminary findings were presented by the assessment team and discussed with CMCOG and DART staff and management. Mr. Douglas E. Phillips, Executive Director, CMCOG; and Mr. Sylvester Coleman of the Coleman Group joined those who had been present at the entrance conference.

Observations Regarding Trip Denials

As indicated in the "Overview of the Assessment" section of this report, information regarding trip denials and "wait listing" of trips was collected in three ways. These were:

- A review of service statistics provided by Laidlaw for the DART ADA Complementary Paratransit service;
- First-hand observation of trips requested and trips scheduled in the reservation and scheduling process; and
- Interviews with customers and advocates and health care workers.

DART Service Records

Detailed service records for the period from January through June 1999, were obtained from Laidlaw. The reports obtained for that period include information on the number of rides booked, rides performed, riders per service hour, rides canceled, passenger no-shows, service miles, total miles, service hours, trips performed, and on-time performance.

Table 1 below shows the total number of ADA Complementary Paratransit rides requested, rides denied, rides booked, rides performed, rides canceled, and passenger no shows. During this six-month period, DART's denial rate fluctuated from a high of 6.8% (or 2132 rides) in June 1999, to 3.1% (or 226 rides) in April 1999.

Table 1. Summary of Ride Data January through June 1999

Month	Trips Requested	Trips Booked	Trips Performed	No-Show Trips	Trips Canceled	% Canceled	Trips Denied	% Denied
Jan.	6959	6552	4419	107	2026	30.9%	407	5.8%
Feb.	6672	6313	4275	113	1925	30.4%	359	5.4%
Mar.	7592	7352	5186	112	2054	27.9%	240	3.2%
Apr.	7220	6994	4928	109	1957	28.0%	226	3.1%
May	6902	6476	4689	76	1711	26.4%	426	6.2%
June	6967	6493	4794	100	1599	24.6%	474	6.8%
Totals	42,312	40,180	28,291	617	11,272		2132	5.0%
%		100%	70.4%	1.5%	28.1%	28.1%	5.3%	

Reservations/Scheduling Observations

As part of the on-site assessment, the trip reservations process was observed during the peak morning request time (7:00 a.m. until 10:00 a.m.) on Wednesday, June 4. Requests being taken by two different reservation clerks were recorded and the handling of these requests was noted. Information collected for each request included the date of the trip being requested, the time requested, the customer's name and type of eligibility, the origin and destination, whether the customer was ambulatory or used a wheelchair, and whether the trip was scheduled, denied, or wait listed. For trips scheduled, the time scheduled was also noted to determine if times offered were within one hour of the times requested.

Information for a total of 22 trip requests was collected. All ADA trip requests observed were accepted for scheduling by the reservation clerks, although one trip was accepted on "standby" status. This request was for a ride ten days in advance, on June 24. The customer was instructed to call back on the day prior to the date of service to obtain a scheduled ride time. It was also noted that only one of the ADA Complementary Paratransit trip requests observed was for service on the next day. Table 2 below shows the distribution of ADA Complementary Paratransit trip requests by the number of days in advance of the day of service. As shown, 63.6% of all requests recorded were for trips eight to fourteen days in the future. Of these, five (or 22.7%) were for thirteen to fourteen days in advance. This distribution of trip requests by day of service indicates that customers may not feel confident that they can wait until the day before service to place their requests. This is an indication that trip denials are a concern to customers who are using the system.

**Table 2. Distribution of ADA Paratransit Trip Requests Made on 7/14/99 by
Number of Days in Advance of Day of Service**

# of Days in Advance	1	2	3-7	8-14
# of Trips Requested	1	3	4	14
% of Total Requests	4.5%	13.6%	18.2%	63.6%

In addition, team members observed that, for at least some of the trips placed on standby, when the customer canceled the trip due to having no scheduled pick-up time, the trip was incorrectly recorded as a cancellation rather than a trip denial. As Table 1 above shows, the cancellation rate (28.1%) is high. If the canceled standby trips were accurately reported as denials, the rate of trip denials could be expected to be somewhat higher, and the cancellation rate would correspondingly be lower. The team reviewed a sample of 189 trips performed on July 2, 1999, of which 25 (13.2%) of the trips performed were reported as being on standby status. An additional four trips (2.1%) were canceled standby trips. In summary, a total of 29 of the 189 trips (15.3%) reviewed were on standby that day. The four that were canceled were very likely to have been trip denials.

Customer/Advocate Interviews

As part of the assessment, six individuals were interviewed by telephone for input about the service. Those contacted were primarily human service agency staff persons and medical services workers. Input was requested specifically about capacity constraint issues, including trip denials. Five of the six expressed concerns about issues related to, or ultimately resulting in, trip denials. Each of them expressed concerns and dissatisfaction with the procedure of placing riders "standby" status, indicating that this often resulted in what amounts to denied trips. They each also stated that they had filed complaints in the past, with little or no improvement noted. One caseworker contacted related a specific instance of rides not performed after receiving a confirmation two weeks in advance and again two days in advance. When she called to inquire on the status of these rides, no record of the reservations could be found. Another person contacted stated that three of his patrons had stopped using DART because of unreliable service and missed rides.

Two dialysis case workers referred to a meeting held by CMCOG and DART management in response to complaint letters about service to dialysis centers. Caseworkers from the area were invited to attend in order to address the issues raised. One expressed that she gained a better understanding of DART's limitations with regard to dialysis patients, who should not be kept waiting but often cannot supply a definite time for pick-up. Although solutions were discussed, both contacts reported little improvement.

Findings and Recommendations

1. *DART has a stated goal to provide ADA Complementary Paratransit service to a minimum of 95% to 96% of all eligible trip requests. This is a capacity constraint under the DOT ADA regulations at 49 CFR section 37.131(f)(3)(i)(B). DART must change its goal to provide 100% of all eligible trips, and in doing so, must take appropriate steps to accommodate the increase in the number of rides provided.*
2. *DART's practice of placing trip requests that cannot be accommodated on "standby" often results in trip denials.*
3. *DART should update its procedures to correctly count and track denials. A denied request for a round trip should be counted as two denials. DART's reported denial rates cannot be considered to be reliable data.*
4. *With public input into the process, DART should consider revising its reservation period from 14 days to 7 or fewer days to reduce the excessive number of cancellations that it receives.*

Observations Regarding ADA Paratransit Eligibility Determinations

As described in the "Background" section of this report, eligibility determinations are made by the Coleman Group, under an independent contract with SCE&G. On July 15, 1999, a member of the assessment team met with and interviewed Mr. Sylvester Coleman, President of the Coleman Group to review DART's eligibility determination process. From this interview, it was clear that Mr. Coleman, who has attended eligibility training workshops sponsored by the Department of Transportation has a clear understanding of ADA Complementary Paratransit eligibility. He was cognizant of the principles of basing decisions on functional abilities, of considering most limiting conditions, and of conditional eligibility. He was also aware of the possible functional capabilities and limitations that are often associated with various types of disabilities.

The certification procedure for DART is straightforward. Potential customers may obtain applications by mail or in person by calling DART customer service. The applications are submitted to the Coleman Group for evaluation. The determination is based primarily on the information contained in the application; and eligibility may be certified as Complete, Conditional or Temporary, although at this time DART makes no distinction between Complete and Conditional eligibility. For questionable cases, the medical/professional references listed by the applicant are contacted for confirmation or clarification of the information given. If the application is incomplete, the applicant is contacted by phone and given the opportunity to supply the missing information. Applicants may also, upon request, receive assistance from the Coleman Group with filling out the application form.

The assessment team obtained a copy of the application form used for the ADA eligibility determination, and it is provided as Attachment 3. Completed applications received in May and June 1999, were reviewed. Examples of these are also included in Attachment 3, along with sample copies of determination notification letters. For the month of June 1999, 35 applications for eligibility were received and determinations made. Of these, only two applicants were denied.

The certification process appeared to be administered in a manner consistent with the DOT ADA regulations, and none of the applications reviewed were denied without justification. Review of the notification letters revealed that specific reasons for denials were clearly and specifically set forth in the denial letters, as well as the applicant's right to appeal the decision. The appeals procedure was briefly described, including the contact names and addresses and the time limit for initiating an appeal.

Findings and Recommendations:

1. *DART's ADA Complementary Paratransit eligibility determination process appears to meet the requirements of the DOT ADA regulations.*
2. *Applicants who are not granted ADA Complementary Paratransit eligibility are informed of the specific reason for the denial, and that they have a right to appeal the determination. The appeals process is thoroughly explained. Those applicants who are told that fixed route service can meet their transportation needs are given the specific reasons for this determination.*
3. *DART does not perform testing to ascertain the applicants' functional abilities. We recommend that DART consider developing a functional testing program to "strictly limit ADA paratransit eligibility to individuals" as cited at 49 CFR section 37.125(a). A more effective eligibility process also would help relieve DART's capacity constraints.*

Observations Regarding On-Time Performance

The observation and review of on-time performance was conducted in the following ways:

- Input on issues related to on-time performance was obtained from customers, advocates, and local human service staff.
- On-time performance for the past six months was reviewed for each service provider using scheduled and actual pick-up and drop-off times entered into the DART service database.
- Completed driver manifests for Tuesday, June 29, 1999 were obtained and the appointment and pick-up times originally requested by customers were obtained from DART's computer database. Requested, scheduled, and actual pick-up and drop-off times for this randomly selected day of service were then analyzed.
- Dispatch was observed first-hand at the Laidlaw's central offices to the extent that observation was feasible, given extreme weather conditions encountered during the period of the on-site assessment.

Five of the six customer/advocates and health care workers contacted during the on-site visit cited on-time performance as a major service capacity constraint issue. The service was generally described as unreliable, and one adult day care center supervisor asserted that the center has obtained its own van for transporting clients when DART runs behind. Another expressed dissatisfaction with not only late, but also early arrivals, that disrupted the operating routine of his agency and the patrons.

On-time performance based on data in the DART trip database is shown in Table 4 below. Trip data from January 1999, through June 1999, was used to develop these percentages.

Table 4. DART On-time Performance, Period from January 1, 1999 – June 30, 1999
(based on times recorded in DART's trip database)

Month	No. Trips	On Time	% On-Time
January	4,419	2601	58.9%
February	4,275	2313	54.1%
March	5,186	2,947	56.8%
April	4,928	2,784	56.5%
May	4,689	2,710	57.8%
June	4,794	2,871	59.9%
Totals	28,291	16,226	57.4%

As noted in the "Background" section of this report, DART has established a formal standard for on-time performance of 90%. On-time performance is calculated in the following way:

- Pickups that are within a 20-minute "window" of time based on the scheduled time for pickup; that is, the on-time window starts five minutes before and ends fifteen minutes after the passenger's scheduled pickup time.
- A drop-off is considered on time if it is no later than the specified appointment time and no earlier than 40 minutes prior to the scheduled drop-off time.

As shown in Table 4 above, overall on-time performance using the above two standards was 57.4%. This means that 42.6% of all pick-ups were no later than the scheduled appointment time and no more than 15 minutes after the scheduled pick-up time.

For purposes of conducting a detailed analysis of on-time performance, copies of completed manifests for runs performed were obtained for the randomly selected day of Tuesday, June 29, 1999. Randomly selected runs on this day were analyzed, taking into consideration both pick-up and drop-off times (scheduled and actual), as well as appointment times. Actual times recorded by vehicle operators were then compared to scheduled times. This process was followed for a sample of 160 total one-way trips for the selected day. Table 5 below shows on-time performance for June 29, based on the above review process. Early performance of trips as well as late performance is shown. Early performance includes pick-ups occurring prior to the 20-minute "ready window." Attachment 5 contains summary print-outs for the trips analyzed.

This sample data compares very favorably to the DART computer trip records. For the sample day, 64.4% of all trips reviewed were picked up no later than 15 minutes after and no earlier than 6 minutes before the scheduled pick-up time. This compares closely to the 57.3% on-time performance from trip records for June 29.

Table 5. DART On-Time Performance: Sample of 160 Trips on June 29, 1999
(based on scheduled pick-up times and actual times recorded by operators)

TOTAL Pick-ups	Late Pick-ups (Minutes)		TOTAL Late Pick-ups	Early Pick-ups (Minutes)		TOTAL On-Time
	16-30	31+		6-20	21+	
160	9	10	19	14	25	103
	5.6%	6.3%	11.9%	8.8%	15.6%	64.4%

Table 5. (Con't) DART On-Time Performance: Sample of 160 Trips on June 29, 1999
(based on scheduled drop-off times and actual times recorded by operators)

TOTAL Drop-offs	Late Drop-offs (Minutes)		Early Drop-offs (Minutes > 30 mins)	On-Time
	16-30	31+	> 40 Minutes	(Not > 40 mins. Early)
160	9	15	18	118
	5.6%	9.4%	11.3%	73.8%

The analysis above reveals that on-time drop-offs are approximately 10% higher than on-time pick-ups. This seems to indicate that a significant number of untimely pick-ups result in timely drop-offs, that is, not later than the specified appointment time and no earlier than 40 minutes prior to the scheduled drop-off time. This anomaly suggests deficiencies in the automated scheduling software or the parameters built into the system, such as the allowances made for slack time. Laidlaw and CMCOG indicated that the automated scheduling system, including both hardware and software was to have been updated to the Trapeze system for Windows.

