

MEMORANDUM**To: Administration & Finance Subcommittee****September 30, 2011****From: Karl Quackenbush, Acting Director****Re: Title VI Complaint**

The Boston Region MPO recently received its first-ever Title VI discrimination complaint. Consistent with adopted MPO procedure, I investigated the complaint and reported my findings to the MPO Chair. Our MPO procedure calls for this matter to next be referred to the Administration & Finance Subcommittee for action. This memorandum summarizes the complaint and sets forth my recommendations for your consideration.

The complaint was received by mail here at CTPS on August 26, 2011. I convened an internal meeting on September 8 to discuss it with staff members who were present at the event that precipitated the complaint. I also sent the complainant an email acknowledging receipt of the complaint and assuring him/her that the matter was indeed being addressed through the MPO's Title VI complaint process.

SYNOPSIS OF THE COMPLAINT AND FINDINGS

According to our published MPO Title VI complaint procedures, a complainant can opt to remain anonymous to everyone but those few connected with the internal investigation. The complainant in this case has requested that option. In order to honor that request, I have chosen not to transmit the complainant's actual, written complaint to the Subcommittee. Even though the complainant's name would have been redacted, other information contained in the complaint could potentially allow someone to discern this individual's identity.

The complaint stems from this individual's attendance at an MPO-sponsored meeting held this past summer. The core complaint is that accommodations for individuals with auditory and visual impairments were not being used as a matter of course at this meeting. The complainant is correct. Although microphones were in the room and available for use upon request, they were not being used by staff, unasked, as a matter of course. Similarly, no accommodations for individuals with visual impairments were offered at the beginning of the meeting.

Several other ancillary issues were raised in the complaint as well. The most serious of these pertains to the complainant's perception that staff acted in a belittling and insulting manner towards her/him. The staff members in question are people who regularly engage in the MPO's

public processes, and I know them to be diligent about making sure that all people who are guests of the MPO are heard and treated respectfully. The behavior described is starkly at odds with how these individuals are known to conduct themselves in the course of the MPO's public process. I believe, therefore, that the complainant misunderstood staff's words and actions. It is also possible that the complainant had some distressing interactions with other meeting attendees and incorrectly assumed them to be staff members. Whatever the case may be, I have no firm basis on which to conclude that staff acted inappropriately in their interactions with this individual.

Several other elements of the complaint pertain to things such as whether the meeting was properly advertised, whether the building's security staff had been properly notified of the meeting, and the adequacy of an EJ analysis discussed by staff at the meeting. I find no valid basis for any of the charges related to these issues. The complainant also alleges that he/she has been mistreated at public meetings held by other public entities, which is not something within the MPO's purview to respond to, and finally, she/he notes that the complaint process itself, by requiring a complainant to submit a complaint in writing, is inaccessible to those with certain motor skills impairments. This is a valid point.

RECOMMENDED RESOLUTION

Complainant's Recommendations

The complainant believes that this matter can be resolved by the MPO agreeing to two actions, as follows:

1. The MPO should provide minimum ADA accommodations for those with auditory and visual impairments at all public meetings.
2. The MPO staff should be trained on the topics of ADA requirements and Governor Patrick's Executive Order pertaining to accommodations for individuals with disabilities.

My Recommendations

1. Staff should comply (and is already in the process of doing so) with the complainant's first recommendation: reasonable, minimum accommodations should indeed be in place at all MPO public meetings. This complaint aside, it is the right thing to do, and staff was already in the process of reviewing and improving its provision of accommodations at meetings.
 - a. Although we do have a sound system, it can be cumbersome for meeting participants to use. Therefore, staff should investigate and purchase another, easier-to-use, system, and we should use it as a matter of course from the outset so that a hearing impaired individual does not have to ask about it. In addition, staff should also have assistive listening devices available for those who need them.

- b. Staff should always have large-print versions of meeting documents available and make their presence known at the outset of every meeting. In addition, we should consider preparing meeting notices using layouts and black-and-white text that make them more visible. We should also investigate other means of making presentation materials more visible to those with visual impairments. Staff members have made various suggestions, all of which we will thoroughly examine.
2. Staff should continue to engage in the kind of training and education referred to in the complainant's second recommendation. We already expose the staff to appropriate information regarding ADA requirements and related topics. For example, earlier this year, our AACT specialist briefed the staff on how to appropriately and respectfully interact with individuals with disabilities, and I have already asked her to provide that briefing again to staff members who missed the earlier briefing. In addition, we have several staff members who are expert in Title VI matters generally and ADA matters specifically. We should continue to draw on their expertise in a number of ways, including having them review our entire public participation program from the perspective of ADA.
3. The entire staff should be made aware of our new meeting practices pertaining to accommodations for those with auditory or visual impairments. There should be a checklist developed for use prior to each meeting.
4. As noted in the complaint, the requirement to submit complaints in writing could be difficult to comply with for individuals with certain motor skills impairments. Therefore, although the complainant does not specifically ask for this, I recommend that the MPO's Title VI complaint process be modified to accommodate those with such impairments. The process should allow for a complaint to be relayed to the staff verbally, either in person, over the telephone, or by submission of a voice recording. Since a complaint ultimately must take on written form, the staff would transcribe such a verbal complaint, and then send it back to the complainant for concurrence and signature.
5. Again, although the complainant does not ask for this, I recommend that we seek the complainant's permission to forward his/her complaints concerning other agencies to appropriate individuals at those agencies. This is consistent with the MPO's practice of taking in commentary that does not necessarily pertain to the MPO itself and then forwarding it to relevant parties for their consideration and possible action.
6. In our recent MPO recertification process, our federal partners recommended that the MPO consider certain modifications to our Title VI complaint process. The MPO has already or will soon make most of those modifications. One recommendation was that Title VI complaint investigations and resolution be forwarded to MassDOT. I therefore recommend, even though we have not yet reflected this in the language describing our complaint process, that the complaint be forwarded to MassDOT's Office of Civil Rights.

CONCLUDING OBSERVATIONS

Although the complaint contains several allegations that I cannot find a basis for, it does contain certain valid points that provide additional impetus for the MPO to redouble its ongoing efforts to improve upon our practices pertaining to the ADA dimension of Title VI. I believe that by instituting my recommendations, our process will be materially strengthened. I also sincerely hope that the complainant will feel satisfied that her/his concerns have been heard, thoughtfully considered, and appropriately acted upon.