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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

July 29, 2021

Kevin O'Toole
Chairman
Port Authority of New York and New Jersey
4 World Trade Center
150 Greenwich Street
New York, NY 10007

Re: Selected Aspects of Accommodations
for Passengers With Disabilities
Report 2019-S-41

Dear Mr. O'Toole:

Pursuant to the State Comptroller's authority as set forth in Section 7071 of McKinney's Unconsolidated Laws of New York, we have conducted an audit of the Port Authority of New York and New Jersey (PANYNJ) to determine whether it has complied with selected requirements of the Americans with Disabilities Act, the Rehabilitation Act of 1973, and corresponding federal regulations to make its facilities accessible to passengers with disabilities. Our audit covered the period from June 24, 2019 to March 12, 2020.

Background

The PANYNJ was established in 1921 as an interstate public entity created to control the port district of New York and New Jersey, maintaining the trade and travel infrastructure of the area. PANYNJ's portfolio of five airports, an interstate rail system, three bus terminals, and three cruise terminals serve the transportation needs of millions in the New York City metropolitan area.

The Americans with Disabilities Act of 1990 (Act or ADA) was signed into law to provide people with disabilities the right to access and participate in the same day-to-day activities as everyone else. The Act defines disability as a physical or mental impairment that substantially limits one or more of an individual's major life activities. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in federally assisted programs. Several federal agencies oversee compliance with the Act, including the Department of Justice (DOJ) and Department of Transportation.

According to the Act, PANYNJ was required to identify key stations in its Port Authority Trans-Hudson (PATH) system and make those stations accessible and usable by people with disabilities by July 1994, absent an extension of time. Any new construction or alteration of an existing station after October 1991 was also subject to this accessibility requirement. Act Accessibility Guidelines for Buildings and Facilities provide specific standards applicable to new construction and existing facility alterations, covering such aspects as the size, font, and location of signs within a facility; accessibility of toilet rooms; accessibility of fare machines; and

architectural requirements for bus and rail transportation facilities. The Rehabilitation Act of 1973 requires airport (and terminal) operators to be responsible for implementing and maintaining boarding accessibility.

PANYNJ is also subject to certain DOJ regulations. Title II prevents discrimination of people with disabilities on the basis of their disability by state and local government services. As in other sections of the Act, Title II requires a designated person to receive and resolve complaints about accessibility and publish grievance procedures. In addition, a May 2007 DOJ publication established best practices for state and local government website accessibility.

Results of Audit

Although PANYNJ is in compliance with selected aspects of the ADA and the Rehabilitation Act of 1973 that we reviewed within the PATH system and at the three bus terminals, we identified areas of non-compliance with regulations and areas of the Port Authority Bus Terminal. For example, four of 13 PATH stations were not accessible to persons in wheelchairs. In addition, PANYNJ's website did not follow DOJ's best practices tool kit because it has only limited accessibility for people with vision impairments due to lack of text formatting. Also, PANYNJ did not have written agreements between the airport operator and terminal operator allocating responsibilities for meeting the boarding requirements with all of its airport operators and carriers, as required by federal regulation.

PATH

The PATH train system extends from Newark, New Jersey, to Midtown Manhattan, transporting commuters through 13 stations in New Jersey and Manhattan, and connects with Amtrak and local area transportation. Nine of the 13 stations are wheelchair accessible. PATH trains have designated priority seating for people with disabilities, use a digitized voice to announce upcoming train stations, and are equipped with small screen displays of the route maps. PANYNJ was required to identify key stations and achieve accessibility of those key stations by July 1994. As of September 2020, PANYNJ identified six key stations: Newark, Journal Square, Hoboken, Grove Street, World Trade Center, and 33rd Street. All six are wheelchair accessible.