DART's on-time performance history appears to fall well below its stated goal of 90% on-time. An examination of the individual routes seems to indicate that routes run during peak times are more likely to run late than non-peak time routes, as are routes with greater numbers of rides assigned. An additional factor seems to center around difficulties with availability of vehicles. Of eighteen routes analyzed on the sample day, only four, or 22.2% of drivers, departed from the terminal on time. Ten, or 55.6%, left from 19 to 35 minutes late, while three drivers (16.7%) left more than one hour after the scheduled departure time. Drivers starting late typically had difficulty making up the time, and consequently, these routes remained late throughout the day. Many rides had to be re-routed to other vehicles to compensate for those running behind, thus causing more routes to run farther behind.

When the assessment team members questioned Laidlaw staff about the late departures, they were told that vehicles were generally not available for the drivers at the departure times scheduled. This information was confirmed when team members observed drivers waiting at the Laidlaw offices at various times of each day during the review. When asked what these drivers were waiting for, staff members replied that they were waiting for vehicles to be made ready for service. In the near future, this problem is also likely to be solved or to some degree alleviated, as two new DART vehicles were ordered and delivery was expected within weeks of the assessment date.

Another issue indicated by the detailed analysis of the sample day is that many pick-ups and drop-offs occur well before the pick-up window or the appointment times. While some of these are due to drivers arriving early in anticipation of slow-downs during peak periods, others are apparently the result of scheduling problems. In other cases, early trip performance is not

actually an on-time problem. First-hand observations of the dispatch operations indicated that many return pick-ups are early because customers call and request an earlier than scheduled pick-up. DART and its operators will accommodate these requests where possible, and such changes are not reflected on the driver manifests or in trip records. In a few instances, parents or guardians request early pick-ups and late drop-offs in order to accommodate their own work schedules (which also results in long trip lengths for the passenger). This is not in reality an on-time problem.

On the other hand, early arrivals on going trips could be an issue. Analysis of trips from the sample day showed many instances where customers were picked-up 45-60+ minutes before their appointment times and transported directly to their destinations in far less than 45-60 minutes (often only 10-20 minutes). As a result, the arrival was well before the appointment time, sometimes due to early scheduled pick-ups and sometimes due to early arrival before scheduled pick-up time.

The official operating policy does not require customers to board vehicles before the 20-minute pick-up window or before the scheduled return pick-up time. Drivers are, in fact instructed that they are not to leave until five minutes after the beginning of the pick-up window. However, if other passengers are on-board, customers may feel pressured to leave early. Also, if early pick-ups occur on a regular basis for customers (which appears to be the case), the stated policies regarding boarding times and windows may begin to be viewed with less confidence and trust.

Another factor to consider in measuring on-time performance is that the 20-minute window used by DART may be regarded as somewhat restrictive as to early trips. Larger systems typically utilize a 30-minute window. Of the 39 early pick-ups recorded for June 29, only six (3.8% of total pick-ups) fell between 15 and 20 minutes earlier than the requested pick-up time. With a 30-minute pick-up window (15 minutes before to 15 minutes after requested pick-up), DART's on-time performance rate for the sample day would have been 69.4%. While still considerably below the stated goal, this change would represent a fairly significant improvement in the on-time rate while ensuring that pick-up times remain well within the one-hour negotiation time allowed by the ADA.

Finally, on-time performance was reviewed for patterns for specific programs, individuals, or areas. This analysis and on-site observations suggest that late pick-ups and drop-offs are fairly randomly distributed and are not occurring with greater frequency for specific customers. Late performance appears to be based more on traffic and other operating issues during peak service hours. Given the fairly random nature of on-time performance, it is assumed that on-time performance is about the same for most of the customers.

Findings and Recommendations:

1. *DART's on-time performance rate at the time of the assessment was approximately 57%, which indicates a capacity constraint under 49 CFR section 37.131(f)(3)(i)(A). On-time performance must be improved.*
2. *Untimely service, which occurs randomly for about three in every five trips, could be significant for many customers and could serve to be a constraint on their use of the service.*
3. *The 20-minute pick-up window, which requires that drivers arrive no more than 5 minutes earlier than the scheduled pick-up time is somewhat restrictive. DART should consider changing this policy.*

Observations Regarding Trip Length

The observation and review of travel time/trip length was performed in the following ways:

- Input on issues related to travel time was obtained from customers, advocates, and local human services staff.
- ADA Complementary Paratransit trips with on-board travel times in excess of 75 minutes for the month of June 1999, were analyzed.
- Travel times for the week of June 28 through July 2, 1999 (selected as a sample) were reviewed.

Of the six customer/advocates and health care workers contacted while on-site, only one mentioned travel time as a major issue. Concern was expressed about the long ride times that were a result of the manner in which trips are grouped. When asked if long rides were keeping people from participating in the program, the response was that although the rides were inconvenient and uncomfortable for clients, the lengthy rides were not causing people to leave the program, so far as she knew. She cited an example of a client having a two-and-one-half hour trip during the week of the assessment. This information was confirmed by the review team from DART records, as was another ride of 139 minutes by the same customer on June 29, 1999.

DART has set separate ride length goals for peak periods of operation and off-peak periods. The goals are to provide rides no longer than 60 minutes during off-peak periods and no longer than 75 minutes during peak periods. During the one-week period from June 28 through July 2, 1999 the DART service provided about 1,006 one-way trips under the ADA program. Of these trips, 944 (93.8%) were provided within the goals set for trip length by DART. A breakdown of the excessively long trips showed that 30 trips (3.0%) made during normal service hours were performed in more than 60 minutes, and 32 trips (3.1%) were performed during peak hours in no less than 75 minutes, for a total of 64 trips (6.4%) which exceeded the maximum travel time standard that DART has established for the service.

A review of the trips in excess of the DART goal showed that these 64 trips were taken by 40 individual customers. For 21 of these customers, only one long ride was recorded. These single occurrences are most likely the result of operational or traffic-related problems. A substantial number of customers, however, had two to three long rides during this one-week period. Most of these long trips appeared to be associated with long group runs for certain work sites or human service programs. Others appeared to be trips of individuals going to or returning from work at various places.

An examination of trips taken for a random selection of days in June 1999, also identified several long group runs for customers going to, or coming from, work training programs. The same customers noted as having long trips during the week of June 28 through July 2 also appeared on the Ride Length Report of trips longer than 75 minutes throughout the month of June. Three separate customers selected from this report for June experienced excessively long trips on ten, fourteen and sixteen occasions respectively, all on weekdays. The over-all occurrence rate of long trips in June was 4.7%. Of a total of 28,291 trips performed in June, 224 were in excess of 75 minutes' ride time. This represents an increase over previous months. In February, for example, 146 of 4,275 rides performed were longer than 75 minutes, for a rate of 2.2%. Again, many of these involved the same riders as are seen in the June report.

The DART staff noted that several of these repeated long rides can be explained by the fact that parents or guardians have requested early pick-ups or late drop-offs to accommodate their work schedules. Others may be due to long distances traveled from the pick-up point to the drop-off point, which must result in extended time on-board, particularly since the majority of these rides occur during peak traffic periods. The available reporting capabilities did not allow for a report showing distance along with travel times sorted by customer name. Development of such a report would be extremely useful for monitoring trip lengths compared to distances traveled for individual customers and addressing the various issues relating to the occurrence of long trips.

The continued recurrence of long ride times for the same customers over a period of months leads to the conclusion that the circumstances have not caused riders to stop using the DART ADA Complementary Paratransit system. However, although the percentage of long rides is relatively small, a pattern affecting riders on group runs is apparent from the data. Measures should be taken to identify the causes and seek solutions to this problem.

Findings and Recommendations:

1. *DART provides about 94% of all ADA Complementary Paratransit trips within its stated goals for travel time.*
2. *A small number of customers attending work training and other local agency programs appear to regularly experience excessive ride times. DART should review the group runs to these programs; solicit feedback on the level of service experienced from riders, parents, and guardians; and explore ways of reducing travel times to this group of individuals.*

Observations Regarding Telephone Capacity

DART does not currently have an established standard for phone service response time. One reason for this is that the phone system in use by DART at the time of the assessment did not have the capability of capturing data for reporting response times. Therefore, no phone records were available for review by the assessment team.

Information and observations on telephone service and capacity included:

- Input from customers and advocates contacted in advance of the assessment or while on-site; and
- First-hand observations in the reservations office and the customer service/dispatch office.

None of the six customers and advocates contacted mentioned phone response time or hold time as a major issue, although two alleged that customer service workers are often rude and unresponsive to inquiries regarding the status of rides. Two others expressed satisfaction with the phone service, citing minor inconvenience during peak times.

During the periods of observation of the reservations and scheduling process by team members, no excessive hold times were observed. The phones appeared to be answered promptly, and calls handled quickly. As incoming calls increased, staff members coordinated their efforts, and assisted one another as needed to handle the volume. For example, while trip request calls were few and ride status inquiry calls were heavy, the reservation clerks and scheduler fielded calls to locate rides in aid of the dispatcher.

On Thursday, July 15, one of the review team members placed a number of calls to reservations and customer service over a period of one hour, at a time when the volume of in-coming calls was high, and all calls placed were answered within two to three rings.

Findings and Recommendations:

1. *It appears that trip requests can be made without delay most of the time. Customers seem to be familiar with the busy reservation periods and appear to be able to adjust the times that they call in order to avoid the peak periods.*
2. *DART should establish a standard for telephone service and devise a method of tracking hold times, call lengths, abandoned calls and other useful information to produce valuable, informative reports by call purpose (trip request line, customer service, dispatch, etc.).*

Other Observations

During the course of the assessment, a number of non-capacity issues were noted that should be reviewed by DART to ensure full compliance with the DOT ADA regulations. These were as follows:

- Under the heading of "FARES", the DART Service brochure/riders' guide states that "companions are allowed to ride on a space available basis." Please note that the DOT ADA regulations require that a personal care attendant, if needed, shall be allowed to ride. Personal care attendants may not be charged a fare. In addition, one companion shall be allowed to ride at the eligible rider's request, and additional companions may ride on a space available basis. The transit authority may charge the companions the same fare as the eligible rider.
- Literature published and distributed that relates to or describes the ADA Complementary Paratransit service should refer to the ADA. The DART riders' guide/brochure does not contain any reference to the ADA.
- Team members learned while on-site of a parent who had requested that her severely disabled son be picked up very early and dropped off very late in order to accommodate her own work schedule. As a result, her son remains on the DART vehicle for hours each day (before his day care center opens in the morning and after it closes in the afternoon) unattended. Requests of this nature adversely impact the rider as well as the service's ability to accommodate other riders on that route. As a suggestion, CMCOG should consider initiating community education to inform the public of the nature and functions of the DART service.

Chicago Transit Authority

**Assessment of ADA Complementary Paratransit
Capacity Constraints**

Summary of Observations Made June 5-9, 2000

Prepared for
**Federal Transit Administration
Office of Civil Rights
Washington, D.C.**

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Final Report

Table of Contents

Section	Page
1. Purpose of the Assessment	1
2. Description of Services and Policies.....	2
3. Overview of the Assessment	4
4. Reservations Process and Telephone Capacity.....	9
5. Service Capacity and Trip Denials	14
6. ADA Complementary Paratransit Eligibility Determination	21
7. On-time Performance	25
8. Travel Time	32
9. Subscription Trips	35
10. Summary of Findings and Recommendations.....	39

Attachments

1. CTA Paratransit Customer Guide
2. Taxi Access Program Brochure
3. CTA Historical Financial Summary
4. Letter of July 5, 2000 from Frank Kruesi
5. Subscription Rules
6. CTA Response to FTA's Draft Report of Findings

1. PURPOSE OF THE ASSESSMENT

Public entities that operate fixed route transportation services for the general public are required by the U.S. Department of Transportation (USDOT) regulations implementing the Americans with Disabilities Act of 1990 (ADA) to also provide complementary paratransit service for persons who, because of their disability, are unable to use the fixed route system. These regulations (49 CFR Parts 27, 37, and 38) include six service criteria, which must be met by complementary paratransit service programs. Section 37.135(d) of the regulations requires that paratransit services meet these criteria by January 26, 1997.

The Federal Transit Administration (FTA) is responsible for ensuring compliance with the ADA and the USDOT regulations, which implement this civil rights law. As part of its compliance efforts, FTA, through the FTA Office of Civil Rights, conducts periodic assessments of fixed route transit and complementary paratransit services operated by grantees.

An on-site assessment of ADA Complementary Paratransit service provided by the Chicago Transit Authority (CTA) was conducted June 5 - 9, 2000. The assessment was conducted for the FTA Office of Civil Rights by Ralph G. Moore & Associates, Inc. (RGMA) of Chicago and Crain & Associates, Inc. (CAI) of San Carlos, California. The assessment focused primarily on compliance of the CTA ADA Complementary Paratransit service with one specific regulatory service criterion – the “capacity constraints” criterion. Section 37.131(f) of the regulations requires that ADA Complementary Paratransit services be operated without capacity constraints.

In conjunction with this assessment, an assessment was also conducted of the ADA eligibility determination process performed by the Regional Transportation Authority (RTA). RTA performs this function on behalf of CTA and the suburban transit operator Pace. The assessment of the RTA ADA Complementary Paratransit eligibility process is contained in a separate document.

This report summarizes the observations and findings of the on-site assessment of CTA's ADA Complementary Paratransit service. A description of key features of the CTA's ADA Complementary Paratransit service is first provided. A description of the approach and methodology used to conduct the assessment is then provided. Findings and recommendations related to each element of the capacity constraint criteria are then summarized. Finally, the major findings of the assessment are summarized in the last section of this report. Recommendations of the review team for addressing issues identified are also provided.

