



441 G St. N.W.
Washington, DC 20548

July 25, 2013

The Honorable Tim Johnson
Chairman
The Honorable Mike Crapo
Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Bill Shuster
Chairman
The Honorable Nick Joe Rahall, II
Ranking Minority Member
Committee on Transportation and Infrastructure
United States House of Representatives

Public Transit: FTA's Process for Overseeing Compliance with Federal Civil Rights Requirements Incorporates Key Federal Practices

The Federal Transit Administration (FTA), within the Department of Transportation (DOT), is responsible for assuring that recipients of federal transit funding comply with a variety of federal requirements, including laws, regulations, and other requirements related to civil rights. The Moving Ahead for Progress in the 21st Century Act (MAP-21)¹ mandated GAO to study the FTA's oversight of federal transit funding recipients' compliance with public transportation-related civil rights requirements and its process for handling complaints alleging violations of such civil rights. We focused our review on 1) the methods FTA uses to oversee federal transit funding recipients' compliance with federal civil rights requirements, and 2) the extent to which FTA's process for handling civil rights complaints is consistent with key federal practices for addressing complaints of discrimination. We focused on FTA's oversight of recipients' compliance with the Americans with Disabilities Act (ADA) of 1990, as amended² and disability-related provisions in Section 504 of the Rehabilitation Act of 1973;³ as well as Title VI of the Civil Rights Act of 1964 (Title VI), as amended.⁴ We briefed your staff on the results of our review on June 11, 2013 (see enclosure). This letter summarizes the information that we presented at these briefings.

¹Pub. L. No. 121-141, 126 Stat. 405.717-18 (2012).

²Pub. L. No. 101-336, 104 Stat. 327 (1990).

³Pub. L. No. 93-112, 87 Stat. 354 (1973).

⁴Pub. L. No. 88-352, 78 Stat. 241, 252 (1964). Title VI of the Civil Rights Act of 1964, as amended, prohibits the exclusion from participation in denial of benefits of, and discrimination under federally assisted programs on the ground of race, color, or national origin.

To identify methods FTA uses to oversee recipients' compliance with federal civil rights requirements we reviewed applicable laws,⁵ and other guidance, including the laws cited above; DOT, FTA and Department of Justice (DOJ) guidance on processing civil rights complaints;⁶ and FTA's Title VI Circular. We reviewed and analyzed data from DOT's civil rights complaints tracking system (XTRAK) database on ADA complaints and Title VI complaints to determine the number of complaints FTA received from Fiscal Year 2009 through Fiscal Year 2012.⁷ To assess the reliability of the XTRAK data, we reviewed relevant documentation, interviewed knowledgeable officials about data collection procedures and use of the data, and conducted electronic testing of the data. We found the data to be sufficiently reliable for the purposes of this report. We also interviewed FTA officials about the agency's oversight of recipients' compliance with laws and other requirements as well as the agency's complaints process.

To identify key federal practices for addressing complaints of discrimination, we reviewed the Department of Justice's (DOJ) *Investigation Procedures Manual for the Investigation and Resolution of Complaints Alleging Violations of Title VI and Other Nondiscrimination Statutes*.⁸ Based on our analysis, we identified nine key federal practices for processing civil rights complaints. We then assessed FTA's process against the key practices by examining FTA's policies and procedures, and interviewing FTA officials to determine whether FTA's process incorporated the key practices. We also reviewed and analyzed data from DOT's XTRAK database to determine the length of time FTA took to resolve complaints and the results of complaint investigations. While we examined FTA's policies and procedures and determined the length of time it took to resolve complaints and the results of complaint investigations, we did not evaluate the extent to which FTA followed its policies and procedures for handling complaints.

