



U.S. Department
Of Transportation

**Federal Railroad
Administration**

August 5, 2015

1200 New Jersey Avenue, SE.
Washington, D.C. 20590

Complaint #2014-0294

Kalena Ek
Staff Attorney
disAbility Law Center of Virginia
1910 Byrd Avenue
Richmond, Virginia 23230

Dear Ms. Ek:

This is in reference to your complaint on behalf of Gary Talley concerning the accessibility features of the Amtrak Station at Staples Mill, Richmond, Virginia.

Complainant's Allegations

The complainant, Gary Talley, is a 61 year old man who is deaf. Mr. Talley lip reads and uses sign language and TTY technology to communicate. Mr. Talley uses Amtrak's services an average of six times a year, and has faced lack of appropriate accommodations both at the Staples Mill Station and aboard the train.

First, the Staples Mill Station lacks a phone with TTY technology. At the station there are only three phones available. Two are reserved for car rentals. The remaining is a standard payphone without TTY technology. Mr. Talley has informed Amtrak employees that TTY technology should be provided at the station. To the best of Mr. Talley's knowledge, TTY technology is not provided at the station.

Second, at the Staples Mill Station, information is only relayed on the speaker system without any visual equivalent. There are four screens that display information; one is a television which shows the news. Captions are not always displayed on this screen. On July 9th, 2014 disAbility Law Center of Virginia (dLCV) surveyed the Staples Mill Station. Captions were on the television during this time. However, Mr. Talley had an experience where his train was delayed for three hours and asked to have captions turned on. The attendant told him that no one knew how to do this. Two of the four screens at the Staples Mill Station are mounted adjacent to one another, and display train information including the train number, destination, status, scheduled arrival time, and length of delay. The final screen is located on the snack stand, consisting of a

one line screen that relays what snack goods can be purchased. This display scrolls through the information. There is also a dry erase board on the snack stand. These three screens do not provide all necessary information. Sometimes announcements are relayed through the speaker without any visual notice provided. For example, while dLCV was surveying the station, the following announcement was made: "bring checked baggage to the ticket office, please." This information never appeared visually on the screens or anywhere else in the station.

Third, at the Staples Mill Station, there are no screens to provide visual train information outside, only a single speaker. Mr. Talley cannot wait for his train in the outside area unless he can ensure an attendant will come to update him. On the platform itself, minimal visual information is provided. In addition, neither of the two tracks is clearly labeled; instead there is simply a sign indicating the directions toward Boston/ New York and Miami.

In the train car, there are no screens to provide information about the current train station stop, or the train's next stop. These announcements are made over a speaker. If the train is experiencing any delay or will be delayed along its route, this information is also only provided over the speaker. Because Mr. Talley cannot hear due to his disability, he cannot access these announcements unless they are also provided visually. Mr. Talley must rely on station platform signs to know his location; there is no visual accompaniment for the announcements made on the train in the course of travel.

Mr. Talley has sought assistance from the attendants at the station and on board the train. Each time Mr. Talley buys a ticket online he checks the "I am a person who is deaf or has a hearing loss." He generally does not check the "Yes, I need assistance" box, because it does not allow him to add details as to what type of assistance is needed. The only information that is provided is what disability the person has and that they need some type of assistance. On one occasion, Mr. Talley checked the "Yes, I need assistance." box, hoping this would prevent some of the issues he had faced in the past. While Mr. Talley was waiting at the Staples Mill Station his name was announced over the loud speaker. He was traveling with a friend who heard his name being announced. When they went to the platform, they found that a golf cart had been brought out for Mr. Talley. Mr. Talley also checks in with the attendants at the station when he arrives and informs them of his disability. After informing the attendants that he is deaf, Mr. Talley is often shouted at. He also states that it is hard for him to read lips behind the thick glass separating him and the attendants. This is made worse when attendants look down while speaking to him. At this angle, Mr. Talley is unable to see their lips.

Amtrak's Response

In the complaint it is alleged that Amtrak's trains and the Staples Mill Station (the Station) in Richmond, Virginia are not compliant with Title II of the Americans with Disabilities Act of 1990, as amended. Amtrak has thoroughly investigated Complainant's concerns, and appropriate action is being taken to ensure that Amtrak operates in compliance with applicable law and that those passengers with disabilities have access to Amtrak services. Since 2006, Amtrak has made continuous assessments of its stations to ensure compliance with applicable laws. As part of

these assessments, the Station has been surveyed and is slated for development which will include an improved version of the Public Information Display System currently in operation, and which will address the public telephones. Second, appropriate action is being taken to ensure that Station employees are aware of their customer service obligations toward passengers with disabilities, as well as ways they can assist those passengers travelling on Amtrak.