2. DESCRIPTION OF SERVICES AND POLICIES

Responsibilities

CTA provides public transit services in the City of Chicago and nearby areas. Bus service is limited to the City, while rapid rail service extends into the surrounding suburbs. Financial oversight and budget approval is the responsibility of the RTA which also oversees the suburban operator, Pace, and the commuter rail operator, Metra.

CTA ADA Complementary Paratransit provides approximately 1,060,000 one-way paratransit rides per year. Service is available to about 39,000 individuals in the greater Chicago area who have been determined ADA Complementary Paratransit eligible through the certification process administered by RTA.

Three contractors provide CTA ADA Complementary Paratransit. Each contractor has a defined market share, specified as a percentage of trips provided. The contractors are responsible for reservations, scheduling, and vehicle operations. The operators provide their own operating facilities, vehicles, telephone equipment and communications. Customers are encouraged to call their provider of choice directly, but may also reach the providers through a central 800 number maintained by CTA. CTA provides computer terminals, which are linked to CTA's central "Mapper" computer program, which is used for the purpose of verifying rider information, maintaining an audit trail of all reservations transactions, and controlling the timing and number of reservations that each operator can accept. The three contract providers and their contracted market shares are:

Art's Transportation, Inc. (20%)
Cook DuPage Transportation Co. (CDT) (50%)
SCR Transportation (30%)

CTA is also responsible for customer service and complaint handling, managing subscription trips, reviewing trip-by-trip eligibility cases, performance monitoring, and contract administration.

ADA Complementary Paratransit Service Criteria

CTA service criteria and policies are as follows:

Service Area. Service is available within 3/4 of a mile of CTA fixed-route bus routes and within a 3/4-mile radius of CTA rail stations. The service area expands and contracts depending on the time of day and day of the week. The Customer's Guide defines three service areas, one for weekdays between 5:00 a.m. and 12:00 midnight, one for weekends and holidays, and one for owl service (midnight to 4:59 a.m.).

Days and Hours. Service is available 24 hours a day, 365 days a year. Art's Transportation and SCR provide service from 5:00 a.m. to 9:00 p.m. CDT operates 24 hours a day.

Response Time. Trip requests are taken by the contract providers beginning at 6:00 AM each day for the following day only. No reservations are taken for trips more than one day in the future. There is no specified ending time for accepting trip requests. However, in practice, no new trip requests are accepted after approximately 9:00 a.m.

Fares. The CTA paratransit fare is equal to the full fare on the CTA fixed route system. This is \$1.50 per one-way trip. CTA Monthly ADA Paratransit Passes are also accepted. Companions pay the same fare and personal attendants ride for no charge.

Trip Purposes. All trip purposes are served without prioritization.

Additional Service Components

CTA and the City of Chicago also operate the Chicago Taxi Access Program (TAP) within the City of Chicago. This service is available to anyone certified as ADA Complementary Paratransit eligible except for individuals determined transitionally eligible by RTA. Participants purchase taxi vouchers for \$1.50 each. Each voucher can be used to pay for a taxi ride up a meter fare of \$10.00. The rider must pay amounts over \$10.00 on the meter. Participants may make up to four TAP rides per day. Approximately 125,000 TAP rides are provided each month.

CTA also provides contract service to the Chicago Department on Aging. Under a contract with the RTA, trips are provided to and from three ADA eligibility assessment sites for individuals who have been scheduled by RTA for assessment interviews.

Policies and Service Standards Related to Capacity Issues

CTA has established policies and service standards related to on-time performance, travel time, and missed trips as follows:

On-time Performance. A pick-up is considered on time if it occurs within 20 minutes after the scheduled pick-up time or, in the case of a "will-call" or open return trip, within 60 minutes after the time the customer calls to request the return trip. Carriers are expected to pick up 90% of trips on time each calendar month, and are assessed liquidated damages if they fail to meet this standard in any month.

Ride Time. The maximum in-vehicle ride time for customers is 90 minutes. A maximum of 2% of each carrier's trips originating in Chicago and 4% of each carrier's trips originating in suburban locations can exceed the maximum ride time. CTA will not pay carriers for trips longer than 90 minutes beyond the 2% and 4% limits.

Missed Trips. If a carrier misses a pickup or return trip through no fault of the customer, a penalty of \$200 per occurrence is to be assessed.

The definition of on-time performance is given in the carrier contracts and in the Customer's Guide. The remaining standards are contained in the carrier contracts. There is no established standard for telephone capacity.

A copy of the Customer's Guide for CTA Complementary Paratransit service is included as Attachment 1. A copy the brochure describing the Chicago Taxi Access Program is included as Attachment 2.

3. OVERVIEW OF THE ASSESSMENT

Focus on Capacity Constraints

As noted above, this assessment focused on compliance with the paratransit capacity constraints requirements of the regulations. Several possible types of capacity constraints are identified by the regulations. These include:

- Restrictions on the number of trips an individual will be provided.
- Waiting lists for access to the service.
- Any operational pattern or practice that significantly limits the availability of service to ADA Complementary Paratransit eligible persons.

Patterns or practices specifically mentioned in the regulations include substantial numbers of trip denials, missed trips, untimely pick-ups, or excessively long trips. Other patterns or practices which can significantly limit availability of service include excessive telephone wait times, or an overall cap on the number of trips provided.

To assess each of these potential types of capacity constraints, the assessment focused on observations and findings regarding:

- Trip denials, trip caps, and "wait listing" of trips.
- On-time performance.
- On-board travel times.
- Reservations and telephone capacity.

Observations and findings related to two other practices and policies that can affect paratransit use were also developed. These included:

- Determinations of ADA Complementary Paratransit eligibility.
- Subscription policies.

ADA Complementary Paratransit eligibility determinations were assessed to ensure that potential riders were able to access the system and were not impacted by inappropriate denials of eligibility for the service. This part of the assessment was limited to CTA's application of trip-by-trip eligibility determinations for individuals with conditional ADA eligibility status. An assessment of the primary ADA eligibility determinations is provided in the separate assessment of the RTA. Subscription policies were reviewed because dedicating an excessive amount of service to subscriptions can limit availability of demand responsive service as required by ADA. More than one person interviewed in the pre-assessment data collection mentioned subscriptions as an issue.

Pre-Assessment Data Collection

The assessment first involved the collection and review of key service information prior to the on-site visit. This information included:

- A description of how CTA's ADA Complementary Paratransit service is structured.
- Copies of current service provider contracts.
- A copy of the operator manual, which details service policies and practices to drivers and employees.
- A rider handbook which details service policies to customers.
- A description of the service standards adopted by CTA related to on-time performance, trip denials, travel times, and telephone service.
- Samples of driver manifests.
- Capital and operating budgets and expenditures for paratransit services for the three most recent fiscal years.
- The number of paratransit trips served and trips denied for the three most recent fiscal years.

Additional information was requested to be available during the on-site visit. This included:

- Copies of completed driver manifests for the most recent six (6) month period (for each carrier).
- By month, for the last six months: trips requested, scheduled, denied, cancelled, no-showed, missed, and provided.
- A breakdown of trips requested, scheduled, and provided by recognized geographic areas, communities, or zones.
- A listing of trips denied each month showing the customer's name, origin, requested destination, day and time, and if the person was ambulatory or uses a wheelchair.
- On-time performance information by carrier.
- A listing of trips that exceeded the trip length standard showing the customer's name, origin, destination, day and time, if the person was ambulatory or uses a wheelchair; and the total time on-board.
- Telephone call management records (if available) showing hold times by day and time, total call volume, calls answered and abandoned, etc.
- A list of complaints related to ADA Complementary Paratransit capacity constraints in the past year.

In addition to reviewing the data provided by CTA, the assessment team also conducted telephone interviews with six human service and advocacy agencies and four riders of the ADA Complementary Paratransit service, including three individuals who had recently filed complaints with the FTA regarding capacity constraint issues.

Overview of On-site Activities

The on-site assessment began with an opening conference, held on Monday, June 5, 2000, at 1:00 pm. In attendance representing CTA were: Richard Winston, Executive Vice President for Transit Operations; Elaine Roberts, General Manager, Paratransit Operations; Laura Scannell, Manager, Paratransit Administration; James Payne, Manager of Customer Service; Christine Montgomery, ADA Compliance Officer; and Larry Janasek, Paratransit MIS Administrator. FTA review team members in attendance included Lancert Foster of RGMA, David Koffman and Christina Verdin of Crain & Associates. Participating by conference call were Cheryl Hershey, FTA Office of Civil Rights ADA Team Leader, and Roger Peralta of the FTA Office of Civil Rights.

Ms. Hershey opened the meeting by explaining the purpose of the ADA Complementary Paratransit assessments being conducted by FTA. She noted that assessments were being conducted across the country as part of FTA's efforts to monitor implementation of the ADA. Ms. Hershey noted that assessments were being conducted as cooperative reviews. Issue would be identified and recommendations developed in an effort to work with CTA to improve services. She thanked CTA staff for their assistance in providing the information requested and with on-site visit arrangements.

Lancert Foster thanked CTA for providing information requested in advance by the review team. He noted that David Koffman would be the on-site team leader. Mr. Koffman then reviewed the on-site schedule.

Ms. Roberts indicated that CTA staff would be available for any information or assistance that the review team needed and indicated that she welcomed any recommendations that would help improve service.

Mr. Frank Kruesi, President of CTA, arrived, welcomed the assessment team, and was briefed about the plans for the assessment.

Following the opening conference the assessment team continued to meet with the CTA paratransit staff. Topics covered included:

- Review of the data that had been previously provided to the assessment team.
- Review of the data that had been requested to be made available on-site. This included driver manifests for the most recent six month period, detailed operating data by month for the last six months, and a listing of complaints during the past year related to ADA Complementary Paratransit capacity constraints.
- Explanation of program structure and operations.
- Overview of budgeting responsibilities and process.
- Arrangements for work space at CTA paratransit operations for the assessment team.
- Schedule for site observations and data analysis.

As a result of this conversation several additional data requests were made:

- Documentation of the budgeting process showing how the budget figures were established.
- A report showing denials and percentage of trips reserved (instead of percent of trips performed).
- A summary report of long trips.

On Tuesday, Wednesday, and Thursday the assessment team observed operations at the carriers and worked with CTA staff to review available service data and the budget process. The schedule of activities is shown in the table on the next page.

Schedule of Assessment Field Work**Tuesday, June 6, 1999**

5:30 a.m. - 10:00 a.m.	Observe trip reservations process at CDT.	Team + CTA.
10:00 a.m. - 11:00 a.m.	Observe dispatching process and at CDT.	Team + CTA.
12:00 noon - 4:00 p.m.	Detailed dispatching observations at CDT	Verdin
	Interview CDT management regarding vehicle and driver scheduling and telephone availability.	Koffman
	Meet with CTA MIS staff to define and request additional data tabulations. Observe trip-by-trip screening at CTA. Interview CTA regarding subscription procedures.	Koffman, Verdin

Wednesday, June 7, 1999

5:30 a.m. - 11:30 a.m.	Observe trip reservations process at SCR. Overview of dispatching process. Interview SCR staff regarding driver and vehicle scheduling.	Team + CTA.
1:00 p.m. - 2:30 p.m.	Detailed observations of dispatching at SCR.	Verdin
	Entrance conference with RTA concerning ADA Complementary Paratransit eligibility.	Foster, Koffman
2:30 p.m. - 6:00 p.m.	Review of eligibility screening process, database, and determinations at RTA.	Foster, Koffman

Thursday, June 8, 1999

5:30 a.m. - 7:30 a.m.	Observe first calling period at Art's.	Team + CTA.
7:30 a.m. - 10:00 a.m.	Observe dispatching, vehicle scheduling, and driver scheduling procedures.	Koffman, Verdin
	Observe vehicle checkout.	Verdin
12:00 noon - 5:00 p.m.	Interview CTA paratransit staff regarding budgeting.	Verdin, Koffman
	Spot check completed driver trip tickets against records of long and late trips.	Verdin
	Interview CTA Controller regarding budgeting.	Foster and Koffman

Gaps in the schedule represent time when the assessment team held debriefing meetings, reviewed data previously provided, and transcribed notes from observations. At approximately 10:00 a.m. each morning the team conducted a de-briefing call with FTA staff.

Following a final debriefing with FTA on Friday morning, an exit conference was held at 1:00 p.m. on Friday June 9. Attendance included the same individuals who were present at the entrance conference plus Frank Kruesi, President of CTA, Susan Plassmeyer, CTA Chief of Staff, John Gandor from the CTA Controller's office, and Donald Gismondi, FTA Deputy Regional Administrator. Mary Elizabeth Peters of the FTA Office of Civil Rights participated by conference call. The assessment team presented preliminary findings of capacity constraints and these were discussed with CTA staff. Arthur Andrew Lopez, Director of the FTA Office of Civil Rights joined the meeting by conference telephone. Mr. Lopez indicated that the nature of the findings would most likely trigger a letter of non-compliance but that no letter would be issued pending further discussion between FTA and CTA. It was explained that a draft assessment report would be prepared and forwarded to CTA for review. FTA would then work with CTA to resolve issues raised in the report.

4. RESERVATIONS PROCESS AND TELEPHONE CAPACITY

The ability of customers to access the trip reservations system and have requests handled promptly was assessed by means of:

- Interviews with customers and advocates.
- Interviews with CTA staff and review of contract documents concerning standards.
- Observations of the call-taking process at all three contract carriers.
- Review of telephone management statistics provided by two carriers.