We conducted this performance audit from January 2013 to July 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In summary, we identified four methods FTA uses to assure that recipients of federal transit funding comply with civil rights requirements:

- *Requiring recipients to self-certify that they assure compliance with applicable civil rights requirements*—Each year, agencies receiving federal transit funding must self-certify

⁵In addition to Title VI, the ADA and the disability-related provisions in Section 504 of the Rehabilitation Act of 1973, we also reviewed age discrimination provisions in the Age Discrimination Act of 1975, as amended (Pub. L. No. 94-135, 89 Stat. 728 (1975)), sex discrimination provisions in Title IX of the Education Amendments of 1972, as amended (Pub. L. No. 92-318, 86 Stat 235-373 (1972)) and various laws prohibiting religious discrimination (e.g., 42 U.S.C. § 1981, and 42 U.S.C. §§ 2000b, 2000e).

⁶DOJ is responsible for coordinating the implementation and enforcement of various nondiscrimination provisions by agencies (E.O. 12250).

⁷DOT implemented XTRAK during 2008 and 2009. We analyzed complaints from the 2009 through 2012 timeframe in order to obtain 4 full years of complaint data.

⁸Under Executive Order 12250, DOJ is to coordinate and ensure the enforcement of Title VI and similar nondiscrimination statutes by federal agencies that provide federal financial assistance. DOJ's manual is designed to provide guidance on the investigation of complaints of discrimination against recipients of federal financial assistance.

and assure that they will comply with applicable federal laws, regulations, and guidance.⁹

- *Issuing guidance to inform recipients of their responsibilities*—FTA revised its Title VI guidance in 2012. FTA also issued draft guidance for ADA in October 2012, and anticipates issuing this guidance in June 2014. Other guidance includes webinars FTA developed to help grantees become familiar with the revised Title VI guidance and frequently asked questions and other documents to assist grantees with ADA requirements.
- *Administering a complaints process*—FTA’s complaints process allows the public, advocates, and others to file complaints about transit agencies’ and other funding recipients’ potential violations of civil rights. FTA tracks complaints in DOT’s XTRAK database. From 2009 through 2012, FTA received 547 complaints of potential violations of the ADA and Title VI. Of these, 510 concerned violations of the ADA. As of April 2013, FTA had closed all but 9 of these complaints.
- *Conducting oversight reviews of funding recipients’ compliance with laws and requirements*—FTA conducts the following periodic oversight reviews:
 - Triennial reviews covering 24 areas of a transit agency’s operations, including a grantee’s compliance with ADA and Title VI (conducted once every 3 years).
 - State management reviews examining state DOTs’ implementation of FTA’s grants for rural areas and the elderly and disabled, typically once every 3 years.
 - Discretionary reviews for compliance within specific areas such as ADA and Title VI. According to FTA officials, complaints can trigger these reviews. Additionally, FTA may consider negative findings from triennial reviews in selecting agencies for these reviews. As we have previously reported, FTA has limited resources for discretionary reviews and thus conducts relatively few of these reviews each year.¹⁰

FTA’s policies and procedures for processing civil rights complaints incorporate the nine key federal practices that we identified based on our analysis of DOJ guidance. Table 1 shows a comparison of identified key federal practices with FTA’s policies and procedures for processing civil rights complaints.

⁹DOT is required to take affirmative action to ensure that recipients of federal financial assistance are in compliance with specified nondiscrimination protections. See, 42 U.S.C. § 5332(c).

¹⁰ GAO, *ADA Paratransit Services: Demand Has Increased, but Little is Known about Compliance*, [GAO-13-17](#) (Washington, D.C.: Nov. 15, 2012).

Table 1: Key Federal Practices for Addressing Civil Rights Complaints Compared with FTA’s Policies and Procedures

DOJ key federal practice	FTA policies and procedures
1. Ensure a timely complaint process	✓ Policy is to use a processing time goal of 180 days for complaints
2. Provide a complaint process that is accessible to the public	✓ Procedures—such as providing accessible complaint forms and providing phone assistance to those unable to complete forms—are aimed at providing an accessible complaint process
3. Acknowledge receipt of complaint to complainant	✓ Policy is to acknowledge receipt of complaints by sending an acknowledgment letter, in most cases
4. Document complaint allegations to be resolved, even those not resulting in formal investigations	✓ Procedures include documentation of any complaint allegations received in DOT’s civil rights complaints tracking system (XTRAK)
5. Document the results of any complaint investigations	✓ Procedures require documentation of the results of all complaint investigations in XTRAK
6. Use informal methods to resolve complaints when possible	✓ Policy is to use informal methods, such as counseling recipients, whenever possible
7. Provide a formal or an informal appeals process for the results of complaints investigations	✓ Procedures include an informal appeals process whereby complainants who believe information has been overlooked can contact FTA investigators
8. After a complaint investigation is completed, monitor the recipient based on the issues involved in the complaint	✓ Procedures require that if a recipient’s noncompliance is identified in a complaint investigation, FTA should monitor the recipient for compliance
9. Oversee an effective program of compliance reviews for recipients and subrecipients	✓ Procedures include conducting civil rights compliance reviews and other oversight reviews