PATH stations have tactile tiles (raised rubber platform edge) to alert travelers with visual impairments of the end of the platform. However, the tiles at Newark, Newport, and Grove Street were in poor condition as the tile was heavily cracked, not level, or slippery from dripping water. In response to our preliminary findings, PANYNJ officials indicated they identified degraded tiles at Newark and Grove Street stations; however, more surveys were necessary to determine which tiles could be safely replaced by the end of 2020. They added that the tile surveys at the Newport station will be coordinated with ongoing capital construction projects. During a visit to the Newark station on December 9, 2020, we noted that the tactile tiles were in poor condition. At the audit's closing conference, PATH officials advised us no tiles were replaced at any of the three PATH stations due to reduced manpower and COVID-19.

All stations have countdown clocks for the next arriving train destination, passenger assistance phones and intercoms on the platforms and in the fare payment area, and elevators at the six wheelchair-accessible stations. PATH employees are positioned to help passengers at three stations: World Trade Center, Newport, and Journal Square. Fare-card vending machines are Braille-enabled with audio enhancement. The fare machines have speech output capability, as required by the Act.

However, four of the six stations in Manhattan are inaccessible to mobility-impaired passengers (Christopher Street, 9th Street, 14th Street, and 23rd Street). In addition, two of the four stations (14th Street and 23rd Street) share connections to the Metropolitan Transportation Authority (MTA) subway stations that are also inaccessible. At the street-level entrance to the PATH stations, there are no signs indicating where the closest handicapped-accessible PATH station is located. There were signs within a city block pointing toward the stations. PANYNJ officials asserted that they are in compliance with the Act with respect to the accessibility of these four stations, but did not provide evidence to support the assertion. PANYNJ proposed designs for the placement and content to inform passengers that these four stations are handicapped inaccessible and the nearest accessible station. The signs were supposed to be installed by the end of December 2020. At the closing conference, PANYNJ officials advised us the signs would not be installed as planned. They estimated the signs would be installed during the second quarter 2021.

In New Jersey, the Newport, Grove Street, and Exchange Place stations started improvement projects between September 2019 and March 2020. In August 2019, we observed signs informing travelers that an improvement project would impact station accessibility at Exchange Place prior to the start of the project. The projects at Newport and Exchange Place will affect elevator service for at least two years, and the Grove Street project will cause street-to-mezzanine closure of escalators until 2022. By March 2020, all three stations were under construction and had signs regarding the service impacts.

Bus Terminals

PANYNJ operates three bus terminals: Port Authority Bus Terminal (PABT), George Washington Bridge Bus Station (GWBBS), and Journal Square Transportation Center (JSTC). While we found JSTC to be accessible, we identified some issues at PABT and GWBBS that could impede access to these terminals and to some gates in PABT. For example, the GWBBS and the respective nearby MTA subway station are not fully accessible because the underground passenger connection between the 175th Street “A” train subway station and GWBBS includes steps that cannot be traversed by the mobility-impaired. A person using equipment such as a walker or wheelchair must exit to the street using MTA’s elevator and travel north on the street into the station. One of the station’s elevator banks travels between the bus concourse level and the subway level. PANYNJ officials stated that the pathways between the bus terminals and subway stations are MTA property; thus, they cannot make any changes. To support their statements, they provided a digital tax map from the New York City Department of Finance that showed the property lines. However, they did not indicate that the MTA had been contacted to address this condition, which limits access to certain customers.

At PABT, the subway entrance is an inclined pathway that lacks automatic doors for mobility-impaired individuals. Moreover, gates on the second floor and six lower-level gates are not accessible to individuals using mobility devices as the gates are only accessible by escalators and stairs. The lack of access is not mentioned on PABT’s web page. However, at the terminal, travelers can request assistance at the information booth or by dialing an extension on an in-house telephone. According to PANYNJ officials, during summer 2020, they created a plan for installing additional signage throughout PABT to inform passengers of a wheelchair pick-up program that would pick up passengers at a designated gate and transport them to their departure gate. The signs were supposed to be installed by the end of October 2020. On December 9, 2020, we visited PABT and saw that the signs were not installed. PANYNJ officials also stated that kiosks at PABT provide information about services to persons in wheelchairs.