Overview of the Telephone System and Reservations Process

Each of the three carriers is responsible for providing its own telephone equipment and call-taking staff. The Customer's Guide provides telephone numbers (voice and TTY) for each carrier. In addition, CTA provides a toll-free reservation number that customers may use to reach any of the carriers. No separate number is provided for trip confirmation, changes, or cancellations. Beginning with new contracts effective January 1, 2000, the carriers are required to provide an automated call-sequencing system that ensures that calls are handled on a first-come, first-served basis, and that provides management data about telephone capacity. At the time of the assessment, two of the three carriers (CDT and SCR) had installed the new telephone equipment. The third carrier (Art's) had obtained the equipment and was planning to install it shortly.

Reservations are accepted for trips the following day only beginning at 6:00 a.m. each day until a pre-established limit for each carrier, set by CTA, is reached, and again beginning at 8:00 a.m. until a second pre-established limit is reached. According to the Customer's Guide:

We encourage you to call early to secure a ride at your desired time since the number of daily trips is limited. To ensure that reservations are available later in the day, the carriers accept requests for service starting daily at 6:00 a.m. and 8:00 a.m.

The limits for each carrier are enforced by CTA's Mapper computer software. According to CTA, at the time of the assessment, Mapper was programmed to accept 4,100 trip reservations each day. These are allocated to the carriers according to their contracted market share. The basis for this daily limit is discussed in the section on Service Capacity and Trip Denials.

As noted before, there are no separate telephone numbers for trip confirmations, changes, or cancellations. As a result, during the reservations period beginning at 6:00 a.m. and 8:00 a.m. each day, it is difficult to make a call for these purposes. However, once the limits have been reached for reservations, the call-takers continue to receive calls for other purposes. Based on the team's observations, calling volume declines sharply once the daily limits have been reached, so telephone capacity becomes available for calls to confirm, change, or cancel trips. Once a trip has been accepted, the customer can call and change it as needed up to two hours before the scheduled trip time. All changes are recorded through the Mapper terminals.

Input from Riders and Advocates

Of 10 riders, advocates, or human service agency staff interviewed prior to the assessment, six expressed frustration about the process of calling to reserve trips. A frequent rider recounted an experience on May 25, 2000. She began calling at 6:40 a.m. and re-dialed for 40 minutes before getting through. By that time all trips were taken. She called again at 8:00 a.m. and succeeded in getting a ride. Another rider indicated that the new telephone equipment has resulted in improved service but that he still often gets a busy signal for 30 minutes before getting through. Two others expressed the view that the system is impractical to use for non-subscription service.

Staff of the ADA Complementary Paratransit carriers confirmed these limited reports. In many conversations with carrier operations staff that handle telephone calls from riders, it was regarded as well known that riders have difficulty getting through on the telephone, that many receive busy signals, and that having a re-dial button on the telephone was an important feature to be able to use ADA Complementary Paratransit.

Performance Standards

CTA has not set standards for telephone performance.

Observations of the Trip Reservations Process

The team observed the reservations call-taking process at each of the three carriers. Approximately 750 calls were observed in all. On Tuesday, June 6 (CDT) and

Wednesday, June 7 (SCR) the team observed both the 6:00 a.m. and 8:00 a.m. calling periods. On Thursday, June 8 (Art's) the team observed only the 6:00 a.m. calling period. At SCR, the team was able to listen to both sides of the conversation; at the other providers the team requested the call taker to repeat information as much as possible. Observations began a few minutes before the calling period and continued for several minutes after the limit was reached. Each of the three team members sat with a different call taker and made notes of each call. Except as specifically noted, the following description covers those elements of the process, which were observed to be identical at all three providers.

Each call-taker sits at a terminal, provided by CTA, which is connected to Mapper. After answering the telephone, the call taker requests the caller's paratransit ID number, and enters it into the Mapper trip reservations screen. Beginning at 6:00 a.m., the software begins accepting trip reservations. When each carrier's limit has been reached the program responds to the entry of a customer ID with a message to the effect that the limit has been reached and no more reservations will be accepted until 8:00 a.m. The call taker informs the customer that no more trips are available, and says, "please call back at 8:00." The same process is repeated beginning at 8:00, until the daily limit is reached and customers are requested, "please call back tomorrow."

Even after the limit has been reached, the call takers continue to initiate each call by requesting the caller's paratransit ID number. This information is entered into Mapper for record keeping purposes before the caller is informed that no more trips are available. Note, however, that no information is obtained about the trip or trips that would have been requested.

If Mapper accepts an ID number for a reservation, the call taker enters the customer's desired pick up and drop off locations, desired pick up time, mobility aids that will be used, and whether the customer will be riding with an attendant or companion. Mapper does not check for vehicle capacity but simply records the information. The customer may request as many trips as she or he wants and each one is entered in the same way. For any trip, a customer can obtain a "will-call" return trip. These are entered without any scheduled time. As long as the ID number is entered before the carrier's limit has been reached, Mapper will accept as many trips as the customer requests. The call-takers do not normally negotiate trip times but simply accept whatever time the customer has requested.

Mapper permits the call taker to work on two ID numbers at the same time in order to make efficient use of time spent waiting for the program to respond. All the experienced call takers observed made use of this feature. In addition, call takers at one provider used paper and pencil notes to assist three or more customers at the same time, helping each one while waiting for the system to respond to information entered for one of the others.

The team recorded the time when the trip limits were reached. These were:

Day	Number of Call Takers	Calling Period	Time When Limit Was Reached
Tuesday, June 6	9	6:00 a.m.	6:37 a.m.
		8:00 a.m.	8:54 a.m.
Wednesday, June 7	4	6:00 a.m.	7:15 a.m.
		8:00 a.m.	8:34 a.m.
Thursday, June 8	4	6:00 a.m.	7:06 a.m.

During the 8:00 a.m. calling period on Tuesday, the Mapper program was applying a new procedure for checking the correctness of each address entered. This procedure appeared to slow down the reservations process, which would have resulted in the trip limit being reached later than would usually be the case.

Once the limit was reached, calling volume appeared to decline rapidly (see calling data in the next section). For example, in the 6:00 a.m. calling period on Thursday, June 8, no more trips were available by 7:06. By 7:10 there were few calls on hold based on the number of phone buttons that were lit. (This type of direct observation was only possible at this carrier, since it is still using the older multiple-button telephone sets instead of the newer call sequencing equipment.) Several call-takers indicated that it is not uncommon for a caller to hang up immediately if their call is answered immediately, since this is an indication that no more trips are available.

In many cases, callers requested trips for multiple ID numbers, sometimes for multiple origins and destinations.

Telephone Calling Data

Since CTA does not set standards for telephone performance, the carriers follow no standard practice in collecting data, and do not routinely keep records. Sample data from the automated call sequencing equipment was requested from the two providers that have this equipment. One was able to provide data that separated out the three hours of maximum calling (5:45 a.m. to 9:00 a.m.). For Thursday, June 1, 2000, the report showed:

Time Period	Calls Answered	Calls Abandoned	Average Delay Time	Average Talk time
05:45 - 09:00	740	95	1:32	0:57
09:00 - 05:45	1210	245	1:24	0:55

A second provider was able to provide hour-by-hour data. The hour-by-hour data showed the following for a five-day period Saturday, May 27 through Wednesday, May 31 (including Memorial Day, May 29):

Time Period	Calls Answered	Calls Abandoned	Average Delay Time	Average Talk time
05:00 - 06:00	215	22	16:24	0:14
06:00 - 07:00	1185	22	3:08	0:48
07:00 - 08:00	595	44	3:05	0:34
08:00 - 9:00	806	38	2:35	0:47
9:00 - 10:00	350	4	0:22	0:51

Call volumes fall off slowly during the rest of the business day and average delay times remain under 30 seconds. The very high delay times in the 5:00 a.m. to 6:00 a.m. period appear to reflect this provider's practice of not answering the telephone in the period immediate before the 6:00 a.m. opening of reservations. This enables those people who succeed in getting into the queue to be assured of a place at the head of the line at 6:00 a.m.

Note that these data do not indicate how many callers attempted to reach the provider but received a busy signal. These calls would not be recorded by the call sequencing equipment. The riders and other interviewed did not mention telephone hold time as a concern. Instead their concern was about getting a constant busy signal. It is possible that the providers' telephone companies could provide information about the number times a caller received a busy signal, but this type of special data collection was not requested for this assessment.

Findings

- 1) Limited evidence indicates that riders face severe capacity constraints in calling to reserve trips, mainly in the form of busy signals. CTA also limits the hours in which reservations can be made in violation of the DOT ADA regulations.
- 2) Once a rider is able to get through on the telephone, hold times vary considerably among providers. At one provider, average hold times for a single sample day were 1.5 minutes, while at a second, over a five-day period, average hold times during peak call-in periods were about 3 minutes. Note that as many as half of calls will typically experience a hold time greater than the average.
- 3) CTA has no standards for telephone performance, but has required carriers to install automatic call sequencing equipment.
- 4) The daily trip limit appears to be the main cause of riders' difficulty in getting through on the telephone. This limit creates a daily race among riders to call early enough to get a ride. As a result, adding telephone capacity without eliminating or raising the trip limit is not likely to resolve the telephone capacity problem.

Recommendations

- 1) CTA should explore the feasibility of having the carriers' telephone providers measure the extent of busy signals received by paratransit customers, and use this information as part of its measurement of capacity constraints.
- 2) CTA should set objectives for telephone hold times and require the carriers to report this information on a regular basis.
- 3) Once other steps have been taken to reduce limited availability of paratransit trips, CTA should set contract standards for telephone availability.

5. SERVICE CAPACITY AND TRIP DENIALS

Information about service capacity and trip denials was developed by means of:

- Interviews with customers and advocates.
- Interviews with CTA ADA Complementary Paratransit operations staff concerning standards and trip limits.
- Observations of the call-taking process at all three contract carriers.
- Interview with CTA ADA Complementary Paratransit executive staff about ridership and budgets for recent years.
- Analysis of data from CTA's management information system.

Overview of Capacity and Denial Information

As already described in the section on Reservations, CTA's reservations software is set to permit a maximum of 4,100 trip reservations each day. This fact was noted by CTA during the opening conference.

Because of the way the reservations process works, limited information is available about the trips denied. Riders provide their ID number and are then informed that no more trips are available. As a result, no information is available about origins, destinations, or times of trips that would have been requested. No information is available about the number of trips that the caller would have requested.

In response to the data requests at the beginning of the assessment, CTA provided the following information:

Calendar year	Trips Provided	Denials	Denial Percentage**
1997	1,100,513	31,473	2.9%
1998	1,106,413	54,122	4.9%
1999	1,065,879	64,135	6.0%
2000*	357,188	14,712	4.1%

*January through April.

**Denials divided by trips provided.

The count of trips includes all those provided under the "Special Services" program, including trips to RTA eligibility assessment interviews, but does not include trips provided under the supplementary Taxi Access Program. Note that "denials" refers to the count of times that a provider call-taker entered an ID number and Mapper determined that the trip limit had been reached. It is not a count of trips.

CTA calculates its denial rate based on total trips scheduled. In addition to trips provided, a substantial number of trips are requested and scheduled but not taken, either because the rider canceled them, the rider did not show, or the carrier failed to provide the trip. For the period January through April 2000, CTA provided the following statistics:

Trips requested and scheduled	432,276
Trips "denied" (not eligible)	28
Trips cancelled	65,203
No-shows	9,834
Missed trips (by carrier)	23
Trips provided	357,188
Trips denied	14,712
Denial rate (as % of trip scheduled)	3.4%

CTA reports indicate that the denial rate fell to 2.6% in April 2000. One provider attributed this to a slowdown in the Mapper computer. According to this provider, slower computer response has caused each phone call to take longer. As a result it takes longer each morning for the daily trip limit to be reached. Riders tend not to call after the time when the limit was reached in the past, so recorded denials have declined.

Input from Riders and Advocates

Because of the way CTA ADA Complementary Paratransit works, the input from riders and advocates already noted in the section on telephone capacity also refers to problems with service capacity. Six of the ten riders or advocates interviewed noted that it is often difficult to obtain a ride, or that all available rides are taken very soon after the phones open for reservations. One rider and advocate kept a log of calls made between January 13 and March 3. Calling each day during this period between about 8:45 and 9:00 in the morning, this rider was able to obtain one ride.

First-Hand Observations of Trip Request Handling

Observations of the reservations process were described in the preceding section. As noted there, these observations confirmed that all available trips were given out in two short periods, between 6:00 a.m. and approximately 7:00 a.m. and between 8:00 a.m. and approximately 9:00 a.m. The team observed that whether a customer obtained a ride depended almost entirely on whether the numerical limits set by the CTA software had been reached or not. Once the limits were reached, all trip requests without exception were denied, typically with the words "call back at 8:00" or "call back tomorrow." Before the limits were reached the only cases that were observed that resulted in no trip being booked were:

- The customer's eligibility had expired.
- The trip was outside the CTA ADA Complementary Paratransit service area.
- The customer was not able to supply sufficient address information about an origin or destination for the call taker to book the trip.

In one case a caller requested a trip to a hospital in a suburb that is only partly within the CTA ADA Complementary Paratransit service area. The reservationist requested assistance from a supervisor, who determined that the location was outside the service area. The caller was referred to a County program, which might be able to provide the ride.