Source: GAO analysis of agency information.

In addition, our review and analysis of XTRAK data showed that:

- *FTA’s average times for resolving complaints greatly decreased in recent years.* In 2008 and 2009, FTA had a large backlog of ADA complaints, which made up the majority of civil rights complaints FTA received in those years. However, FTA has since taken actions to reduce the backlog and address issues that caused it. As a result, average processing times for ADA and Title VI complaints greatly decreased from Fiscal Year 2009 through Fiscal Year 2012. FTA’s average processing times for processing such complaints in 2009 and 2012 were about 401 days and 63 days, respectively.
- *Few FTA investigations of complaints resulted in findings of violations.* Of the total ADA and Title VI complaints received from Fiscal Years 2009 through 2012, about 5 percent resulted in Letters of Findings of violations¹¹ and another 6 percent resulted in Letters of Concern—where no violations are found, but related problems are found.

See the enclosure for additional details of our findings.

We provided a draft of this correspondence to DOT for its review and comment. DOT officials generally agreed with the findings of the correspondence and offered technical corrections that we incorporated, as appropriate.

¹¹All Letters of Findings of violations were related to ADA complaints. For example, one recipient was found in violation because it had operated vehicles with non-functioning lifts for more than five days, making it difficult for some riders with disabilities who depend on such lifts to access the vehicles. In another example, another recipient was found in violation because in times when the lift on its fixed route buses was non-operative, it failed to provide alternate transportation within 30 minutes to disabled riders.

We are sending copies of this report to the appropriate congressional committees and the Secretary of Transportation. This report will also be available at no charge on the GAO website at <http://www.gao.gov>. Should you or your staff have questions concerning this report, please contact me at (202) 512-2834 or wised@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report were Heather MacLeod (Assistant Director), Jessica Bryant-Bertail, Leia Dickerson, Lynn Filla-Clark, Geoffrey Hamilton, Ying Long, Josh Ormond, and Elizabeth Wood.

A handwritten signature in black ink that reads "David J. Wise". The signature is written in a cursive style with a large, prominent "D" and "W".

David Wise
Director
Physical Infrastructure Issues

Enclosure

(542213)



Public Transit

FTA's Process for Overseeing Compliance with Federal Civil Rights Requirements Incorporates Key Federal Practices

For more information, contact David Wise at wised@gao.gov.

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Mandate and Objectives

- The Moving Ahead for Progress in the 21st Century Act (MAP-21) mandated GAO to study the Federal Transit Administration's (FTA) oversight of federal transit funding recipients' compliance with public transportation-related civil rights requirements and its process for handling complaints alleging violations of such civil rights.
- This briefing addresses
 - 1) the methods FTA uses to oversee federal transit funding recipients' compliance with federal civil rights requirements, and
 - 2) the extent to which FTA's process for handling civil rights complaints is consistent with key federal practices for addressing complaints of discrimination.

Scope

- Our review focused on:
 - FTA's oversight of federal transit funding recipients' compliance with the Americans with Disabilities Act (ADA) of 1990, as amended, and the disability-related provisions in Section 504 of the Rehabilitation Act of 1973, as amended, as well as Title VI of the Civil Rights Act of 1964 (Title VI), as amended.
 - Complaints FTA received from 2009 through 2012 that relate to violations of the ADA and Title VI.
- We did not include:
 - Complaints received by FTA related to other civil rights areas, such as Equal Employment Opportunity and Disadvantaged Business Enterprises.
 - Complaints received by federal transit funding recipients, such as local transit providers, or the processes recipients used to address such complaints.