We visited PABT on January 13, 2021 and could not locate any information about services in PABT for access to the gates on the second floor. PANYNJ officials also stated that they intend to reformat the PABT mobile app with an accessibility icon that will inform users of gate and restroom accessibility. There is no timetable for updating the MyTerminal mobile app, and it was not updated as of December 2020.

Airports

PANYNJ officials advised us on June 24, 2019 that, except for one terminal at Newark airport, it has no responsibility for services to passengers with disabilities beyond the curb. They also stated they do not tell the terminal operators which services should be provided. In addition, complaints go directly to the airline or terminal operator, and PANYNJ did not have a formal process that required it be notified of all complaints related to services for disabled persons. At Terminal B, PANYNJ's responsibility extends to the terminal door and PANYNJ manages the day-to-day operations at the terminal. Terminal operators provide accessibility services within the terminal. PANYNJ is responsible for access between the terminals, including Air Train services and ramps. Third-party contractors manage Teterboro and New York-Stewart airports. These airports are leased to the respective terminal operators, who are responsible for ensuring access by passengers with disabilities.

The Code of Federal Regulations (49 CFR 27.72) requires that "each airport operator shall negotiate in good faith with each carrier serving the airport concerning the acquisition and use of boarding assistance devices." The regulations further require that there be a written agreement between the airport operator and terminal operator allocating responsibilities for meeting the boarding requirements. The regulations also state, in (d)(2) of the same section, that "all air carriers and airport operators involved are jointly responsible for the timely and complete implementation of the agreement."

PANYNJ officials explained that existing leases contain language requiring compliance with government regulations and civil rights statutes. Ostensibly, the Act requirements also exist in the tenant construction and alteration process. PANYNJ stated it reviews these agreements for ADA compliance. We were provided the terminal operator lease provisions regarding the Act. The October 2020 contract included language requiring compliance with rules against discrimination on the basis of race, creed, color, national origin, sex, age, or disability. However, the leases provided for 2017 and 2018 were not in compliance with the requirements.

Website

In 2007, DOJ issued a best practices tool kit for state and local governments' website accessibility. This tool kit recommends establishing procedures for visitors to request accessible information, ensuring web pages are accessible, and providing alternative ways for users to access information on a website. The PANYNJ website does none of these things – there is no option to format text for visually impaired people or an option to change the language. There is also no website accessibility policy. In responding to our preliminary findings, PANYNJ stated that a volunteer employee group, the Abilities Network, regularly provides input on design and programmatic decisions. PANYNJ only provided a partial excerpt of a draft policy that the Abilities Network worked on during the scope period.

PANYNJ has a web page for Act and Title II complaints. As required by the Act and Title II regulations, PANYNJ's ADA Coordinator receives and resolves discrimination complaints. Complaint forms are in English, Chinese, and Spanish. Navigation to PANYNJ's accessibility

and complaints page isn't straightforward, requiring visitors to click through two links (About > FAQs > Americans with Disabilities Act). Other transit systems, such as the MTA and Chicago Transit Authority, have links for accessibility on their home page. PANYNJ officials stated that they will solicit input from the Abilities Network regarding the website.

Recommendations

1. Improve connections for transfer between PANYNJ's bus terminals/stops and the MTA subway stations.
2. Ensure that passengers with disabilities have access to all gates at PABT.
3. Maintain PATH's tactile platform-edge tile in good condition.
4. Renovate facilities, such as the PATH stations and platforms at PABT, so that they are wheelchair accessible. If the station cannot be made wheelchair accessible, the reasons should be documented and, where this is not structurally doable, PABT should post signage with clear directions to the nearest station where access is available.
5. Ensure that there are agreements in place with terminal operators regarding the provision of services to passengers with disabilities, and ensure that the provisions of these agreements are implemented.
6. Require the terminal operators to forward copies to PANYNJ of complaints received regarding services to passengers with disabilities.
7. Collaborate with organizations serving the disabled or persons with disabilities to learn about the needs of the disabled community, and test the website for ease of use.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine whether PANYNJ's transportation facilities are accessible to passengers with disabilities. The audit covered the period from June 24, 2019 to March 12, 2020 and focused on whether PANYNJ has complied with selected requirements of the Act, the Rehabilitation Act of 1973, and corresponding federal regulations to make its facilities accessible to passengers with disabilities.