The team observed the process of recording trip denials. The team observed that the volume of trip requests fell off rapidly once the limit was reached. The reservationists who were observed recorded between 3 and 7 denials before turning to other tasks. A likely explanation for this is as follows. Riders know from experience that by 7:00 or 9:00 all trips will have been taken, so if they have not gotten through by then, they are likely to give up. Also, once the limit has been reached, telephone transaction times become much shorter. This combined with reduced incoming volume, results in hold times declining. As a result, any rider who does call "late" for a reservation and gets through right away, knows that there are no more trips available and is likely to hang up.

Some ADA Complementary Paratransit systems use trip time negotiation as a way of stretching vehicle capacity. Because of the way reservations are handled at CTA, trip time negotiation does not affect a rider's chance of obtaining a ride. At one of the three providers, the team observed that two of the three call-takers observed asked some riders if they would shift their request times. One reservationist asked three or four riders who requested trips on the hour (for example 8:00 a.m.) to travel 15 minutes or 30 minutes later. In no case did a call taker ask a rider to shift travel time by more than an hour. In no case was a ride request refused because a rider would not shift travel times.

If a customer's record indicated conditional eligibility, the call taker is prompted to ask "does your disability keep you from riding mainline transit?" The call taker must enter Y or N. The call takers asked the question as prompted, but in no case did this exchange result in a trip not being scheduled. One call taker, who is known for her speed at

handling calls, was observed to say "I understand that your disability keeps you from riding mainline, is that right?"

Annual Expenditures, Ridership, and Budgets

CTA staff indicated that the daily trip limits are set based on the adopted annual budget. In discussions about the daily limit on trip reservations, CTA staff noted their understanding that, for contractual reasons, it was legally necessary to have some limit on the number of trips each provider could accept. Since CTA has negotiated flat rates per trip as the basis for paying contractors, steps to improve vehicle productivity would have no direct impact on the number of trips that the budget would pay for.

CTA provided operating budgets and actual expenditures for paratransit operations from the current and preceding three fiscal years as shown below. The budget and actual expense figures include the service contracts for the ADA Complementary Paratransit program (Special Services), provider payments for the Taxi Access Program, and CTA paratransit administration. Note that CTA uses the calendar year for its fiscal year.

Year	Budget	Pct. Increase	Actual	Pct. Increase	Denial Rate	Budget - Actual
1997	\$27,626,086		\$26,979,834		2.9%	\$646,252
1998	\$27,372,643	-0.9%	\$27,908,083	3.4%	4.9%	(\$535,440)
1999	\$28,051,473	2.5%	\$28,018,233	0.4%	6.0%	\$33,240
2000	\$28,338,489	1.0%	\$27,791,484	-0.8%	4.1%	\$547,005

Note: FY 2000 actual is projected from \$6,947,871 in the first three months of the year.

Since increases have been well below denial rates in recent years, staff were asked to explain the process by which the budgets have been set. Staff provided internal memoranda documenting the following process for the FY 2000 budget:

August 9, 1999

Budget department provides budget forms and a preliminary operating budget of \$28,038,487 including \$27,059,999 for contracted service, equal to the budget figure for 1999.

September 7, 1999

Paratransit operations prepares a spreadsheet showing a department proposed budget of \$28,815,640 including \$27,817,208 for contracted service. Line items for provider payments indicate a 2.5% cost of living increase only.

October 26, 1999

Budget department determines that the budget for contracted service will be \$27,360,000 (a 1.1% increase) and requests paratransit to provide monthly detail.

November 22, 1999

In response to concerns raised at public hearings, paratransit operations staff provides a spreadsheet analysis of the contracted service cost under two scenarios:

Maintain 1999 service with 1% trip turndowns: ¹	\$28,628,472
Maintain 1999 service with no trip turndowns:	\$28,905,493

The scenarios incorporate a revised cost per trip 4.05% below the 1999 budgeted cost per trip, based on the most recent best and final offers for new service contracts beginning 1/1/00. Projected trips under the "no trip turndown" scenario are based on actual 1999 trips plus actual denials. The final adopted budget retains the figure of \$27,360,000 for contracted service set by the budget department in October.

The team interviewed CTA's Controller to explore further the reasoning behind the budget process. In response to the team's questions, the Controller made the following points:

- CTA is required to meet farebox recovery ratio requirements set by RTA under state law.
- Public funding is growing more slowly than costs. Labor is the largest component of cost, and 90% of labor cost is subject to labor agreements.
- As a result there may not be sufficient revenue to fully fund paratransit.
- During the past ten years CTA's expenditures for paratransit have gone up much faster than expenditures for the rest of the agency's services. In 1994, when the overall agency budget was cut by 2.1%, the paratransit budget increased by 8.9%.
- At one point there were problems with fraud in the TAP program.
- During one year, there was a problem with vendors being able to supply enough trips.
- The budget process begins with determining the expected cost to keep current service intact. In the case of paratransit, the budget assumed that the cost per trip would decline under new service contracts that were to take effect in the new fiscal year.
- The disabled community is not the only one dissatisfied with planned service levels. At the public hearings during which disabled riders complained about the paratransit budget, Hispanic representatives also complained about cuts that would impact their communities.

The Controller provided a copy of the *2000 Annual Budget Summary* including a historical financial summary, which is provided as Attachment 3.

On July 5, 2000 Frank Kruesi, President of CTA, sent a letter to the assessment team addressing budget issues. Mr. Kruesi's letter re-iterates some of the same points noted above, and makes some new ones with supporting information. This letter with its attachments is included as Attachment 4 to this document. Key points are paraphrased below, along with the team's analysis:

¹ "Turndown" is the term CTA uses to refer to an ADA Complementary Paratransit trip denial.

1. **CTA:** Budget amounts are initially determined based on analysis of demand and expected efficiencies that permit more trips to be provided with the same dollars.

Analysis: CTA provided a board-approved two-year budget spreadsheet showing actual 1999 results and budget figures for 2000. Since this spreadsheet includes accurate 1999 final data, it was presumably prepared sometime during 2000. The spreadsheet projects Special Service demand for 2000 based on actual trips provided in 1999 plus trip denials in 1999:

Special services trips in 1999: 1,060,975 (Adjusted for 4,895 eligibility assessment trips)
 Trip turndown (denial) rate: 5.00%
 Special services demand: 1,116,816 (1999 trips ÷ (1 - .05))

The spreadsheet then shows that the adopted budget, assuming a cost per trip 4.07% less than the cost per trip in 1999, will provide for 1,097,003 special services trips, 19,813 less than CTA's projection of demand. The gap is partly made up by projecting an increase of 7,719 Taxi Access Program (TAP) trips.

The calculation of demand is based on the recorded denial rate, which represents a count of telephone calls that resulted in denial. However, note that each call represents an average of two denied trips. Also the recorded denial rate provides no evidence about riders being discouraged from requesting trips by the fact that the daily limit is used up early each morning and by the fact that it is difficult to reach an open telephone line.

2. **CTA:** The budget can be and is adjusted if demand is higher than expected. In some years, CTA budgeted for more trips than were actually taken. Actual demand in 2000 is less than projected, and the denial rate has fallen.

Analysis: The budget and expense data shown previously, indicate that actual expenses exceeded the budget in one of the previous three years, and fell short of the budget in two. Note, however, that the actual expense and the actual number of trips provided are not determined by demand. They are mainly determined by the trip limits that are set by CTA. In addition, it is possible that one or more contractors could have had difficulty in providing allowed number of trips. The denial rate has in fact fallen in the early part of 2000, although this could be partly due to operational problems related to the trip reservations process.

3. **CTA:** There is substantial unmet demand on CTA's mainline services, which have been reduced due to budget pressures. Despite, this CTA has steadily increased its financial commitment to paratransit and increased the number of rides provided.

Analysis: CTA did not provide any evidence or measurements of unmet demand on the fixed-route service. Data provided by CTA indicate that actual paratransit expenditures increased by 80% between 1990 and 1996 (an average of 10.3% per year) and by 10% from 1996 to 1999 (an average of 3.2% per year). The total nine-year increase in spending was 99% (an average of 7.9% per year). Between 1990 and 1999 the number of

Special Services and Taxi Access Program trips has increased by 39% (an average of 3.7% per year). The relative size of the paratransit budget compared to the budget for fixed-route transit services is not a factor in determining whether there are capacity constraints.

4. **CTA:** The revised eligibility determination process, which was implemented by RTA in September 1999, has resulted in fewer applications and fewer customers certified as ADA Complementary Paratransit eligible. The number of certified customers in CTA's Complementary Paratransit data base declined by 3.9% in the year ending January 7, 2000.

Analysis: Data provided by RTA confirm that the rate of certifications has fallen by about 29%. Since RTA requires ADA eligible individuals to be re-certified every four years, it is possible that the new process could have a significant impact on demand with the next year. A full analysis would need to take into account the relative number of people being added and removed from the rolls. It would also need to consider the actual ridership rates of those currently eligible customers who do not reapply or who are found ineligible.

Findings

- 1) CTA permits a maximum of 4,100 trips per day to be scheduled, a practice that severely limits the availability of ADA Complementary Paratransit trips to eligible riders. This is a capacity constraint.
- 2) Available denial rate information provides a very incomplete picture of capacity constraints. One denial (termed a "turndown" by CTA) represents one telephone call that occurred after trip limits had been reached; however, more than 95% of trip requests observed by the assessment team were for two or more one-way trips. Therefore the actual number of unserved trips is at least twice the recorded number of denials. Further, it appears that many riders who do not get through before about 7:00 a.m. or before about 9:00 a.m. give up or hang up so no denial is recorded. Beyond that, the high level of busy signals noted in the preceding section is likely to discourage many potential riders from calling at all.
- 3) CTA has no established objective for trip denials.
- 4) CTA's budget process for fiscal year 2000 relied on anticipated reductions in contracted cost per trip to increase trips provided. The budget falls short of meeting CTA's projection of demand.
- 5) Budgets for the past three years do not contain increases commensurate with recorded denial levels.
- 6) A new, more accurate eligibility process (described in Section 7) could reduce demand for ADA Complementary Paratransit and reduce capacity constraints within the next year. Additional analysis would be needed to estimate this impact.

Recommendations

- 1) CTA should either eliminate the trip limit imposed on its contractors or provide a method that allows ADA Complementary Paratransit trips above the contract limits to be served by another contracting mechanism.
- 2) CTA should establish a process for estimating the level of service that would be needed to avoid a substantial number of trip denials and use the results of that process to amend the existing budget and to plan future budgets. The demand estimation process should take into account the actual number of trips that would have been requested for each telephone call recorded as a denial, as well as the impact of the current trip cap and restricted telephone availability.
- 3) The demand estimation process should also include a careful analysis of the likely impact of the new eligibility process on the number of trips that will be requested by ADA Complementary Paratransit eligible individuals.

6. ADA COMPLEMENTARY PARATRANSIT ELIGIBILITY DETERMINATION

CTA's role in the ADA Complementary Paratransit eligibility determination process was reviewed to assess whether determinations were limiting service to eligible individuals. A limitation could occur if eligible individuals are found ineligible, or if ineligible individuals are found eligible, thereby limiting service to eligible individuals. CTA's role is limited to receiving determinations made by RTA, providing transportation to eligibility assessment appointments, coordinating with RTA regarding re-certification of currently eligible individuals, and screening for conditional and trip-by-trip eligibility. The assessment was based on the following information:

- Interviews with riders and advocates.
- Interviews with RTA staff responsible for eligibility determinations.
- Data provided by RTA staff regarding eligibility process and outcomes.
- Interviews with CTA staff responsible for trip-by-trip eligibility screening.
- Observation of the reservations process.

Key Points about RTA's ADA Complementary Paratransit Eligibility Determination Program

CTA has delegated the ADA eligibility determination function to RTA, which performs eligibility determinations for service provided by CTA and by Pace, the suburban bus operator. During 1999 RTA began shifting to a new system of eligibility determination based on 100% in-person functional assessment. The previous system was based primarily on applicant self-certification using paper applications. In June 1999, RTA signed a contract with Community Alternatives Unlimited to conduct interviews and assessments at five sites throughout the RTA region. RTA receives initial inquiries, mails out application materials, and schedules assessments. Following completion of the assessments, RTA staff make final determinations and notifies applicants. CTA and Pace

provide transportation to the assessment sites as needed. RTA certifies ADA Complementary Paratransit eligibility using the following categories:

- 1) All trips
- 2) Conditional - variable disability condition
- 3) Conditional - orientation (eligible except for specific trips which the rider has learned how to make on mainline transit)
- 4) Transitional (trips that would require using a transit route that is not yet accessible)
- 5) Conditional - winter months (eligible November 15 through March 15)
- 6) Conditional - summer months (eligible July 15 through August 31)
- 7) Temporary - visitor
- 8) Temporary - training (final determination made after training is completed)
- 9) Temporary - disability condition (eligible for period of estimated disability)
- 10) Not eligible
- 11) Temporary - interim (eligible from 21 days completion of application until determination is completed)
- 12) Conditional - path of travel

RTA staff provided reports showing the total number of applications received in the first five months of 1999 and 2000, and outcomes of determinations completed in the same periods. The total number of applications received fell from 4,557 in January to May 1999, to 2,962 in January to May 2000, a decline of 35%. The reports show the following changes in determination outcomes:

Eligibility Category	January - May 1999 (Self-certification)		January - May 2000 (Functional assessment)	
Unconditional	3,508	78%	2,477	80%
Conditional	639	14%	382	13%
Not eligible	212	5%	87	3%
Temporary - training	77	2%	52	2%
Temporary - disability	47	1%	96	3%
Total	4,483	100%	3,094	100%

These figures indicate that the new system has not resulted in any significant change in the percentage outcomes of the determination process for those applications that are received. However, since the number of applications has dropped, the number of eligibility certifications has also dropped. The number of individuals found ADA Complementary Paratransit eligible in any category fell from 4,271 in January to May 1999, to 3,007 in January to May 2000, a decline of 30%. RTA staff attribute the decline in applications to the amount of pre-application counseling that is provided to callers under the new system as well as applicant self-screening. Under the new system,

potential applicants are sent a packet describing the application process and then must call to schedule an appointment. RTA does consider an application "received" until the applicant comes to an assessment interview, so potential applicants who choose not to schedule an interview are not included in the count of applications received.