Methodology

- Reviewed applicable laws and other guidance, including the ADA; Title VI; Department of Transportation (DOT), FTA, and Department of Justice (DOJ) guidance on processing civil rights complaints; and FTA's October 2012 Title VI Circular.
- Reviewed and analyzed DOT's agency-wide civil rights complaints tracking system (XTRAK) database to determine the number of complaints received; the length of time to resolve complaints; and the results of complaint investigations.
 - This includes complaints submitted to FTA through DOT from Fiscal Years 2009 through 2012.
 - We determined the data to be sufficiently reliable for our purposes by reviewing data documentation, interviewing officials, and conducting electronic testing of the data.
 - We did not review complaints received directly by transit agencies.
- Interviewed FTA officials.

Methodology (cont.)

- To assess the extent to which FTA's process for handling civil rights complaints is consistent with key practices, we reviewed the Department of Justice's Investigation Procedures Manual and identified key practices.
- We then assessed FTA's process against the key practices by examining FTA policies and procedures, and interviewing FTA officials.
- While we examined FTA's policies and procedures and determined the length of time it took to resolve complaints and the results of complaint investigations, we did not evaluate the extent to which FTA followed its policies and procedures for handling complaints.

Background: Civil Rights Requirements

- Federal statute prohibits discrimination by federal public transportation financial assistance recipients on the basis of race, color, religion, national origin, sex, disability, or age. This prohibition implicates a variety of federal civil rights laws, such as:
 - Disability-related provisions such as those prohibiting discrimination 1) on the basis of disability in programs or activities that receive federal financial assistance (Section 504 of the Rehabilitation Act of 1973) and 2) against individuals with disabilities in several areas, including public transit, that apply to public entities whether or not they receive federal financial assistance (the ADA).
 - Title VI, which prohibits discrimination on the basis of race, color, or national origin in programs and activities that receive federal financial assistance.
 - Other federal civil rights laws prohibiting discrimination on the basis of age (Age Discrimination Act of 1975 as amended) or sex (Title IX of the Education Amendments of 1972, as amended) in programs or activities receiving federal financial assistance, as well as a variety of laws prohibiting religious discrimination.

Background: Federal Agency Responsibilities

- DOT and DOJ have key roles in monitoring, overseeing, and enforcing civil rights requirements and providing technical assistance.
- DOT has authority to:
 - Issue regulations to carry out the section of the ADA governing paratransit as a complement to fixed-route service as well as implement Title VI as it relates to transit programs receiving federal financial assistance from DOT.
 - Administer these regulations, including oversight. FTA's Office of Civil Rights oversees compliance with these requirements. This office has 28 staff in headquarters and regional offices; 5 of these staff are directly involved in complaint processing.
- DOJ is responsible for coordinating the implementation and enforcement of various nondiscrimination provisions—such as the ADA and Title VI—by federal agencies.

Background: FTA Complaints Process

- Parties who believe a funding recipient has discriminated on the basis of race, color, sex, age, national origin, religion, or disability may file a complaint with FTA.
 - For example, if a transit agency proposes cuts to services or a fare increase that might disproportionately impact minority riders, riders could file a Title VI complaint with the transit agency or FTA.
 - FTA encourages riders and others to resolve issues with local agencies before filing a complaint with FTA. According to FTA, many complaints are resolved without the parties ever contacting FTA.

Objective 1: Methods FTA Uses to Help Ensure Compliance With Civil Rights Requirements

- FTA uses four methods to ensure that recipients of federal funding comply with federal civil rights requirements, including:
 - Method 1: Requiring recipients to self-certify that they assure compliance with applicable civil rights requirements;
 - Method 2: Issuing guidance to inform recipients of their responsibilities;
 - Method 3: Administering a complaints process for the public; and
 - Method 4: Conducting oversight reviews of funding recipients' compliance with laws and requirements.