To accomplish our objective, we reviewed applicable laws and regulations. We visited PATH train stations and the three bus terminal facilities. We reviewed PANYNJ 10-year capital plans for 2014 through 2023 and 2017 through 2026. We did not review the three cruise terminals operated by PANYNJ because access was not provided.

We were limited in evaluating and assessing internal controls related to the audit objective as we did not have access to PANYNJ officials who establish internal controls. We contacted PANYNJ officials on several occasions throughout the audit to speak with officials in the divisions under audit. PANYNJ officials were not made available to us despite our repeated requests. PANYNJ did not respond to requests for policies, procedures, or other documents related to ADA compliance.

Statutory Requirements

Authority

This audit was performed pursuant to the State Comptroller's authority as set forth in Section 7071 of McKinney's Unconsolidated Laws of New York.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

As is our practice, we notified PANYNJ officials at the outset of the audit that we would be requesting a representation letter in which PANYNJ management provides assurances, to the best of their knowledge, concerning the relevance, accuracy, and competence of the evidence provided to the auditors during the course of the audit. The representation letter is intended to confirm oral representations made to the auditors and to reduce the likelihood of misunderstandings. In this letter, PANYNJ officials assert that, to the best of their knowledge, all relevant financial and programmatic records and related data have been provided to the auditors. PANYNJ officials further affirm that either they have complied with all laws, rules, and regulations applicable to PANYNJ operations that would have a significant effect on the operating practices being audited, or that any exceptions have been disclosed to the auditors. PANYNJ provided an amended representation letter in connection with this audit. However, it was not acceptable because it did not contain essential elements such as internal controls. As a result, we lack assurance from PANYNJ officials that all relevant information was provided to us during the audit.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State, including some duties on behalf of public authorities. For PANYNJ, these include preparing the State's financial statements. These duties could be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our professional judgment, these duties do not affect our ability to conduct this independent audit of PANYNJ's oversight and administration of efforts to ensure its facilities are accessible to all.

Reporting Requirements

We provided a draft copy of this report to PANYNJ officials for their review and formal comment. We considered their comments in preparing this final report and have attached them in their entirety at the end of it. PANYNJ officials agreed with most of our recommendations and have taken actions to implement them, committing to finalize those efforts over the coming months. They disagreed with our recommendation that PANYNJ should take any action at locations where its property is adjacent to MTA stations. However, in the interest of providing better access to passengers with disabilities, we urge PANYNJ to revisit its position and at least start the process by contacting the MTA.

Within 180 days after the final release of this report, we request the Chairman of PANYNJ report to the State Comptroller, advising what steps were taken to implement the recommendations contained herein, and where the recommendations were not implemented, the reasons why.

Major contributors to this report were Abe Fish, Christine Chu, Daniel Raczynski, Marsha Millington, Celedonia Deaver, and Sophia Liu.

We wish to thank the management and staff of the PANYNJ for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

Carmen Maldonado
Audit Director

cc: E. Almeida, PANYNJ, Internal Audit
Division of the Budget

Agency Comments

THE PORT AUTHORITY OF NY & NJ

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March 22, 2021

New York State Office of the Comptroller
Division of State Government Accountability
59 Maiden Lane, 21st Floor
New York, New York 10038
Attention: Carmen Maldonado, Audit Director

Re: Draft Audit Report 2019-S-41
Port Authority of New York and New Jersey
Selected Aspects of Accommodations for Passengers with
Disabilities

Dear Ms. Maldonado:

The Port Authority of New York and New Jersey has received your Draft Audit Report in the above-referenced matter (“Draft Report”). We appreciate the opportunity to share this response as you finalize your work.