Review of CTA's Role in ADA Eligibility Determination

Once RTA determines that an individual is ADA eligible it transfers this information electronically to CTA for its use in providing service. New certifications and re-certifications are downloaded daily. CTA transfers the information into its Mapper software, where it becomes available to the contract providers to book trips. The following elements of CTA's role in eligibility were reviewed:

- Re-certification of existing eligible riders and termination of riders with expired eligibility.
- Trip-by-trip screening for rides with conditional eligibility.

According to RTA staff, currently eligible riders are sent a re-certification notice two months prior to the date their eligibility expires. According to RTA staff, some riders in this situation fail to begin the re-certification process until their eligibility actually does expire. In the course of observing the reservations process, the team observed that the carriers are not able to schedule rides for riders whose ADA paratransit eligibility has expired. In this case, Mapper does not permit the carrier to schedule a ride. The rider must call CTA to obtain an eligibility extension while they apply for re-certification.

As noted before, there are six eligibility categories that may trigger trip-by-trip eligibility screening. These are:

- Conditional - variable disability condition
- Conditional - orientation (eligible except for specific trips which the rider has learned how to make on mainline transit)
- Transitional (trips that would require using a transit route that is not yet accessible)
- Conditional - winter months (eligible November 15 through March 15)
- Conditional - summer months (eligible July 15 through August 31)
- Conditional - path of travel

In the course of the assessment, the team had an opportunity to verify the procedures used in the first three of these cases. No cases that involved seasonal eligibility were observed. CTA staff were unfamiliar with the last category, conditional - path of travel, and had not yet applied it. It is a new category that has recently been implemented.

The procedure regarding conditional - variable was described in the section on Service Capacity and Trip Denials under the heading "First-hand Observation of Trip Request Handling." Briefly, the team observed that Mapper does require the call-taker to ask the

rider if their condition permits them to ride mainline transit on the day of the trip. However, the call-takers were not consistent in the how they asked this question. No cases were observed that resulted in a trip not being requested as scheduled as a result of this procedure.

In the case of a rider with conditional - orientation or transitional eligibility, the reservationist schedules the requested trip, but advises the rider that the trip will be referred to CTA for review. None of the calls observed by the team involved such a referral. Information about it is based on an interview with the CTA customer service specialist who performs the review. On Tuesday, June 6, the trip screener reviewed a total of four trips that were scheduled for Wednesday. Three trips that involved conditional - orientation eligibility were approved. To perform this review, the screener needs only to confirm that the trip requested is not one that RTA has determined the individual is capable of making on fixed-route transit. Since this a very straightforward determination, it likely that riders will rarely attempt to schedule an ineligible trip once they learn that all of the trips are actually reviewed.

One trip that involved transitional eligibility was not approved. To perform this review, CTA called the RTA travel information center and requested information about whether the transit service that would be used for the trip in question is accessible. CTA then calls the rider and explains the accessible route. According to the trip screener, if the customer provides a reason why he or she cannot use the proposed plan of travel, then CTA approves the trip anyway.

Findings

- 1) CTA participates in a regional ADA Complementary Paratransit eligibility determination process administered by the RTA. This process has recently been improved to make determinations more accurate, with the result that the number of applications and certifications has declined.
- 2) CTA effectively limits service to riders whose ADA eligibility has expired and provides case-by-case time extensions for riders who have neglected to apply for re-certification.
- 3) CTA has established a procedure that ensures that all conditional trips are screened by reservationists or CTA staff.
- 4) In the case of conditional - variable eligibility, the procedure appears to have little or no impact on trip making.
- 5) In the case of conditional - orientation and transitional eligibility, CTA has implemented procedures intended to limit trips to those for which the customer is actually eligible.
- 6) Procedures for screening conditional eligibility based on path of travel have not yet been implemented.

Recommendations

- 1) CTA should provide additional training to reservationists regarding the procedure for screening in cases of conditional - variable eligibility. CTA should explore ways to request and use additional justification from riders concerning the basis for their statement that their condition prevents travel on fixed-route transit on the planned day of travel.
- 2) If it has not already done so, CTA should establish formal, written procedures for the review of trips by riders with conditional and transitional eligibility, ensure that these procedures provide adequate safeguards regarding the rights of the eligible individuals, and provide copies of these procedures to the riders who are affected.

7. ON-TIME PERFORMANCE

On-time performance was reviewed to determine if there is a pattern or practice of late trips that would limit service availability. Sources of information included:

- Interviews with customers and advocates.
- Review of complaint data.
- Interviews with CTA paratransit operations staff concerning standards.
- Analysis of data from CTA's management information system.
- Review of driver trip tickets.
- Observations of the dispatching process at all three contract carriers.

Overview of the Scheduling and Dispatching Process

In most ADA Complementary Paratransit systems, on-time performance is at least partly determined by how well the schedulers, using computerized scheduling software, assign scheduled pickup and drop off times, as well as procedures used on the day of travel to address problems that occur. In the case of CTA ADA Complementary Paratransit, there is no scheduling process in the usual sense. All trips are dispatched in real time. The general procedure, which is the same at all three providers, is as follows:

- Mapper prints out a dispatch ticket for each trip on the day the reservation is made (reservations are accepted only one day ahead). Each ticket is a two-part form.
- One copy of the ticket is filed sorted by time of day, and one copy is sorted filed by rider name for use in making changes and to be retained for complaint investigation.
- Mapper also provides a listing of the total number of scheduled trips for each carrier by hour of the day. The carriers use this to determine how many drivers and vehicles they will need.
- On the day of travel, the time-sorted tickets are pulled one batch at a time corresponding the next block of time and sorted by hand at the dispatch desk.
- As drivers call in (or signal using their MDTs) that trips have been performed, the dispatchers assign the trips to drivers based on location, destination of any passengers already in the vehicle, and equipment.

Note that because of the fact that the daily limit is reached by about 9:00 a.m. each day, the process of planning for the next day can begin at that time. However, riders do call to make changes to already scheduled trips throughout the day, and this requires re-printing trip tickets. Note also, that about 37% of all trips are subscriptions. The times for these trips are set ahead of time. Riders who have subscriptions are permitted to call during the day and make changes to subscription trips they have scheduled for the following day (or even later the same day), as long as the total number of changes is not more than 40% of their scheduled subscription trips. Tickets for subscription trips are printed out and dispatched just like other trips.

There are some variations. One provider has a staff person who attempts to batch the time-ordered dispatch tickets during the night shift according to which trips are likely to make productive sequences. However, trips are still actually assigned to drivers on the day of travel by radio, one or two at a time. The provider that uses MDTs assigns trips to drivers using the MDTs. Each ticket has a bar code pasted on it. As the trip is assigned, scanning the bar code causes the trip information to be automatically transmitted to the driver's MDT.

Input from Customers and Advocates

Five of the riders or advocates interviewed indicated problems related to on-time performance. A staff person for a social service agency reported that her clients who ride paratransit arrive late for their appointments and sometime wait as long as an hour for a return trip. A rider cited an instance of being picked up 90 minutes late for a trip at 5:30 p.m., which resulted in her missing her planned activity. A rider who filed a complaint with FTA described two instances of problems related to return trips. In one case, his return trip was incorrectly scheduled, resulting in a no-show being recorded and his return trip occurring 2 hours and 15 minutes late. In another case he scheduled a return trip for 4:15 p.m. On calling to inquire about his trip at 4:35 he learned that the trip had been marked as a will-call. The vehicle arrived at 5:03. The next day when he called to complain, he was told that the pick up time was recorded as 4:47, which he maintains is not correct.

Complaint Records

Complaint statistics provided by CTA indicate that "late pickup" is largest category of complaint, averaging 140 complaints per month in the first four months of 2000. 65% of complaints logged during this period concerned late pickups.

CTA On-time Performance Standard

A pick-up is considered on time if it occurs within 20 minutes after the scheduled pick-up time or, in the case of a "will-call" or open return trip, within 60 minutes after the time the customer calls to request the return trip. Carriers are expected to pick up 90% of trips on time each calendar month, and are assessed liquidated damages if they fail to meet this standard in any month.

CTA's 20-minute standard is narrower than the standard used by many other systems, where the most common window is 30 minutes. Considering traffic conditions and the size of the service area, CTA's standard may be somewhat optimistic.

Reported On-time Performance Data

CTA's Mapper software is used to record the scheduled and actual pick up time for every CTA ADA Complementary Paratransit trip. For two providers (SCR and Art's) this information is entered manually as follows:

- Mapper records the scheduled time at the time the reservation is made. The carrier prints a trip ticket, again using the Mapper software, which shows all the information for the trip.
- After the initial reservation is made, the provider can change the scheduled time in Mapper (normally in response to a request from the customer) and print a replacement ticket. Mapper keeps a record of every change.
- These computer-generated trip tickets are kept at the carrier's office and used for dispatching purposes.
- When the trip is performed, the driver fills out by hand a driver trip ticket (a three-part form) showing the actual pick up and drop off time. The passenger signs indicating "I have taken the trip as shown above and agree that the information describing the trip is accurate." The driver provides the passenger with one copy of the trip ticket. If the customer is not able to sign, the driver writes "Unable to Sign" on the signature line.
- The next day, carrier staff enter the information from the drivers' trip tickets into Mapper.

The Customer's Guide instructs riders "Do not sign the ticket if the information is inaccurate. Ask the driver to correct the information. Call our Paratransit Operations office if a driver is unwilling to correct information on the trip ticket."

One provider (CDT) has an automated dispatching system using mobile data terminals (MDTs) in the vehicles. This provider enters trip reservations using the same process as the other providers. The drivers record trip information on an abbreviated trip log, containing one line for each trip, including the serial number of the trip and the actual "on-location" and drop off times. The passenger signs on the same line next to the times entered by the driver. This information is kept for audit purposes but is not used for measurement purposes. Instead the driver presses a button on the MDT indicating a pickup or drop off has been completed. This causes the trip to be time stamped in CDT's dispatching computer. These times are later transferred to Mapper and used for performance measurement.

CTA staff provided samples of the regular monthly performance reports that it prepares using the Mapper data. These reports include the percentage of trips meeting the standards for each provider, divided by ambulatory and non-ambulatory trips and divided by pre-scheduled and will-call trips. The report also provides a breakdown of late trips showing the percentage that exceeded the standard by various amounts.

The following tables provide a summary of the reported on-time performance data for the first four months of 2000. It shows that all three providers fell short of CTA's standard during this four-month period. The only exception is that CDT has consistently exceeded the standard for will-call trips.

Two providers (SCR and Art's) have consistently poorer on-time performance for non-ambulatory trips than ambulatory trips. This difference in performance applies both to pre-scheduled and will-call trips.

Percentage of On-time Pickups

Trip Type	Carrier			All Carriers
	SCR	CDT	Art's	
Pre-scheduled Ambulatory	88.3%	88.9%	85.7%	88.0%
Pre-scheduled Non-ambulatory	85.9%	87.6%	76.8%	85.9%
Will-call Ambulatory	87.9%	97.4%	87.2%	91.5%
Will-call Non-ambulatory	81.9%	95.8%	79.7%	88.4%
All trips	87.5%	89.0%	84.3%	87.7%

The following table summarizes the reported information about the number of minutes by which trips exceeded the standards during the first four months of 2000. The data show that, while 87.4% of pre-scheduled trips were picked up within CTA's 20-minute on-time window, 92.5% of trips were picked within a 30-minute window. In the case of will-call trips, 90.6% of trips were picked up within CTA's standard of 60 minutes, and 97.3% were picked within 90 minutes.

Time Distribution of On-time and Late Pickups

Pre-Scheduled Trips			Will-Call Trips		
Minutes Late	Trips	Percent	Minutes Late	Trips	Percent
0-20 (On-time)	280,877	87.4%	0-60 (On-time)	32,073	90.6%
21-30	16,433	5.1%	61-75	1,606	4.5%
31-45	13,229	4.1%	76-90	767	2.2%
46-60	6,115	1.9%	91-105	425	1.2%
61-90	3,650	1.1%	106-120	221	0.6%
91-120	832	0.3%	121-149	270	0.8%
Over 120	375	0.1%	150-180	15	0.04%
Percent over 30		7.5%	Over 180	10	0.03%
Percent over 60		1.5%	Percent over 90		2.7%

Verification of Reported On-time Performance Data

Because of the large number of trips provided each day, it was not possible to verify the calculations performed by the Mapper software. However, it was possible to verify the pickup time information in the computer compared to the information recorded by drivers on their trip tickets or logs, depending on the provider, and accepted by the passengers as correct as indicated by their signatures. For this purpose, CTA made available all of the

original trip tickets and logs submitted by the providers for the past six months. The following procedure was used:

- The assessment team selected April 6 and April 12 (a Tuesday and a Wednesday) as sample days for verification.
- CTA provided a computer listing of all the trips counted as late for those days, sorted by provider and trip ID, showing the reported scheduled and actual pick up times and the actual drop off time for each trip.
- CTA pulled the boxes containing the original trip tickets (from SCR and Art's) and logs (from CDT) for those days. The trip tickets are filed in order of trip ID. For each trip the computer-generated dispatch ticket, containing the scheduled pick up time, is stapled to the handwritten driver trip ticket that shows the actual pick up and drop off times. The logs are filed by driver number. They show only the actual "on location" time and drop off time; no dispatch tickets are attached.
- The assessment team selected at random on batch of tickets from each of the two providers that use tickets, and one batch of trip logs from the provider that uses logs.
- For the trips recorded in these randomly selected batches, the handwritten data recorded by the drivers for each trip was reviewed for completeness.
- If a trip ticket indicated a late trip (picked up more than 20 minutes after the scheduled time), the handwritten information was compared to the computer printout for consistency.
- In the case of CDT trip logs, it was not possible to determine from the logs which trips were late. Therefore the comparison was done by checking every trip on the sample logs to see if it was shown as late on the computer listing. If it was, the times on the logs were compared to the times on the computer listing.