Method 1: FTA Requires Recipients to Self-Certify Compliance

- DOT is required to take affirmative action to ensure that recipients of federal financial assistance—including those receiving federal transit funding—are in compliance with specified nondiscrimination protections.
- Each year, agencies that receive federal transit funding must self-certify and assure that they will comply with applicable federal laws, regulations, and guidance.

Method 2: FTA Issues Guidance to Inform Recipients of Their Responsibilities to Ensure Compliance

- Formal guidance includes:
 - Recently revised guidance on Title VI (2012), which has been posted on FTA's website.
 - Draft guidance for ADA. In October 2012, FTA issued a proposal for this guidance and anticipates this guidance will be issued by June 2014.

- Other guidance includes:
 - Webinars to help grantees become familiar with Title VI requirements, and
 - Frequently Asked Questions and other documents to assist grantees with ADA requirements.

Method 3: FTA Administers a Complaints Process for the Public and Others

- FTA provides a process for the public, advocates, and others to file complaints with FTA about transit agencies' and other funding recipients' potential violations of civil rights, and for FTA to investigate and resolve those complaints.
- FTA provides information about the complaints process on its website, including the complaint forms and a phone number for complainants to call regarding complaints.
- FTA tracks complaints in DOT's agency-wide civil rights complaints tracking system (XTRAK) database.

Method 3 (cont.): Most Complaints FTA Received Concern Violations of the Americans with Disabilities Act of 1990

ADA and Title VI complaints FTA received 2009-2012

Fiscal Year	Type of Complaint			Totals
	ADA ^a	Title VI ^b	ADA and Title VI	
2009	153	7	4	164
2010	131	10	1	142
2011	127	8		135
2012	99	6	1	106
Total	510	31	6	547

^a Also includes complaints related to ADA combined with another civil rights area besides Title VI.

^b Also includes complaints that are related to Title VI combined with another civil rights area besides ADA.

Source: GAO Analysis of FTA data.

- 538 complaints were closed as of April 2013, while 9 remained open.

Method 4: FTA Conducts Oversight Reviews of Recipients' Compliance With Laws and Requirements

FTA's periodic oversight reviews of funding recipients include:

- Triennial reviews (conducted every 3 years).
 - The reviews cover 24 areas of a transit agency's operations, including review of grantee's compliance with ADA, Title VI, and other requirements in general.
- State management reviews (typically conducted once every 3 years).
 - This review examines state DOTs' implementation of FTA program requirements for rural areas and the elderly and disabled, including how states monitor their subrecipients' compliance with ADA and Title VI.
- Discretionary reviews for compliance with ADA, Title VI, and other civil rights requirements. According to FTA officials, complaints are one of several factors that can trigger this type of review.
 - FTA may also consider negative findings from triennial reviews in selecting transit agencies for discretionary reviews.



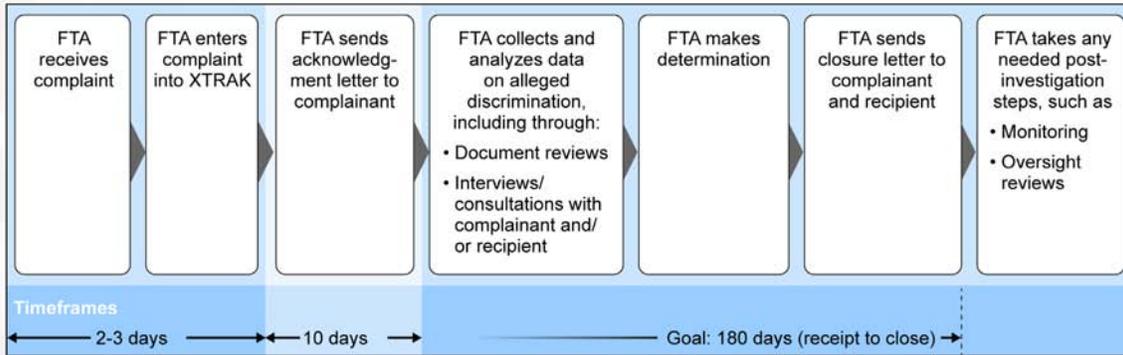
Method 4 (cont.): FTA Conducts Periodic Oversight Reviews of Funding Recipients' Compliance With Laws and Requirements

