

## **Americans with Disabilities Act Title II** **Non Discrimination on the Basis of Disability** **Research and Recommendation**

The Accessible Services Department has reviewed Title II of the Americans with Disabilities Act as well as East Bay Paratransit Administrative Regulation 205.

**NOTE:** Title II provisions are regulated by the Department of Justice (DOJ) but excludes, in the District's case, transportation facilities, vehicles and services. These exclusions are regulated by the Department of Transportation (DOT). Employment under Title II should be covered by and contained in East Bay Paratransit's Personnel Policies.

If one were to look at what provisions the District is subject to under Title II, excluding transportation facilities, vehicles and services, it is largely communications and administrative procedures to and for the public. Think public meetings, public hearings, outreach and education, web-site accessibility, provision of auxiliary aids, all telecommunications (voice, messaging, auto attendant and interactive voice response (IVR) systems) and assistive listening systems.

**Recommendation:** Verify that the District Website complies with section 508 Standard for Electronic and Information Technology for Internet Accessibility and Web Content Accessibility Guidelines (WCAG 2 and moving toward WCAG3)

It is mandated by law, and important to the District's continued commitment to the ADA and prohibitions against discrimination, to ensure that an efficient and accessible process for filing an ADA complaint is established. The District currently has an effective and accessible process in place for filing complaints, both general and ADA specified, suggestions, and commendations, through the Customer Relations (CusRel) database. The District also has a specific process for filing a Title VI violation complaint, or requesting a Reasonable Modification, which can be found at <http://www.actransit.org/customer/ac-transits-commitment-to-civil-rights/>. These forms are fillable.

The Accessible Services Department also researched the policies and practices of several Bay Area agencies, as listed below:

**SFMTA:** Verbal and written ADA complaints go through the Customer Services Department. No separate form required.

**VTA:** Verbal ADA complaints go through the Customer Services Department. Written complaints must be filed using the ADA complaint form and sent to the ADA Coordinator via USPS.

**Golden Gate Transit:** Complaints must be filed using the ADA complaint form, and forwarded to the ADA Compliance and Program Manager either via USPS or the general customer services email.

**Fairfield and Suisun Transit:** Verbal ADA complaints go through the Customer Services Department. Written complaints must be filed using the ADA complaint form and sent to the ADA Coordinator via USPS or email.

**County Connection:** Verbal and written complaints go through the Customer Services Department. There is no separate form required.

**Tri Delta Transit:** Verbal and written complaints go through the Customer Services Department. There is no separate form required.

**LAVTA:** Verbal and written complaints go through the Customer Services Department. There is no separate form required.

#### **RECOMMENDATION:**

It is the recommendation of the Accessible Services Department that:

1. To ensure a consistent and streamline process for filing complaints:
  - a. All verbal and online ADA complaints go through the Customer Relations Department and entered into CusRel.
    - i. Complaints shall be assigned to the appropriate employee, researched and the customer shall receive a response per District policies and procedures.
  - b. All written ADA complaints shall be filed using the ADA Complaint Form (attached) and mailed to the Customer Relations Manager, who will then enter the complaint into CusRel.
    - i. Complaints shall be assigned to the appropriate employee, researched and the customer shall receive a response per District policies and procedures.
2. A Denial Appeals Process shall be established, similar to the Reasonable Modification/Accommodation Appeals process (attached).
  - a. The Accessible Services Specialist, East Bay Paratransit's designated ADA Compliance Coordinator, shall independently review the complaint, the appeal request, and assemble the Appeals Panel. The Accessible Services Specialist shall follow up with the customer in writing and facilitate the hearing.
  - b. The Accessible Services Specialist shall record the decision of the panel and follow up, in writing, with the Customer, and submit a copy of the correspondence to the General Manager.

3. Updates to Board Policy No. 212 shall be made. Suggestions are as follows:

A. Compliance Coordinator

The Accessible Services Specialist has been designated as East Bay Paratransit's ADA Compliance Coordinator under the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA and the rights provided thereunder are available from the District's ADA Compliance Coordinator.

B. Complaint Process

Verbal and online complaints shall be filed with the Customer Relations Department and entered into CusRel.

Written complaints, using the ADA Title II Violation Complaint Form shall be addressed to the Customer Relations Manager, 1600 Franklin Street, Oakland, California 94612.

1. Complaints shall contain the name and address of the person filing, and briefly describe the alleged violation. {Processing of allegations of discrimination that occurred before this grievance procedure was in place will be considered on a case-by-case basis.}
2. Complaints shall be filed within one hundred eighty (180) calendar days after the complainant becomes aware of the alleged violation. {Processing of allegations of discrimination that occurred before this grievance procedure was in place will be considered on a case-by-case basis.}
3. An investigation, as may be appropriate, shall follow the filing of a complaint. The investigation shall be conducted by the appropriate employee assigned to the complaint, based on the nature of the alleged violation. These rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to the complaint.
4. A written determination as to the validity of the complaint and a description of the resolution, if any, shall be issued by the employee assigned to the complaint, or, if appropriate, the Customer Relations Manager (or his/her designee), and a copy forwarded to the complainant no later than ninety (90) calendar days after its filing.

5. The Customer Relations Manager, or his/her designee, shall maintain the files and records of East Bay Paratransit relating to the complaints filed.
6. The complainant can request a reconsideration of the determination if he/she is dissatisfied with the resolution. The request for reconsideration shall be made in writing, using the Title II ADA Complaint Appeals Form, within thirty (30) calendar days from the date of the determination, and mailed or emailed to the Accessible Services Specialist, East Bay paratransit's ADA Compliance Coordinator.
7. The ADA Compliance Coordinator shall convene an appeals panel and final determination, in accordance with the Title II ADA Complaint Appeals Process.