This procedure enabled the team to determine consistency of information for pre-scheduled trips only. In the case of will-call trips, a new trip ticket is created when a customer calls for the will-call return. These tickets do not consistently indicate that the trip was originally scheduled as a will-call. CTA did provide a listing of will-call trips that could, in principle, be used to pick out those trips for comparison. In the time available for the analysis, it did not prove feasible to do this:

The following table shows the results of the verification process. The number of late trips in the sample is within the range that would be expected. The single inconsistency that was found appeared to result from a trip ID number having been incorrectly entered.

Provider	No. of Trips Reviewed	No. of Late Trips	No. of Late Trips with Inconsistent Data	Trips without Customer Signature
Art's	100	11	0	3*
CDT	131	4	1	1**
SCR	50	5	0	1

*Includes two trips with missing driver trip ticket.

**Says "refused to sign" on the log.

There were very few trips with nothing on the passenger signature line. However, there were substantial numbers of trips with "unable to sign" on the signature line. This information was recorded for CDT only. Of the 131 trips reviewed, 30 were marked "unable to sign."

CTA provided a list of complaints related to late and long trips for the six months prior to the site visit. There were four complaints for the sample day, but none of them were in the sample of trip tickets and logs.

Penalties for Poor On-time Performance

This principal mechanism used by CTA to promote on-time performance appears to be application of liquidated damages when providers fall short of the established standard. Each provider is allowed to perform 10% of its pre-scheduled trips and 10% of its will-call trips outside the definition of on-time each month. For each trip over the 10% allowance liquidated damages are assessed on a graduated scale depending on how late the trip was performed. For pre-scheduled trips, the scale begins with damages equal to 10% of the per-trip payment for pickups that are 1 to 15 minutes late, climbing to the full per-trip cost plus \$75 for pickups that are more than 2 hours late. For will-call trips, the scale begins with damages equal to 10% of the per-trip payment for pickups that are 1 to 15 minutes late, climbing to the full per-trip cost plus \$50 for pickups that are more than 2 hours late. In the first four months of 2000, CTA reports show a total of \$180,513 in liquidated damages, equal to 2.1% of gross reimbursement. The best performing carrier had damages assessed equal to 0.5% of gross reimbursement, and the worst performing carrier had damages assessed equal to 6.5% of gross reimbursement.

Driver Scheduling

A key factor influencing on-time performance is whether the providers have a sufficient number of drivers working at each hour of the day compared to the number of trips scheduled. Since the maximum number of daily trips is fixed by CTA, and each carrier's market share is set by contract, requirements are likely to be quite stable from day to day. However, there can be variation in the time of day distribution, since the reservations process permits riders to reserve a pickup at any time of day without consideration of vehicle scheduling.

Staff responsible for driver scheduling were interviewed at all three providers and actual versus scheduled drivers were observed at two of the operators. The outlines of the process are similar at all of the providers:

- The hourly distribution of trips for the next day is printed out, and the total number of will-call trips. At two operators the printout comes from Mapper. One operator uses its own scheduling dispatching software.
- Average cancellation and no-show rates are used to estimate the actual number of trips per hour that will need to be carried.
- Historical loading factors are used to estimate the number of vehicles and drivers that will be needed in each hour.

Each provider uses its own rules of thumb about loading factors. One provider that makes extensive efforts to group trips estimates that one driver can perform two trips in the peak hour. On the day of the assessment, this provider had made the following plans for the morning:

Hour	Trips Scheduled	Drivers Scheduled
6:00 a.m.	68	35
7:00 a.m.	104	42
8:00 a.m.	107	48

Since an average of 17% of scheduled trips are cancelled, these figures are consistent with the rule of thumb cited by the provider. Three standby drivers report to work each day to fill in for drivers who report in sick or need to be relieved during the day due to vehicle breakdowns. At the time of the interview, 8:40 a.m., there were actually 48 drivers working, with two more scheduled to arrive by 9:00 a.m.

The most automated provider prints out a daily Loading Report, which it uses for planning and evaluation. The report includes the number of trips scheduled and drivers available for each hour of the day. It takes account of variable load factors for each hour and historical no-show, cancellation, and will call patterns. On a day-to-day basis, however, the process is less structured. About 9% extra peak-hour drivers are scheduled each day compared to the estimated number needed, which varies little from day to day. The difference is a cushion for drivers who are not available each day. If more drivers show up for work than are needed, those with the poorest attendance record wait to see if they are needed for a later shift, and may get sent home if they are not needed.

The third provider uses the least formal system of planning. On the day of the assessment at 8:50 a.m. there were 30 drivers actually on the road compared to 85 trips scheduled in the 9:00 hour. Provider staff justified this by noting that during peak hours there are a lot of subscription trips which are more productive than average. This provider is the one with the poorest on-time performance record.

Findings

- 1) In the first four months of 2000, 87.7% of all trips were reported as on-time, 2.3% short of CTA's established standard of 90%.
- 2) At two of the three providers, on-time performance is significantly poorer for non-ambulatory riders than for ambulatory riders.
- 3) On-time performance varies considerably from provider to provider. In the case of the provider with the poorest record, it appears that problems may be connected with an insufficient driver force. High levels of assessed damages for this carrier suggest that this method of promoting on-time performance is not effective at least in this case.

- 4) The verification of trip records showed that computer data used for generating reports of on-time performance is consistent with reports filed by drivers and signed by passengers. However, a significant number of trips are marked "unable to sign." Even so, the process of rider sign-off provides a fairly accurate check over a completely self-regulating process.
- 5) There is no standard or measurement for drop-off on-time performance. In the trip reservations process, pick up times are not normally adjusted according to desired drop off time and expected travel time.
- 6) Since the volume of trips varies little from day to day, the existing rule-of-thumb process of scheduling sufficient drivers each day should be adequate. However, at least in the case of one provider, there is some evidence that insufficient drivers are actually available to perform trips in a timely fashion.

Recommendations

- 1) CTA should work with its providers to determine why non-ambulatory riders are experiencing more late pickups than ambulatory riders and take steps to address this pattern. Possible changes might include having dispatchers allow more time for non-ambulatory riders or increasing the percentage of wheelchair-accessible vehicles in the providers' fleets.
- 2) CTA should explore additional mechanisms to promote on-time performance beyond the use of liquidated damages, for example exercising the contract provisions that allow re-assigning a portion of a carrier's market share based on poor performance, or providing additional tools to help spread demand within each hour.
- 3) CTA should explore ways to promote on-time performance as measured by whether riders reach their destination in time for their appointments. Possible mechanisms include standards for drop-off time and changes to the Mapper software to help providers determine the probable length of trips and schedule pickups accordingly.

8. TRAVEL TIME

Travel times were reviewed to determine if there is a pattern or practice of long trips that would limit service availability. Sources of information included:

- Interviews with customers and advocates.
- Review of complaint data.
- Interviews with CTA paratransit operations staff concerning standards.
- Analysis of data from CTA's management information system.
- Review of driver trip tickets.

Input from Customers and Advocates

Only one of the customers and advocates interviewed for this assessment specifically mentioned travel time as a concern. However, two other mentioned that riders are often late for appointments, which is an issue that is related to travel time. The customer who

discussed travel time has filed a formal complaint with FTA about this issue, specifically relating to suburb-to-suburb trips. This rider was particularly concerned about a period during 1999 when CTA relied on an arrangement with Pace, the suburban bus operator, to provide these trips using its ADA Complementary Paratransit system. According to this rider, these trips required a minimum of two hours on Pace paratransit due to a requirement to transfer, even though a comparable trip on mainline transit takes about 40 minutes. She also notes that the trip requires 60 to 90 minutes on CTA paratransit. Currently these trips are provided on CTA paratransit.

Complaint Data

CTA complaint records indicate that long travel times are a source of relatively infrequent complaints. In the first four months of 2000, a total 32 complaints related to excessively long trips were logged.

CTA Travel Time Standard

The standard for maximum in-vehicle ride time for customers is 90 minutes. A maximum of 2% of each carrier's trips originating and Chicago and 4% of each carrier's trips originating in suburban locations can exceed the maximum ride time. CTA will not pay carriers for trips longer than 90 minutes beyond the 2% and 4% limits. The contracts also note that "in general, ride time shall not exceed three times the normal, direct-route ride time by car for a particular trip" except in cases such as inclement weather or unusually heavy traffic.

Reported Travel Time Data

CTA's regular monthly reports do not include information about travel time. For this assessment, CTA staff prepared summaries of recent travel time performance as shown in the following table:

Month	Trips Provided	Trips Over 90 Minutes	Pct. Over 90 Minutes
January 2000	90,894	1,243	1.4%
February 2000	88,626	1,516	1.7%
March 2000	95,605	1,553	1.6%
April 2000	88,975	1,299	1.5%

CTA also provided reports separating the long trips according to non-ambulatory and ambulatory riders. For the four-months period, non-ambulatory trips accounted for 30% of the trips over 90 minutes in length. Since non-ambulatory trips accounted for 31.5% of total trips provided in this period, it appears that travel time for non-ambulatory and ambulatory riders is about equal.

Verification of Travel Time Data

The same sample of trip tickets and logs that was reviewed concerning on-time performance was also reviewed for travel time information. There were no trips in the sample for which recorded pickup and drop off times indicated a travel time over 90 minutes. No complaints were logged for the sample day regarding long trips.

Comparative Analysis of Long Travel Times

CTA staff provided a listing of all trips that exceeded the travel time standard during the period January to April 2000. From this list 30 were selected at random for comparison. Using an internet application that provides driving directions, the direct-route driving time and distance was estimated for each trip in the sample. This comparison was chosen because of the language in CTA's contracts, which indicates that paratransit travel time should not exceed three times the direct-route driving time. One trip was discarded because of an apparent data entry error. For the remaining trips, the average direct-route distance was 12 miles and the average direct-route driving time was 24 minutes. The reported paratransit travel times for the same sample of trips averaged 112 minutes, which is 4.7 times the direct-route driving time.

This analysis indicates that the trips with travel times over 90 minutes were in fact unreasonably long. However, the fact remains that only 1.6% of trips provided exceeded CTA's 90-minute travel time standard.

Further analysis was conducted for a typical suburb-to-suburb trip such as addressed in the complaint, which was filed with FTA. This analysis was conducted using the example trip mentioned by the complainant (from the complainant's home in a northern suburb to an independent living center in a western suburb). The complaint indicates that this trip takes 60 to 90 minutes on CTA ADA Complementary Paratransit. A transit itinerary for this trip, leaving at 9:00 a.m., was requested from the regional transit information center operated by the RTA. The RTA operator provided an itinerary using CTA rapid rail, making one transfer. Total on-board and transfer travel time was 66 minutes. Adding a 15-minute allowance for walking at both ends (about 8 blocks total) and waiting at the first boarding location, yields an approximate transit travel time of 81 minutes. The estimated driving time for this same trip is 42 minutes. From this analysis, it appears that the CTA ADA Complementary Paratransit travel time cited in the complaint is comparable to the fixed-route travel time for the same trip. It is also within CTA's established standard.

Findings

- 1) Travel times on CTA Complementary Paratransit are within CTA's established standards.
- 2) Trips with travel times over the established standard of 90 minutes account for 1.6% of all trips.

Recommendations

- 1) CTA should include information about long trips in its regular performance reports.

9. SUBSCRIPTION TRIPS

One of the complaints FTA has received specifically mentions subscriptions as a factor that limits service to riders wanting to reserve trips on CTA ADA Complementary Paratransit. Further, in the course of the assessment, it became clear to the assessment team that CTA has an unusually flexible subscription policy. For these reasons, this analysis of subscription trips is being provided. It is based on:

- Input from riders and advocates.
- Interviews with CTA staff concerning subscription policies.
- Data from CTA's management information system.
- Observation of the trip reservations and dispatching process at the contract providers.

Subscription service is subject to Section 37.133 of 49 CFR Part 37. Paragraph (a) provides that:

Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is non-subscription capacity.

Paragraph (c) provides that:

Notwithstanding any other provision of this part, the entity may establish waiting lists or other capacity constraints and trip purpose restrictions or priorities for participation in this subscription service only.