- As we have previously reported, FTA has limited resources for conducting discretionary reviews and thus conducts few each year (GAO-13-17).
 - Over 2,000 entities receive FTA funding and therefore could be subject to a Title VI compliance review.
 - From 2002 through 2012, FTA issued 57 Title VI compliance reviews, and, from 2009 through 2012, conducted about 8 Title VI compliance reviews per year.
 - Similarly, recipients that provide ADA paratransit services could be subject to an ADA paratransit compliance review. We estimated that as of 2010, 546 agencies provided ADA paratransit service (GAO-13-17).
 - From 2000 through 2012, FTA issued 47 ADA paratransit compliance reviews. Additionally, FTA could conduct no more than about two to three ADA paratransit compliance reviews per year from 2008 through 2011.

Objective 2: FTA's Civil Rights Complaints Process Incorporates Key Federal Practices Identified by DOJ

- DOJ's guidance establishes key practices for federal agencies addressing civil rights complaints about funding recipients such as transit agencies.
- FTA's policies and procedures for processing civil rights complaints incorporate all nine key federal practices that we identified, based on our analysis of DOJ guidance.

Key Steps in FTA's Process for Handling Civil Rights Complaints^a



Source: GAO analysis of DOT data.

^a Chart shows key process steps for complaints submitted to FTA. Complainants may also submit complaints directly to local transit agencies, which can help to resolve issues more quickly according to FTA officials.



FTA Incorporates All Identified Key Federal Practices into its Civil Rights Complaints Process

DOJ Key Federal Practice		FTA Policies & Procedures	
1.	Ensure a timely complaint process	✓	Policy is to use a processing time goal of 180 days for complaints
2.	Provide a complaint process that is accessible to the public	✓	Procedures—such as providing accessible complaint forms and providing phone assistance to those unable to complete forms—are aimed at providing an accessible complaint process
3.	Acknowledge receipt of complaint to complainant	✓	Policy is to acknowledge receipt of complaints by sending an acknowledgment letter, in most cases
4.	Document complaint allegations to be resolved, even those not resulting in formal investigations	✓	Procedures include documentation of any complaint allegations received in DOT's civil rights complaints tracking system (XTRAK)
5.	Document the results of any complaint investigations	✓	Procedures require documentation of the results of all complaint investigations in XTRAK
6.	Use informal methods to resolve complaints when possible	✓	Policy is to use informal methods, such as counseling recipients, whenever possible
7.	Provide a formal or an informal appeals process for the results of complaints investigations	✓	Procedures include an informal appeals process whereby complainants who believe information has been overlooked can contact FTA investigators
8.	After a complaint investigation is completed, monitor the recipient based on the issues involved in the complaint	✓	Procedures require that if a recipient's noncompliance is identified in a complaint investigation, FTA should monitor the recipient for compliance
9.	Oversee an effective program of compliance reviews for recipients and subrecipients	✓	Procedures include conducting civil rights compliance reviews and other oversight reviews

Practice 1: To Ensure a Timely Complaint Process, FTA's Policy is to Use a Processing Time Goal

- DOJ guidance encourages federal agencies to ensure a timely complaints process but does not suggest a time frame.
- According to FTA officials, FTA's goal is to resolve complaints in 180 days or less from the date of receipt, consistent with DOT guidance.
- FTA officials noted, however, that meeting this goal is not always possible due to the complexity of some cases and other factors.

Practice 1 (cont.): To Ensure a Timely Complaint Process, FTA's Policy is to Use a Processing Time Goal

- In 2008 and 2009, FTA's Office of Civil Rights (OCR) had a large backlog of ADA complaints, which made up over 80 percent of civil rights complaints FTA received in those years, according to FTA officials.
- OCR has since taken actions to clear out the backlog and resolve some issues that had caused it.
 - Specifically, OCR changed its ADA complaints process. It now uses a classification system whereby senior staff typically handle complex complaints while less senior staff handle simpler complaints.
 - In addition, OCR temporarily brought in law students through an internship program to help resolve the backlog of complaints.



