

CHAPTER 84

NOTICE OF NON-DISCRIMINATION BASED UPON DISABILITY POLICY, COMPLAINT PROCEDURES AND COORDINATORS

Authority

N.J.S.A. 27:25-5(e); 42 U.S.C. § 12101 et seq.; 28 C.F.R. § 35.107; and 49 C.F.R. § 27.13-15.

Source and Effective Date

R.1999 d.54, effective February 16, 1999.
See: 30 N.J.R. 4140(a), 31 N.J.R. 548(a).

Executive Order No. 66(1978) Expiration Date

Chapter 84, Notice of Non-Discrimination Based Upon Disability Policy, Complaint Procedures and Coordinators, expires on February 16, 2004.

Chapter Historical Note

Chapter 84, Disability Discrimination Complaint Procedure, was adopted as R.1993 d.530, effective November 1, 1993. See: 25 N.J.R. 3445(b), 25 N.J.R. 4921(a). Pursuant to Executive Order No. 66(1978), Chapter 84 expired on November 1, 1998.

Chapter 84, Notice of Non-Discrimination Based Upon Disability Policy, Complaint Procedures and Coordinators, was adopted as new rules by R.1999 d.54, effective February 16, 1999. See: Source and Effective Date.

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SUBCHAPTER 1. DEFINITIONS

16:84-1.1 Definitions

As used in this chapter, the following terms have the indicated meanings:

“ADA” means the Americans with Disabilities Act, 42 U.S.C.A. § 12101 et seq.

“Agency” means the New Jersey Transit Corporation and its operating divisions, NJ TRANSIT Bus Operations, Inc.; NJ TRANSIT Rail Operations, Inc.; and NJ TRANSIT Mercer, Inc.

“Executive Director” means the Executive Director or his or her designee.

SUBCHAPTER 2. GENERAL PROVISIONS

16:84-2.1 Purpose

(a) These rules are adopted by the Agency in satisfaction of the requirements of the ADA and regulations promulgated pursuant thereto, 28 C.F.R. § 35.107 and 49 C.F.R. § 27:13-15.

(b) The purposes of these rules are:

1. To notify participants, beneficiaries, applicants and employees of NJ TRANSIT’s policy of non-discrimination based on disability in accordance with the ADA, the Vocational Rehabilitation Act and the New Jersey Law Against Discrimination (NJLAD);

2. To establish a designated coordinator whose duties shall include ensuring that the Agency complies with and carries out its responsibilities under the ADA, the Vocational Rehabilitation Act and the NJLAD; and

3. To notify participants, beneficiaries, applicants and employees of NJ TRANSIT’s internal procedures for resolving disability-related disputes or issues that are alleged to be in non-compliance with the ADA, the Vocational Rehabilitation Act or the NJLAD.

16:84-2.2 Agency notice of non-discrimination based on disability policy

(a) NJ TRANSIT has adopted and promulgated a policy of non-discrimination on the basis of disability in the providing of transportation services, employment and other related programs and activities including access to service and facilities, treatment of customers and employees and individuals seeking employment or the use of transit services.

(b) Anyone seeking information or assistance with respect to accessibility of service or facilities should contact:

David Rishel
Director, Special Services/ADA
NJ TRANSIT
One Penn Plaza East
Newark, NJ 07105-2246
Phone: (973) 491-7554

(c) Anyone seeking information or assistance with respect to reasonable accommodation related to employment, including the employment process, should contact:

John Murgolo
 Director, Human Resources Planning/Administration
 NJ TRANSIT
 One Penn Plaza East
 Newark, NJ 07105-2246
 Phone: (973) 491-8045

(d) In addition to any other advice, assistance or accommodation provided, a copy of the following notice shall be given to anyone who inquires regarding the Agency's compliance with the ADA or the availability of accommodation which would allow a qualified individual with a disability to receive services or participate in a program or activity provided by the Agency.

AGENCY NOTICE OF DISABILITY

DISCRIMINATION COMPLAINT PROCEDURE

The Agency has adopted an internal procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the U.S. Department of Justice regulations implementing Title II of the Americans with Disabilities Act. Title II states, in part, that "no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from participation in, be denied the benefits of or be subjected to discrimination" in programs or activities sponsored by a public entity.

Rules describing and governing the internal procedure can be found in the New Jersey Administrative Code, N.J.A.C. 16:84-4.1 et seq. Complaints should be addressed to:

Manager, EO/AA and Diversity Programs
 NJ TRANSIT Headquarters
 One Penn Plaza East
 Newark, NJ 07105-2246
 Phone: 973-491-8052

1. The Agency's company procedure does not preclude individuals from reporting incidents orally or in writing to a responsible company official in an effort to resolve a matter to the mutual satisfaction of all parties without resorting to the filing of a complaint.

2. A complaint should be filed in writing and contain the name and address of the person filing it, and briefly describe the alleged violation. A form for this purpose is available from the designated Manager, EO/AA and Diversity Programs.

3. A complaint should be filed promptly within 30 days by the complainant after the incident or action being reported. (Processing of allegations of discrimination which occurred before this complaint procedure was in place will be considered on a case-by-case basis).

4. An investigation, as may be appropriate, will follow the filing of a complaint. The investigation will be conducted by the Agency's designated Manager, EO/AA and Diversity Programs. The rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.

5. In most cases, a written determination as to the validity of the complaint and a description of the resolution, if any, will be issued by the "Executive Director" and/or his or her designee and a copy forwarded to the complainant no later than 60 days after its filing with the Manager, EO/AA and Diversity Programs.

6. The Manager, EO/AA and Diversity Programs will maintain the files and records of the Agency relating to the complaints filed.