Input from Riders and Advocates

Four of the riders and advocates who were interviewed during the pre-assessment phase mentioned issues related to subscriptions. Two who complained about difficulty in getting a ride mentioned their understanding that only half of daily capacity is available for reservations as a result of subscriptions. Two others made a sharp distinction in their view of the system depending on whether a rider has a subscription or not. A human service agency representative initially indicated that the only complaints he heard were about late pick-ups and drops. He then corrected himself, noting that people who do not have subscriptions have to call very early to get a ride. An advocate noted that all the people she knew who used CTA ADA Complementary Paratransit service regularly had subscriptions. Their problems related to driver behavior, vehicles, and perceived inflexibility of subscriptions. She indicated that the service was very hard to use as a demand responsive service.

Overview of Subscription Policies

CTA has detailed written rules concerning subscriptions. The most recent version, dated April 2, 1999 is provided as Attachment 5. A summary of this policy is included in the Customer's Guide. Key elements of the policy include:

- Subscriptions are available for customers who make a routine trip at least three times a week, or go to adult day care or a life sustaining medical treatment at least two times a week.
- A customer may have up to two different subscriptions.
- No more than 50% of trips at any time of day can be designated for subscription service.
- Customers who want a subscription must apply and be placed on a waiting list. Space permitting, customers on the waiting list will have their requests filled on a first-come, first-served basis.
- A customer who has a subscription can change the days, times, pick up locations, or carrier as long as space is available. Permanent changes must be made by calling CTA by Wednesday for the following week. One-time changes can be made by calling the carrier up to two hours before the scheduled pick up time.
- Subscription changes for each rider are limited to 40% of that rider's scheduled subscription service each month.
- Subscriptions may be suspended or terminated for exceeding the permitted number of changes or for having more than one no-show every two months.
- There is a warning and appeals process for subscription suspensions.

Subscription Management and Procedures

CTA and carrier staffs were interviewed about the processes used for implementing subscription policies and trips. According to the CTA customer service specialist who manages subscriptions, it takes approximately a year for an individual to obtain a subscription after being placed on the wait list. She provided a copy of the April 2000 Subscription Activity Report with following items:

Total active subscriptions:	967
Permanent changes made in April	560
Deleted in April	26
New subscriptions in April	27
Customers on the waiting list	1,594
Subscriptions on hold over 90 days:	14
Warnings issued:	100
Suspensions/terminations issued:	80

In the course of observing scheduling and dispatch procedures at the carriers, the team observed procedures for one-time subscription changes. Dispatch tickets are printed out for the next day's subscription rides and demand rides each morning. Throughout the day, providers receive calls from both subscription and demand riders for changes. By contract, the providers are required to accommodate all changes received up to two hours

before the scheduled pick up time. The providers do not monitor the number of changes processed for subscription riders; that is a function carried out by CTA staff.

Subscription Rides and Capacity

CTA maintains a count of subscription and non-subscription rides provided each hour of the day every day. A report is printed out weekly showing the percentage of subscription trips for each hour of each day. CTA provided the report for the week of June 5, 2000. The table on the next page shows two days from this report. Note that the total daily trips are significantly less than the 4,100-trip reservation limit due to customer cancellations and no-shows. The patterns for the remaining days are similar. Overall, a little over one-third of trips are subscription trips. There are several hours in the night or early morning when the subscription percentage is well over 50%, however, there are very few people traveling at these times. In the 6:00 a.m. hour, which is within the peak morning service period, the subscription percentage exceeds 50% by 2% to 4% each day. At all other hours, the subscription percentage is under 50%.

Given CTA's method of scheduling, the percentage of subscriptions at any given hour does not affect a rider's chance of obtaining a ride. Whether a caller can obtain a ride depends entirely on whether the caller succeeds in getting through on the phone before the daily limit is reached, and not on the time of day the caller wishes to travel or the number of subscriptions at that time of day. However, the chance of obtaining a ride is directly related to the total number of subscriptions.

For example on the two days shown in the table, an average of 37% of trips were subscriptions. This means that on the order of 37% of the 4,100 permitted daily trips were not available for demand-responsive riders (In other words the effective trip limit for demand responsive riders was actually on the order of $4,100 \times 63\% = 2,583$ trips.

Findings

- 1) Although subscriptions exceed 50% of total trips at certain times of day, they constitute a little over one-third of total trips, and this is the figure that determines the impact on demand responsive capacity.
- 2) Subscription trips reduce the effective daily trip limit from 4,100 to approximately 2,600 demand-responsive trips.
- 3) CTA has an extremely flexible policy that allows subscription users to make frequent changes to their subscriptions. As a result subscription users enjoy semi-demand responsive service without being subject to same restrictions faced by other riders. The extremely attractive nature of subscriptions, combined with limits on demand-responsive service, account for the long waiting list for subscriptions.

Recommendations

No recommendations are offered at this time.

Subscription and Non-Subscription Trips on Two Days

Hour	Monday, June 5			Tuesday, June 6		
	Subscription	Non-subscription	Percent Subscription	Subscription	Non-subscription	Percent Subscription
12:00 AM	1	1	50%	4	0	100%
1:00 AM	0	3	0%	1	1	50%
2:00 AM	2	0	100%	3	1	75%
3:00 AM	4	1	80%	5	2	71%
4:00 AM	26	10	72%	29	13	69%
5:00 AM	72	45	62%	67	51	57%
6:00 AM	101	85	54%	110	100	52%
7:00 AM	141	147	49%	150	143	51%
8:00 AM	136	154	47%	120	168	42%
9:00 AM	99	166	37%	83	180	32%
10:00 AM	67	187	26%	47	170	22%
11:00 AM	28	165	15%	21	147	13%
12:00 PM	41	157	21%	29	162	15%
1:00 PM	75	146	34%	52	162	24%
2:00 PM	143	174	45%	149	166	47%
3:00 PM	129	155	45%	119	157	43%
4:00 PM	95	151	39%	97	133	42%
5:00 PM	44	105	30%	56	109	34%
6:00 PM	30	72	29%	31	95	25%
7:00 PM	12	46	21%	15	51	23%
8:00 PM	19	36	35%	11	57	16%
9:00 PM	10	32	24%	11	58	16%
10:00 PM	3	16	16%	3	17	15%
11:00 PM	4	5	44%	3	4	43%
Total	1,282	2,059	38%	1,216	2,147	36%

10. SUMMARY OF FINDINGS AND RECOMMENDATIONS

For ease of reference, the findings and recommendations from throughout the assessment are repeated here

Reservations Process and Telephone Capacity

Findings

- 1) Limited evidence indicates that riders face severe capacity constraints in calling to reserve trips, mainly in the form of busy signals. CTA also limits the hours in which reservations can be made in violation of the DOT ADA regulations.
- 2) Once a rider is able to get through on the telephone, hold times vary considerably among providers. At one provider, average hold times for a single sample day were 1.5 minutes, while at a second, over a five-day period, average hold times during peak call-in periods were about 3 minutes. Note that as many as half of calls will typically experience a hold time greater than the average.
- 3) CTA has no standards for telephone performance, but has required carriers to install automatic call sequencing equipment.
- 4) The daily trip limit appears to be the main cause of riders' difficulty in getting through on the telephone. This limit creates a daily race among riders to call early enough to get a ride. As a result, adding telephone capacity without eliminating or raising the trip limit is not likely to resolve the telephone capacity problem.

Recommendations

- 1) CTA should explore the feasibility of having the carriers' telephone providers measure the extent of busy signals received by ADA Complementary Paratransit customers, and use this information as part of its measurement of capacity constraints.
- 2) CTA should set objectives for telephone hold times and require the carriers to report this information on a regular basis.
- 3) Once other steps have been taken to reduce limited availability of ADA Complementary Paratransit trips, CTA should set contract standards for telephone availability.

Service Capacity and Trip Denials

Findings

- 1) CTA permits a maximum of 4,100 trips per day to be scheduled, a practice that severely limits the availability of ADA Complementary Paratransit trips to eligible riders. This is a capacity constraint.
- 2) Available denial rate information provides a very incomplete picture of capacity constraints. One denial (termed a "turndown" by CTA) represents one telephone call that occurred after trip limits had been reached; however, more than 95% of trip requests observed by the assessment team were for two or more one-way trips. Therefore the actual number of unserved trips is at least twice the recorded number of denials. Further, it appears that many riders who do not get through before about 7:00 a.m. or before about 9:00 a.m. give up or hang up so no denial is recorded. Beyond that, the apparent high level of busy signals noted in the preceding section is likely to discourage many potential riders from calling at all.
- 3) CTA has no established objective for trip denials.
- 4) CTA's budget process for fiscal year 2000 relied on anticipated reductions in contracted cost per trip to increase trips provided. The budget falls short of meeting CTA's projection of demand.
- 5) Budgets for the past three years do not contain increases commensurate with recorded denial levels.
- 6) A new, more accurate eligibility process (described in Section 7) could reduce demand for ADA Complementary Paratransit and reduce capacity constraints within the next year. Additional analysis would be needed to estimate this impact.

Recommendations

- 1) CTA should either eliminate the trip limit imposed on its contractors or provide a method that allows ADA Complementary Paratransit trips above the contract limits to be served by another contracting mechanism.
- 2) CTA should establish a process for estimating the level of service that would be needed to avoid a substantial number of trip denials and use the results of that process to amend the existing budget and to plan future budgets. The demand estimation process should take into account the actual number of trips that would have been requested for each telephone call recorded as a denial, as well as the impact of the current trip cap and restricted telephone availability.
- 3) The demand estimation process should also include a careful analysis of the likely impact of the new eligibility process on the number of trips that will be requested by ADA Complementary Paratransit eligible individuals.

ADA Complementary Paratransit Eligibility Determination

Findings

- 1) CTA participates in a regional ADA Complementary Paratransit eligibility determination process administered by the RTA. This process has recently been improved to make determinations more accurate, with the result that the number of applications and certifications has declined.
- 2) CTA effectively limits service to riders whose ADA eligibility has expired and provides case-by-case time extensions for riders who have neglected to apply for re-certification.
- 3) CTA has established a procedure that ensures that all conditional trips are screened by reservationists or CTA staff.
- 4) In the case of conditional - variable eligibility, the procedure appears to have little or no impact on trip making.
- 5) In the case of conditional - orientation and transitional eligibility CTA has implemented procedures intended to limit trips to those for which the customer is actually eligible.
- 6) Procedures for screening conditional eligibility based on path of travel have not yet been implemented.

Recommendations

- 1) CTA should provide additional training to reservationists regarding the procedure for screening in cases of conditional - variable eligibility. CTA should explore ways to request and use additional justification from riders concerning the basis for their statement that their condition prevents travel on fixed-route transit on the planned day of travel.
- 2) If it has not already done so, CTA should establish formal, written procedures for the review of trips by riders with conditional and transitional eligibility, ensure that these procedures provide adequate safeguards regarding the rights of the eligible individuals, and provide copies of these procedures to the riders who are affected.

On-time Performance

Findings

- 1) In the first four months of 2000, 87.7% of all trips were reported as on-time, 2.3% short of CTA's established standard of 90%.
- 2) At two of the three providers, on-time performance is significantly poorer for non-ambulatory riders than for ambulatory riders.

- 3) On-time performance varies considerably from provider to provider. In the case of the provider with the poorest record, it appears that problems may be connected with an insufficient driver force. High levels of assessed damages for this carrier suggest that this method of promoting on-time performance is not effective at least in this case.
- 4) The verification of trip records showed that computer data used for generating reports of on-time performance is consistent with reports filed by drivers and signed by passengers. However, a significant number of trips are marked "unable to sign." Even so, the process of rider sign-off provides a better check than the completely self-regulating process used by contractors at most paratransit systems.
- 5) There is no standard or measurement for drop-off on-time performance. In the trip reservations process pick up times are not normally adjusted according to desired drop off time and expected travel time.
- 6) Since the volume of trips varies little from day to day, the existing rule-of-thumb process of scheduling sufficient drivers each day should be adequate. However, at least in the case of one provider, there is some evidence that insufficient drivers are actually available to perform trips in a timely fashion.

Recommendations

- 1) CTA should work with its providers to determine why non-ambulatory riders are experiencing more late pickups than ambulatory riders and take steps to address this pattern. Possible changes might include having dispatchers allow more time for non-ambulatory riders or increasing the percentage of wheelchair-accessible vehicles in the providers' fleets.
- 2) CTA should explore additional mechanisms to promote on-time performance beyond the use of liquidated damages, for example exercising the contract provisions that allow re-assigning a portion of a carrier's market share based on poor performance, or providing additional tools to help spread demand within each hour.
- 3) CTA should explore ways to promote on-time performance as measured by whether riders reach their destination in time for their appointments. Possible mechanisms include standards for drop-off time and changes to the Mapper software to help providers determine the probable length of trips and schedule pickups accordingly.

Travel Time

Findings

- 1) Travel times on CTA ADA Complementary Paratransit are within CTA's established standards.
- 2) Trips with travel times over the established standard of 90 minutes account for 1.6% of all trips.

Recommendations

- 1) CTA should include information about long trips in its regular performance reports.

Subscription Trips**Findings**

- 1) Although subscriptions exceed 50% of total trips at certain times of day, they constitute a little over one-third of total trips, and this is the figure, which determines the impact on demand responsive capacity.
- 2) Subscription trips reduce the effective daily trip limit from 4,100 to approximately 2,600 to 3,100 demand-responsive trips.
- 3) CTA has an extremely flexible policy that allows subscription users to make frequent changes to their subscriptions. As a result subscription users enjoy semi-demand responsive service without being subject to same restrictions faced by other riders. The extremely attractive nature of subscriptions, combined with limits on demand-responsive service, account for the long waiting list for subscriptions.

No recommendations about subscription trips are offered at this time.