Practice 1 (cont.): To Ensure a Timely Complaint Process, FTA's Policy is to Use a Processing Time Goal

- As a result of these OCR actions, average processing times for ADA and Title VI complaints greatly decreased from FY 2009 through FY 2012.

Average processing times for ADA and Title VI complaints FTA received 2009-2012

Fiscal Year	Average processing time for complaints (days)
2009	401
2010	191
2011	98
2012	63

Source: GAO Analysis of FTA data.

Practice 2: FTA Has Procedures Aimed at Providing a Complaint Process That is Accessible to the Public

- DOJ guidance recommends that complaint processes should be accessible to the public, including those with limited English proficiency.
- FTA's website provides directions for submitting complaints and complaint forms.
- FTA provides options for requesting accessible formats of complaint forms, including large print, audio tape, and telecommunications devices for the deaf (TDD).
- According to FTA officials:
 - Staff members contact persons who are unable to complete complaints forms by phone, so that staff can then complete the form on the complainant's behalf.
 - Several bilingual staff members are available to help complainants with limited English proficiency.

Practice 3: FTA's Policy is to Acknowledge the Receipt of Complaints

- DOJ guidance suggests that federal agencies should acknowledge the receipt of complaints to the complainant.
- According to FTA officials, in most cases, acknowledgment letters are sent to complainants within 10 days of receipt, in line with DOT guidance.
- FTA officials indicated they do not send acknowledgment letters for complaints they expect to close within a few weeks.



Practice 3 (cont.): *FTA Sample Acknowledgment Letter*



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

Headquarters

East Building, 5th Floor – TCR
1200 New Jersey Avenue, SE
Washington, DC 20590

[date]

[address]

Re: FTA No. [no.]

Dear [name]:

This letter acknowledges receipt of your complaint against [transit agency] alleging discrimination based on disability. The Federal Transit Administration (FTA) Office of Civil Rights is responsible for ensuring that providers of public transportation are in compliance with the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, and the U.S. Department of Transportation's implementing regulations at 49 CFR Parts 27, 37, 38, and 39.

We will first review your allegations and determine whether FTA has authority to process the complaint, and then assign an investigator if needed. You will receive further communications about the complaint after our review.

Any additional correspondence related to this complaint should reference FTA No. [no.] and be addressed to:

Director, Office of Civil Rights (TCR-1)
Federal Transit Administration
1200 New Jersey Avenue, SE, Room E54
Washington, DC 20590

Thank you for bringing this matter to our attention.

Sincerely,

ADA Team
Office of Civil Rights

Practice 4: FTA Has Procedures for Documenting Complaint Allegations to be Resolved

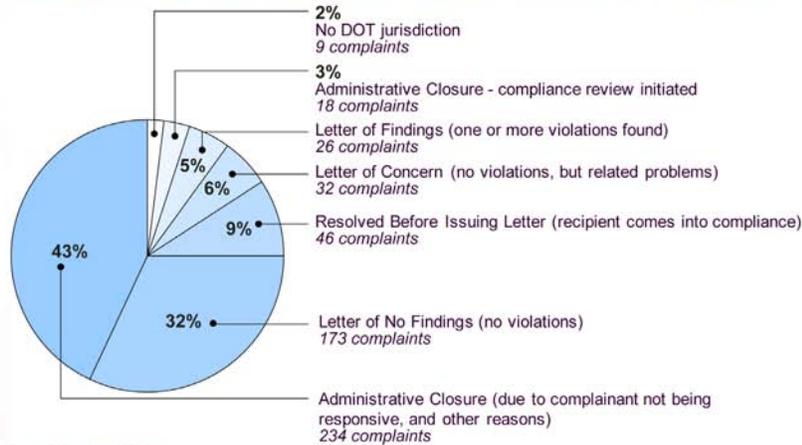
- DOJ guidance indicates that agencies should document any discrimination complaint allegations to be resolved, even those not resulting in formal investigations.
- FTA has procedures to maintain complaint information in XTRAK, and to maintain separate case files documenting investigation steps taken.
- According to FTA and other DOT officials, XTRAK also allows for tracking correspondence that does not constitute a complaint.