7. The right of a person to a prompt and equitable resolution of the complaint filed hereunder will not be impaired by the person's pursuit of other remedies such as the filing of an ADA complaint with the responsible Federal department or agency of the New Jersey Division of Civil Rights. Use of this complaint procedure is not a prerequisite to the pursuit of other remedies.

8. The rules will be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the Agency complies with the ADA and implementing Federal rules.

SUBCHAPTER 3. DESIGNATED COORDINATORS

16:84-3.1 Designated coordinators

The designated coordinators for the Agency are as listed in N.J.A.C. 16:84-2.2.

SUBCHAPTER 4. DISABILITY DISCRIMINATION COMPLAINT PROCEDURES

16:84-4.1 Procedure

A complaint alleging that the Agency has failed to comply with the ADA, the Vocational Rehabilitation Act of 1973, or the NJLAD or has acted in a way that is prohibited by the ADA, the Vocational Rehabilitation Act of 1973, or the NJLAD should be submitted in writing to the designated coordinator identified in N.J.A.C. 16:84-2.2.

16:84-4.2 Complaint contents

(a) A complaint submitted pursuant to this subchapter may be submitted in or on the form set forth at N.J.A.C. 16:84-4.3.

(b) A complaint submitted pursuant to this subchapter shall include the following information:

1. The name of the complainant, and/or any alternate contact person designated by the complainant to receive communication or provide information for the complainant;
2. The address and telephone number of the complainant or alternate contact person; and
3. A description of manner in which the ADA, the Vocational Rehabilitation Act of 1973 or the NJLAD has not been complied with or has been violated, including times and locations of events and names of witnesses if appropriate.

16:84-4.3 Complaint form

Appendix A to this chapter contains the form that may be utilized for the submission of a complaint pursuant to this subchapter. A copy of the form may be obtained by

contacting the designated coordinator identified at N.J.A.C. 16:84-2.2 with responsibility for handling complaints.

16:84-4.4 Investigation

(a) Upon receipt of a complaint submitted pursuant to this subchapter, the designated coordinator will notify the complainant of the receipt of the complaint and the initiation of an investigation into the matter. The designated coordinator will also indicate a date by which it is expected that the investigation will be completed, which date shall not be later than 60 days from the date of receipt of the complaint by the coordinator, unless a later date is agreed to by the complainant.

(b) Upon completion of the investigation, the designated coordinator shall prepare a report for review by the Executive Director or his or her designee for the Agency. The Executive Director or his or her designee shall render a written decision within 60 days of receipt of the complaint, unless a later date is agreed to by the complainant, which decision shall be transmitted to the complainant and/or the alternate contact person if so designated by the complainant.

APPENDIX A
NJ TRANSIT
DISABILITY DISCRIMINATION COMPLAINT FORM

INFORMATION PROVIDED IS MAINTAINED IN CONFIDENCE AND DIVULGED ONLY TO THE EXTENT NECESSARY TO CONDUCT A COMPREHENSIVE AND THOROUGH INVESTIGATION.

NAME:		
ADDRESS:		
PHONE NUMBERS: Work () Home ()		
NAME, ADDRESS & TELEPHONE # OF ALTERNATE CONTACT PERSON:		
NJ TRANSIT EMPLOYEES ONLY		
POSITION:	DEPARTMENT:	LOCATION:
SUPERVISOR:		
DATE OF HIRE:	EMPLOYEE #:	SOCIAL SECURITY #:
DISABILITY OF COMPLAINANT		
Agency alleged to have denied access:		
Department:	Division:	
Bureau/Office:	Location:	
Incident or Barrier:		
Please describe the particular way in which you believe you have been denied the benefit of any service, program of activity or have otherwise been subject to discrimination. Please specify dates, times and places, incidents, and names and/or positions of agency employees involved, if any, as well as names, addresses and telephone numbers of any witnesses to any such incident. (Attached additional pages if necessary.)		
Proposed access or accommodation:		
If you wish, describe the way in which you feel access may be had to the benefits described above, or that accommodation could be provided to allow access:		
DATE OF ALLEGED DISCRIMINATION:		
Earliest / /	Latest / /	<input type="checkbox"/> Continuing Action

Name of Witness:	Address/Work Location:
Name of Witness:	Address/Work Location:
Name of Witness:	Address/Work Location:
Has the problem been reported to any other person? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, with whom did you speak?	
Name:	Date:
Position:	
What was the result of your conversation with that person?	
(NJ TRANSIT Employees Only)	
Have you sought assistance about the action you think was discriminatory from your supervisor, union rep., or from any other person: <input type="checkbox"/> Yes <input type="checkbox"/> No	
(If the answer is yes, complete below):	
Name of Person:	Position:
Date Assistance Sought: / /	
RESULTS (IF ANY):	
Have you filed a complaint in the past? <input type="checkbox"/> YES <input type="checkbox"/> NO (If the answer is yes, complete below):	
Approximate Date(s) Filed:	Person(s)
SIGNATURE OF COMPLAINANT:	
DATE:	
FOR EO/AA Department Use Only	
ACTION: _____ (Termination, Discipline, Promotion, Accommodation, Access, Etc.)	Complaint #:
Date Filed: / /	
Date Closed: / /	
DIVISION: <input type="checkbox"/> Bus <input type="checkbox"/> Rail <input type="checkbox"/> Administrative Support	DEPARTMENT:
BASIS (Physical, Mental, Perception, Drug, Alcohol, etc.):	
_____ Investigator Assigned Date	
_____ Manager EO/AA & Diversity Programs Date (Signature)	