

Hocking. Athens. Perry Community Action Transportation Programs ADA Compliant Process

Transit Agency Complaint Process Background

U.S. DOT ADA regulations § 37.17 and § 27.13 require all agencies to designate an employee to coordinate Part 37 and Part 27 compliance, respectively, and to have procedures in place specifically to address complaints alleging ADA violations.

Designation of Responsible Employee Requirement

HAPCAP will assign an individual to coordinate ADA compliance. The responsible employee will be designated as the “ADA Coordinator.” The Transportation Division Director will be the ADA Coordinator.

Complaint Procedures Requirement

HAPCAP shall adopt procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part and 49 CFR Parts 27, 38 and 39.

The procedures shall meet the following requirements:

- (1) The process for filing a complaint, including the name, address, telephone number, and email address of the employee designated under paragraph (a) of this section, must be sufficiently advertised to the public, including on the agency and program websites;
- (2) The procedures must be accessible to and usable by individuals with disabilities;
- (3) HAPCAP must promptly communicate its response to the complaint allegations, including its reasons for the response, to the complainant and must ensure that it has documented its response.

HAPCAP advertise the process through agency and program websites and include the contact information (name, address, telephone number, and email address) for the ADA Coordinator. Alternative formats must be provided to individuals as necessary.

Communicating the Response to ODOT

Upon receiving a disability related complaint, HAPCAP will immediately notify an ODOT representative.

Communicating the Response to the Complainant

HAPCAP will promptly communicate its response to the complainant, including the reasons for the response, and document this response for purposes of recordkeeping. Communication, including written, electronic, in-person, and telephonic will be documented.

The regulations do not require a written response to the complainant. HAPCAP, however, will communicate its response to the complaint allegations to the complainant and document its response to the complainant in internal records and database.

Contracted Service Providers

HAPCAP will be responsible for the ADA complaint process however all complaint procedures apply to all transit service provided by the agency, whether directly or by contract.

Recordkeeping Requirement

HAPCAP must keep all complaints of noncompliance on file for one year and a record of all such complaints (which may be in summary form) for five years. HAPCAP will maintain an ongoing database for each program of all complaints and will tag ADA-related complaints accordingly.

HAPCAP will distinguish between complaints that pertain to the DOT ADA requirements versus complaints about services or policies that do not—even if the complainant has a disability.

For example, a complaint about wheelchair securements on fixed route buses not functioning properly is an ADA complaint, while a complaint about noisy passengers on a complementary paratransit vehicle is not. In addition, while complementary paratransit service is an ADA requirement, it is important to distinguish between service complaints (e.g., occasional late pickups) and complaints related to regulatory compliance such as a pattern or practice of significantly late pickups. While there are many potential areas of noncompliance, some of the more common types of ADA complaints include:

- Bus drivers passing by riders using wheelchairs waiting at a bus stop
- Vehicle operators not announcing stops or identifying routes
- Personnel refusing to allow a rider's service animal in a station or on a vehicle
- ADA paratransit vehicles arriving late

The following examples of service-related complaints are not areas of ADA noncompliance:

- Comfort while riding (e.g., driving style)
- Lack of or limited fixed route service (e.g., not serving a particular location or limited evening or weekend service)

Complaint Filing and Resolution

HAPCAP will publicize their process for filing complaints as well as procedures pertaining to the complaint-resolution process. This will include the information needed to investigate a complaint, timelines for promptly resolving complaints, and details on how the resolution will be

communicated to the complainant.

Collecting Information

To properly investigate complaints, HAPCAP will request the following information:

- Contact information (name, rider ID (if applicable), address, telephone, email, etc.)
- Mobility aid used (if any)
- Date, time, and location of the incident
- Transit mode and line/route
- Vehicle ID number
- Name(s) or ID numbers of agency employee(s) or others
- Description of what transpired

Other documentation may be requested such as:

- Photographs
- Telephones (reservations, cancellations, “where’s my ride,” etc.)
- Lateness and missed trips
- On-board ride times

HAPCAP will maintain a separate ADA complaint process from Title VI (and any other nondiscrimination requirements). Attached is the comment form that will be used to facilitate the ADA complaint process.

Procedure and Timelines

Once the complaint is received, the ADA Coordinator will send an acknowledgement to the complainant letter informing her/him that the complaint has been received and will be investigated.

The ADA Coordinator will have 30 days to investigate the complaint. If more information is needed to resolve the case, the ADA Coordinator may contact the complainant. If available, HAPCAP will use other information available in the investigation beyond in-person communication to include other information sources, such as:

- Video recordings from facility surveillance and on-board cameras
- Telephone call recordings
- Written communications (paper and electronic)
- System data including location tracking, dispatch records, and reservationist notes and input
- Driver manifests (paper or electronic)
- Interviews with transit agency or contractor employees and other riders who may be witnesses to the incident

As discussed above, it is important to distinguish between general service complaints and those that rise to the level of noncompliance and to fully investigate complaints of discrimination.

The complainant has 7 business days from the date of the letter to send requested information to the ADA Coordinator. If the ADA Coordinator is not contacted by the complainant or does not receive the additional information within 7 business days, HAPCAP can administratively close the complaint. A complaint can be administratively closed also if the complainant no longer wishes to pursue their complaint.

After the ADA Coordinator reviews the complaint, she/he will issue one of two letters to the complainant: a closure letter or a letter of finding (LOF). A closure letter summarizes the allegations and states that there was not a ADA violation and that the case will be closed. A LOF summarizes the allegations and the interviews regarding the alleged incident, and explains whether any disciplinary action, additional training of the staff member, or other action will occur. If the complainant wishes to appeal the decision, she/he has 7 days after the date of the letter or the LOF to do so.

HAPCAP will keep track of dates throughout the complaint resolution process, including:

- Date of receipt
- Date of assignment for investigation
- Date of resolution
- Date of communication to complainant

Following Up Internally After Complaint Investigations

HAPCAP will ensure their personnel are trained to proficiency as appropriate to their duties. Rider complaints that reveal issues with the provision of service can be indicators that employees may not be trained proficiently or if trained that disciplinary measures may need to be taken. For ADA violations arising from issues with vehicles, accessibility equipment, or facilities, the ADA Coordinator may review operating procedures, maintenance procedures, and technical specifications to identify any needed changes.

Transit Agency Monitoring

HAPCAP will monitor service, provided in house or by contractors, in order to confirm internally, and in some cases to ODOT or the FTA during oversight activity, that the service is being delivered consistent with the ADA requirements.

Attachment ADA Comment Form