Over the course of the audit, your office has made a number of helpful recommendations for ways we can improve service for our customers with disabilities. As you know, the Port Authority has taken action to implement a number of those recommendations, and we are committed to finalizing those efforts over the coming months. Aside from those matters, there remain a few factual inaccuracies in your Draft Report. We have provided factual clarification where necessary below.

Port Authority Accessibility Program

Before turning to the specific matters raised in your audit, it is useful to put them in context --- by describing the Port Authority’s accessibility program, as well as some concrete recent examples of the ways in which this program functions in practice.

The Port Authority employs a dedicated Americans with Disabilities Act Coordinator. The Coordinator works across all parts of the agency, to ensure that the Port Authority is fully compliant with the ADA and other laws --- and to ensure that, when it comes to accessibility, the agency goes above and beyond its legal obligations. The ADA Coordinator is a senior figure in the organization, reporting directly to the Port Authority’s Chief Diversity and Inclusion Officer, himself a senior C-suite executive who in turn reports to the Port Authority’s Executive Director.

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Moving down the organizational hierarchy, the Port Authority also relies on field staff that are responsible for day-to-day accessibility issues in each of the agency's critical component departments, including staff at the PATH, in the Tunnels, Bridges & Terminals Department (the department that oversees agency bus terminals), and in the Aviation Department.

The work of the agency's professional staff is complemented by a resource group for Port Authority employees with different abilities, known as the Abilities Network. The Abilities Network helps to ensure that agency decision-makers are well-attuned to the everyday impact of critical decisions, and is regularly consulted on Port Authority design and programmatic decisions. The Abilities Network was chartered in 2014 and enjoys strong support, including direct funding from the agency and sponsorship by the Port Authority's Chief Engineer, another top-level executive who reports directly to the Executive Director.

As alluded to above, the Abilities Network is an active and vital part of the Port Authority. Members weigh in on large-scale investments—including, for example, the design of the recently-constructed Oculus Transportation Hub and the forthcoming JFK redevelopment. And members weigh in on other matters—such as the introduction of new employee-facing computer technologies and changes to agency websites. The Network also fields agency-wide education and consciousness-raising initiatives, including co-sponsoring a well-attended recent leadership forum that spotlighted accessibility issues across all aspects of the Port Authority's activities. The Abilities Network also supports recruiting efforts to increase diversity in the Port Authority workforce.

As all of this suggests, the Port Authority is deeply committed to furthering the core purposes of the Americans with Disabilities Act. But the agency's commitment goes far beyond compliance with the bare obligations imposed by the law.

Thus, for example, the Port Authority's accessibility program tightly integrates disability access planning into all stages of the agency's construction projects:

- As part of the construction management and planning process, rigorous Quality Assurance and Quality Control procedures include ADA compliance checks at multiple stages of design and permitting.
- An ADA legal analysis is performed at an early stage of the design process.
- All design work, whether created by a tenant, a Port Authority consultant, or an in-house team member, is signed off on by licensed professionals and certified as ADA-compliant.
- Tenant alteration applications are double-checked by the Port Authority's Quality Assurance team for ADA compliance.
- During the construction phase, the Port Authority's Engineering Department conducts inspections to ensure the as-built environment meets the accessibility standards of the

design. And at the final permitting stage, there is an additional audit, for conformance to all design documents and applicable regulations.

These painstaking processes are designed to produce concrete results for our customers. Four specific recent examples show how our drive for “above and beyond” accessibility plays out in the real world.

First, consider the Oculus Transportation Hub, which was designed with substantial input from Abilities Network members as well as from the broader disability community.

