AMERICANS WITH DISABILITIES ACT (ADA) AND TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Complaint Investigation Training
Introductions

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Exercise: 2 min

▶ Getting to Know You.
Training Objectives

- Explain ADA and Title VI law as it applies to Public Transit/Complimentary Paratransit
- Identify the similarities and differences between the two laws
- List the five criteria of determining discrimination
- Use the ADA/Title VI complaint matrix tool to help determine whether or not a complaint qualifies as discrimination
- Learn the 7 step investigation process
- Learn how to document the 7 steps in the Valley Metro CAS system
- Apply your training to real-life scenarios to learn the process of investigating and documenting Title VI/ADA complaints
Ground Rules

- Respect each other
- Take turns talking
- Every question is valid
- Get off the Grid
- Keep an open mind
- Participate
Q1: What is one of the three classes covered by Title VI of the Civil Rights Act?

- Disability: 2
- Gender: 8
- National Origin: 3
- Age: 46
Q2: The ADA provides protections to which of the following classes?

- Age: 0
- Sexual Orientation: 0
- Race, Color, and National Origin: 2
- Persons with Disabilities: 58
Q3: Which title of the ADA applies to discrimination in programs, services or activities by a public entity?

- Title IV: 21
- Title III: 7
- Title II: 29
- Title I: 2
Q4: A complaint regarding discrimination under Title VI and ADA law has to meet which of the following criteria?

- ALL OF THE ABOVE: 55
- SEGREGATION OR SEPARATELY TREATED: 0
- DIFFERENT SERVICE PROVIDED: 4
- DENIAL OF SERVICE: 2
Q5: A customer in a wheelchair calls stating that the bus was late and she missed her appointment. This complaint may qualify as a claim of discrimination under ADA law - A: TRUE OR FALSE

- TRUE: 2
- FALSE: 58
Q6: A customer calls stating they are Hispanic and that their Caucasian bus operator asks for their reduced fare ID but never asks other Caucasian customers for theirs. This complaint may qualify as a claim of discrimination under Title VI law. A: TRUE OR
Pre-Training Questionnaire

Q7: One of the differences between ADA and Title VI law is that ADA law applies to programs or activities funded with federal assistance. - A: TRUE OR FALSE
Q8: The following definition applies to which of the following laws: No person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
What Is the ADA?

- Americans with Disabilities Act, passed in 1990.

- Federal CIVIL RIGHTS legislation that says it is illegal to discriminate against people with disabilities in employment, state and local government services, private businesses, telecommunications and transportation.

**GOAL:** The full inclusion of people with disabilities in all aspects of American society.
Impairments that “Consistently Meet the Definition of Disability”

**ACTIVITY**

**AFFECT MAJOR LIFE ACTIVITIES** – Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting and bending.

- Deafness
- Blindness
- Intellectual disability
- Partially or completely missing limbs
- Mobility impairments requiring use of a wheelchair
- Obsessive-compulsive disorder, Schizophrenia, major depression, bipolar disorder, post-traumatic stress disorder
- Autism
- Cancer
- Cerebral palsy
- Diabetes, epilepsy
- HIV/AIDS
- Multiple sclerosis
- Muscular dystrophy
- Impairments that may be disabling for some, but not for others – Asthma, back and leg impairments, learning disabilities
Five Titles of the ADA

- **Title I. Employment** – Prohibits disability discrimination in all employment processes.

- **Title II. Accessibility in public entities** – Physical and program accessibility in state/local government entities.

- **Title III. Accessibility in businesses** – Physical and program accessibility in restaurants, hotels, stores, places of business and public transportation facilities.

- **Title IV. Telecommunications** – Telephone and communications systems for the public.

- **Title V. Miscellaneous**
Definition of Americans with Disabilities Act – Title II

- The Americans with Disabilities Act, Title II, states that no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in programs, services or activities sponsored by a public entity.
The Americans with Disabilities Act, Title III applies to access to places of public accommodation and commercial facilities. This includes private factories, warehouses and places of public accommodation like inns, restaurants, bars, theaters, stadiums, stores, etc. **AND terminals, depots or other stations used for specified public transportation.**

**THINK ACCESS TO BUSINESS AND PUBLIC TRANSPORTATION FACILITIES.**
The Civil Rights Act of 1964

The Civil Rights Act of 1964 is a landmark piece of civil rights legislation in the United States that outlawed discrimination based on race, color, religion, sex, or national origin.