Complainant's claim that the lack of a visual display system in the Amtrak trains reflects noncompliance with applicable laws is not correct because Amtrak is not required by law to provide such visual displays on its trains. 49 C.F.R. §38.121. Nevertheless, in order to ensure that passengers are provided with effective communication, Amtrak does ensure that any oral announcements made on-board the train are communicated to those customers who are deaf or hearing impaired, who have requested assistance. In particular, Amtrak crewmembers use a green Special Assistance Seat Check, which simply states "Keep in Sight," for any passenger who has indicated to a crewmember that he/she needs special assistance while onboard. The green seat check reminds employees that these passengers need to be informed individually of any announcements.

Finally, Amtrak responds to a reasonable special assistance request regardless of whether the request is made in advance or upon the passenger's arrival at the station. In order to initiate such assistance, particularly in those instances when a passenger's disability may not be obvious, Amtrak recommends that the passenger inform a station employee upon arrival at the station of the request. Passengers with disabilities can also purchase their tickets online and indicate that they need assistance. In conclusion, Amtrak is committed to ensuring that all passengers, including those passengers with disabilities, have access to Amtrak's services. Although it is unfortunate that Complainant did not enjoy his experience at the Station and onboard Amtrak trains, Amtrak is working aggressively toward its goal of ensuring that all stations are ADA compliant, and the Richmond Station is in line for accessibility improvements in fiscal year 2015. Also, as noted above, Amtrak has taken steps to ensure that personnel at the Richmond station are reminded about Amtrak's policies for providing assistance to passengers with disabilities.

FRA Site Visit

An FRA site visit of the Staples Mill station was conducted on December 12, 2014. Captioning was activated on the television. The station attendant indicated he knew how to activate captioning in the event it was off. He also shared that the Public Information Display Systems were supposed to be installed in 2015.

Law, Regulation and Policy

Title II of the ADA prohibits public entities, including Amtrak, from discriminating against disabled individuals. 42 U.S.C. §§ 12131, 12132. The Rehabilitation Act of 1973 prohibits exclusion of a disabled individual, solely because of his disability, from any program or activity receiving federal funds. 29 U.S.C. § 794. The DOT enforces Title II of the ADA, Section 504 of

the Rehabilitation Act, and other civil rights statutes as they pertain to transportation, and DOT investigates complaints against recipients of DOT financial assistance. The Department's recipients include Amtrak.

To establish a violation of the ADA, one must establish that: (1) he is a qualified individual with a disability; (2) he was either excluded from participation in or denied the benefits of some public entity's services, programs, or activities; and (3) such exclusion, denial of benefits, or discrimination was by reason of his disability. 42 U.S.C. § 12132; Chambers v. Sch. Dist. of Phila. Bd. of Educ., 587 F.3d 176, 189 (3d Cir.2009).

Decision

Mr. Talley is a qualified individual with a disability. With reference to captioning on the television, absence of TTY and passenger information system, the FRA finds that Amtrak is not in compliance with the ADA.

With reference to information displays on trains, FRA finds that Amtrak did not violate the ADA because, as Amtrak correctly notes, intercity rail cars are exempt from such a requirement. It is important to note, however, that onboard displays are planned for future equipment purchases regardless of the regulatory limitation.

The Amtrak website and phone applications were the subject of a separate complaint and are now under a compliance monitoring agreement.

Compliance

The FRA will monitor Amtrak's progress with the required improvements to the Staples Mill station.

The FRA will require Amtrak to expand training for service personnel to include additional material on providing service to individuals with limited hearing / deaf and limited vision / blind.

Notice

You should also be aware that no one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected under the ADA or Rehabilitation Act. Any individual alleging such harassment or intimidation related to intercity rail transportation may file a complaint with the DOT, Federal Railroad Administration (FRA). Any complaint to the FRA must be filed within 180 days of the alleged discrimination. You should also note that nothing in this administrative action precludes you from filing this complaint in an appropriate court should you choose to do so.

If you any questions regarding this letter, please contact me at either (202) 493-6010 or toll-free at (877) 536-8368, extension 36010.

Sincerely,



Calvin Gibson

Director, Office of Civil Rights

Digitally signed by CALVIN R
GIBSON
DN: c=US, o=U.S. Government,
ou=DOT Headquarters,
ou=FRAHQ, cn=CALVIN R
GIBSON
Date: 2015.08.11 14:30:18 -04'00'