The Oculus, which was fully opened to the public in late 2016 and early 2017, features: 25 elevators to ensure ample inter-level accessibility, including access to all PATH platforms; automatic doors at critical site-entry points; and, for emergencies, areas of rescue assistance in all staircases. To assist customers with vision-related issues, braille signage is provided throughout the Oculus. Bathrooms and other common-use portions of the structure have wide clearances to accommodate mobility devices, as well as support bars and other features where appropriate. The Oculus is also operated with accessibility top of mind, including the use of customer service ambassadors who can assist with wayfinding or any other needs that may arise.

Second, the newly-opened Terminal B at LaGuardia Airport was built from the ground up not only to provide a world class customer experience, but also to advance accessibility in innovative and concrete ways. To cite some examples:

The new Terminal B has extra-wide paths of travel to accommodate mobility devices. The Terminal’s frontages are curb-less, so as to provide end-to-end accessibility as passengers transition from ground transportation to the airport. The Terminal relies on innovative visual cueing and gate announcements, to assist people regardless of their hearing. The Terminal makes use of enhanced color tone, contrast, and floor tile placement --- all to help visually impaired travelers. The Terminal relies on ramp-free paths of travel, which provide easily-accessible connections to parking structures from both the arrival and departure levels. And special relief areas have been provided for in the Terminal, to ensure that service animals can be readily cared for.

A *third* example relates to the planned redevelopment of JFK. Over the last three years, the Port Authority’s Chief Diversity and Inclusion Officer has been personally and deeply involved in much of the planning for the redevelopment of various existing passenger terminals at JFK. The Chief has personally spent long hours with our master airport planner and each potential JFK developer to underscore the importance of the agency’s vision of airport terminals that are broadly and readily accessible. And the accessibility implications of various different JFK redevelopment proposals was an explicit factor considered by the Port Authority’s internal evaluation team in deciding whether to recommend certain proposals for advancement.

As a *fourth*, and perhaps most far reaching example: in honor of the 30th anniversary of the ADA, Port Authority recently issued a set of Supplemental Accessibility Standards for future construction projects that sets the bar *far above* the minimum requirements of the ADA. This trailblazing document compiles the most up-to-date and innovative accessibility design ideas and construction standards, including larger wheelchair space requirements, adult changing tables,

hearing loops, and other critical advances and makes them the new standard for Port Authority projects. These standards are the result of a deep and fruitful collaboration between the agency's Engineering Department, Office of Diversity and Inclusion, and employee-based Abilities Network, along with expert consultants and disability community advocates including the United Spinal Organization. Toward the end of 2020, the Port Authority held a virtual celebration marking the 30th anniversary of the ADA, with the participation of the Board Chairman, Executive Director, and other agency leaders, along with hundreds of staff members. During the event, the Supplemental Accessibility Standards were introduced agency-wide, highlighting the Port Authority's ongoing commitment to accessibility and inclusion at the highest levels. The Port Authority is proud to be an early adopter of these groundbreaking standards.

Comptroller's Recommendations

As is clear from the above, the Port Authority's commitment to accessibility goes well beyond the minimum legal standards of the ADA. In that spirit, the Port Authority appreciates the observations and recommendations you have shared with us over the course of this audit. The current global pandemic has imposed severe resource constraints on the agency. But many of your recommendations are helpful and we have taken action to address them as follows:

1. OSC has suggested that it would be valuable to post signage at certain PATH stations, indicating the location of other more-readily accessible PATH stations in the vicinity.

This is a helpful suggestion. As the Port Authority has previously indicated, it plans to install such signs. A draft of the signs was provided to your office in September 2020. Currently, the signs are on schedule to be installed by Q2 2021.

2. OSC has stated that during site visits to the Newark, Newport, and Grove Street PATH stations, auditors observed that some of the platform edge tiles were in poor condition. These tiles alert travelers with visual impairments that they are near the end of the platform. OSC recommended that we replace or repair the tiles.