- Title I – Voting Rights
- Title II – Discrimination in Places of Public Accommodation
- Title III – Desegregation of Public Facilities
- Title IV – Desegregation of Public Education
- Title V – Commission on Civil Rights
- Title VI – Nondiscrimination in Federally Assisted Programs
- Title VII – Equal Employment Opportunity
- Title VIII – Registration and Voting Statistics
- Title IX – Intervention and Procedure after Removal in Civil Rights Cases – Civil Rights Cases at State Level Can be Taken Over by Supreme Court
- Title X – Establishment of Community Relations Office under Department of Commerce
- Title XI - Miscellaneous
Title VI of Civil Rights Act of 1964

The Title VI of the Civil Rights Act of 1964 states that no person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
Five (5) Criteria of Discrimination – ADA/Title VI

1. Was there a denial of benefits or services?
2. Did we provide a different service or a service in a different way than we provided it to others?
3. Did we segregate or separately treat individuals?
4. Was there direct discrimination?
5. Did the customer specifically mention that they were discriminated against?
Seven Steps to Successful ADA/Title VI Investigations

1. Step One – Customer and Investigator
   Comments

2. Step Two – Issues

3. Step Three - Respondents

4. Step Four – Facts

5. Step Five – Policies, Procedure and Laws

6. Step Six – Violations

7. Step Seven – Action Taken, Response to the Customer
Seven Steps to Successful ADA/Title VI Investigations

Step One – Customer and Investigator Comments

– Completed by the Valley Metro Customer Relations staff and Investigator.

Example:

Customer Comments: I am a care-giver to a wheelchair passenger. The driver did not allow me to assist behind the passenger. He made me go through the front door. I explained I was a certified care-giver and I'm allowed to be with the passenger through the back door.

Investigator Comments: Spoke with customer who also stated that they are a a PCA and were charged to ride.
Seven Steps to Successful ADA/Title VI Investigations

Step One, continued – Investigator Comments

- Telephone
  - Time of call
  - Leaving a message:
    - Provide return phone number
    - Leave contact number
  - Document return calls from customer
Seven Steps to Successful ADA/Title VI Investigations

Step Two – Issues

– List every issue derived from the complaint summary.
– Include questions raised by each issue.
  ➤Who?
  ➤What?
  ➤When?
  ➤Where?
  ➤How?
– Add new issues that surface during investigation. Final list of issues becomes outline for investigation.
Seven Steps to Successful ADA/Title VI Investigations

Step Three – Respondents

“Respondent” is not confined to the transit vehicle operator, it is defined as any source of information that can contribute to the investigation.

- Customer follow-up call
- Operator (Interview / History)
- Radio/Dispatch/OCC reports
- GPS tracking software & programs
- Maintenance (Staff/Records)
- City Transit staff
- Witnesses
- Complainant (Interview/History)

- Spotter reports
- Video (camera) and/or audio recordings
- Courtesy cards
- Incident reports (supervisor, transit police, fare/security inspectors)
- Other transit employees
- Route history
- SmartDrive/DriveCam/Hastus/Trapeze
Seven Steps to Successful ADA/Title VI Investigations

Step Four – Facts

– Based upon the investigation you have conducted and the documented issues, determine the facts of the case.
– Separate facts from opinions.

**FACT**

*Something done or performed

*The quality of being real, actual or true

**OPINION**

*Guess

*Notion

*Assumption

*A belief or conclusion held with confidence but not proven
Seven Steps to Successful ADA/Title VI Investigations

Step Five – Policies, Procedure and Laws

– Develop list of all regulations, rules, policies, and procedures that apply to the investigation

» ADA regulations
» Valley Metro policies and service standards
» Contractor policies
Seven Steps to Successful ADA/Title VI Investigations

Step Six – Violations

– Compare each fact from “findings of fact” to the list of regulations, rules, etc.
– Make decision on whether violation(s) occurred

   YES       NO

– *Operational vs. civil rights findings*
Seven Steps to Successful ADA/Title VI Investigations

Step Seven – Action Taken

- Specific corrective actions for each violation found.
- Include plans for follow-up checks.
- If no violations found, conclude the report in a positive manner.
- Do not conclude report with “no action taken.”
- “Based upon the results of the investigation, there was no evidence of discrimination nor operational issues found.”
Seven Steps to Successful ADA/Title VI Investigations

Step Seven, Continued – Action Taken

- After all respondent information is documented… Respond to customer.

  - Complete all CAS documentation.
  - Determine the action taken.
  - Follow up with the customer and document in Response to Customer field of the CAS system.
    - Make sure your contact is professional.
    - Apologize to the customer.
    - Address all issues in their complaint.
    - If appropriate, educate the customer.
    - Thank the customer for their feedback.
Documenting your Title VI/ADA investigation – The CAS system

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Thank you for participating!
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Training references can be found at:
https://www.phoenix.gov/publictransit/title-vi-notice