Practice 5: FTA Has Procedures for Documenting the Results of Complaint Investigations

- DOJ guidance states that agencies must document the results of any discrimination complaint investigation.
- According to FTA officials, the agency's procedures require that the results of any investigation resulting from a civil rights complaint be maintained in XTRAK.
- Complaints to FTA can be resolved in several ways, including:
 - Letter of Findings (violations found on the part of the recipient)
 - Letter of No Findings (no violations)
 - Letter of Concern (no violations, but related problems found)
 - Resolved before Letter of Findings Issued (recipient comes into compliance)
 - Administrative closure (due to complainant not being responsive; or other reasons)
 - Administrative closure - Compliance Review Initiated

Practice 5 (cont): FTA Has Procedures for Documenting the Results of Complaint Investigations

Results of ADA and Title VI complaints received by FTA 2009 – 2012



Source: GAO analysis of FTA data

- Few FTA complaint investigations (only about 5 percent) resulted in findings of violations, based on our analysis of the 538 ADA and Title VI complaints received from FTA 2009-2012 and closed as of April 2013.

Practice 6: FTA's Policy is to Use Informal Methods to Resolve Complaints, When Possible

- DOJ guidance strongly encourages agencies to use informal methods to resolve complaints when possible, noting that this can help to address complaints more quickly and with less staff resources.
- According to FTA officials, the agency's policy is to use informal methods to resolve complaints whenever possible.
 - For example, in some cases, FTA officials may advise the recipient—such as a transit agency—of a potential deficiency and ways to address it and then ensure the recipient acts accordingly.

Practice 7: FTA Procedures Include an Informal Appeals Process for Complaints

- DOJ guidance suggests that agencies should provide a formal or informal appeals process for the results of complaint investigations.
- FTA procedures include an informal appeals process.
 - Closure letters—which are sent to all complainants and recipients when complaint cases are closed—include the investigator’s contact information, so those who believe information has been overlooked can contact FTA.
 - FTA officials noted that complaint cases may be reopened if complainants point out information that was overlooked.

Practice 8: FTA Procedures Require that When a Complaint Investigation Uncovers Noncompliance, FTA Should Monitor the Recipient for Compliance

- DOJ guidance states that if a complaint investigation reveals noncompliance on the recipient's part, the federal agency should monitor the recipient afterward for compliance with requirements.
- According to FTA officials, if they identify noncompliance during a complaint investigation, FTA procedures require the recipient to take steps to correct the noncompliance and for FTA to then monitor the recipient's progress.
 - For example, if FTA issues a Letter of Findings of violations, it generally gives the recipient 30 days to demonstrate that it has addressed the violations and come into compliance.
 - FTA monitors the recipient's progress in the identified area(s) of noncompliance until satisfied the recipient has come into compliance.
 - According to FTA officials, of the 26 Letters of Findings issued to recipients from 2009 through 2012, only 1 was still being actively monitored by FTA as of May 2013 to ensure that the recipient was taking corrective actions. In all other cases, FTA determined that recipients had achieved compliance.

Practice 9: FTA Procedures Include Conducting Civil Rights Compliance Reviews

- DOJ guidance states that federal agencies are required to oversee effective programs of compliance reviews for recipients and subrecipients.
- As previously mentioned, FTA's procedures include conducting oversight reviews of funding recipients—including discretionary civil rights compliance reviews—but the agency has limited resources for conducting these and thus conducts few per year.
- Complaints are a factor for selecting a recipient for a compliance review.
 - Based on our analysis of FTA data, of the total 538 ADA and Title VI complaints received from FY 2009 through FY 2012 that had been closed as of April 2013, FTA closed 18 complaints—or about 3 percent—by initiating compliance reviews of the respective recipients. These included 10 Title VI complaints, 7 ADA complaints, and one combined ADA-Title VI complaint.
- FTA can keep compliance reviews open until problems are resolved.



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