This is, again, a helpful suggestion. The Port Authority takes the obligation to maintain accessibility features seriously. In keeping with your recommendation, PATH has inspected the platform-edge tiles at the stations identified in your Report and has identified edge tiles that require replacement in the Newark and Grove Street stations. Construction work has begun. Although we have encountered unexpected staffing shortfalls and other delays related to the COVID-19 pandemic, we currently project the replacements to be complete by Q2 2021. PATH has determined that the tiles at the Newport station, which were all replaced in 2018, are in good order and do not currently need replacement. PATH notes that there is a water condition in the station that may occasionally affect some tiles, but that conditions are within acceptable parameters. In any event, the Port Authority's capital program includes a project to address the water condition and rehabilitate the entire platform at the Newport station beginning in 2023.

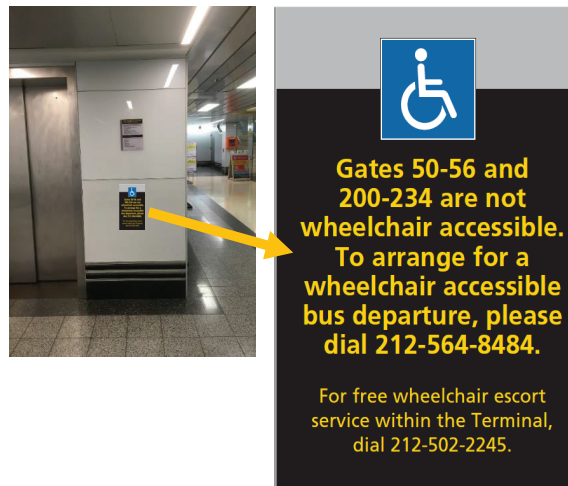
[Comment 1](#)

3. The Port Authority Bus Terminal (“PABT”) is the nation’s largest and busiest bus terminal and almost all of the buses that operate out of the Terminal are accessible to people using wheelchairs or other mobility aids. That said, there are certain PABT gates that are not as easily accessed; the gates on the second floor and six of the lower-level gates are not accessible to individuals whose disabilities prevent the use of stairs or escalators. This is due to the architectural structure of the decades-old PABT --- a Terminal the agency is planning to wholly replace. For now, the Port Authority has come up with an effective accommodation to deal with accessibility at less-accessible gates. Specifically, the agency runs a wheelchair pick-up program, that allows a passenger to board a bus or disembark from a bus at an accessible point. This personalized service appears to work well --- and, as you note, wheelchair escort services are also available to assist passengers in navigating the PABT.

During the audit, you suggested that the lack of accessibility at second floor and certain lower-level gates as well as the Port Authority’s wheelchair pick-up program are not as well publicized as they should be.

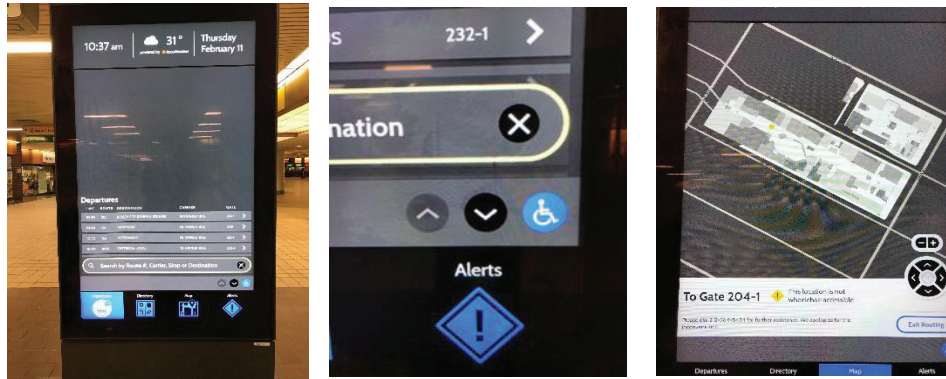
Based on this feedback, the Port Authority the Port Authority has taken the following actions:

- As of January 13, 2021, signs have been installed throughout the PABT as follows:

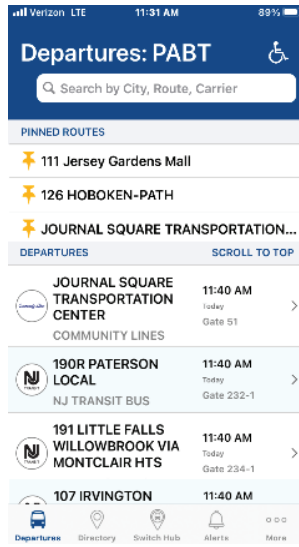


- Electronic information kiosks at the PABT have an “ADA mode” accessed by pressing the blue wheelchair icon as seen below. Once in ADA mode, wayfinding information is limited to ADA accessible routes and prompts are

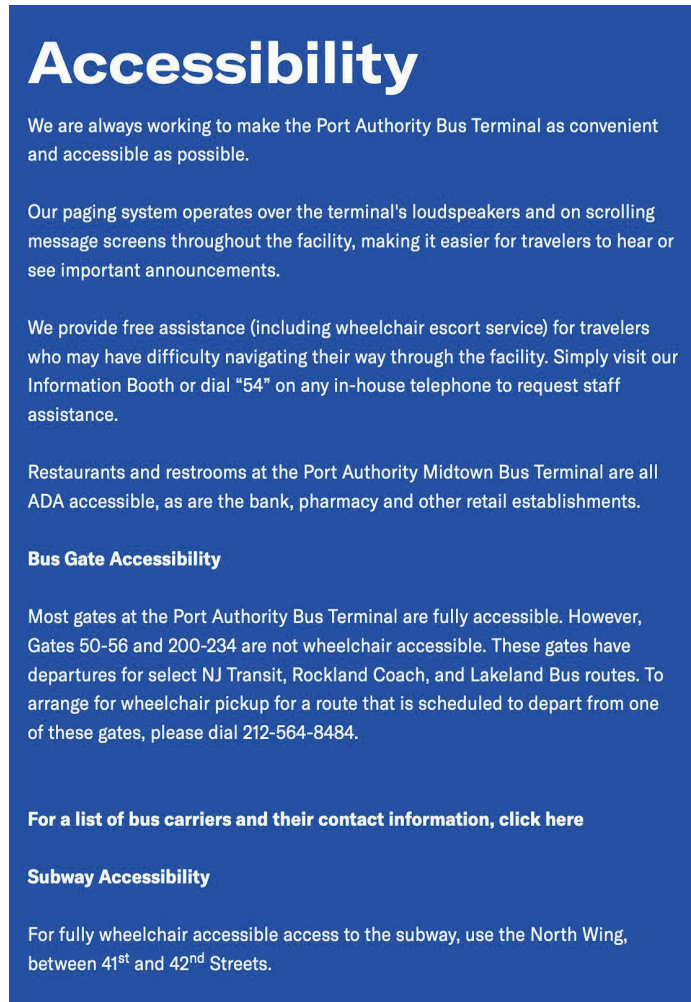
displayed indicating the status of inaccessible gates (if selected) and providing the telephone number to call for the wheelchair pickup program.



- As of December 17, 2020, PABT accessibility information has been available from a link in the MyTerminal smartphone app by touching the accessibility icon from the departures page as shown below:



- As of January 19, 2021, the Port Authority website contains the following text concerning accessibility at PABT. <https://www.panynj.gov/bus-terminals/en/port-authority.html> (last visited Feb. 16, 2021):

A screenshot of a blue webpage titled "Accessibility". The text on the page describes various accessibility services at the Port Authority Bus Terminal, including paging systems, wheelchair escort services, and ADA-compliant facilities. It also includes sections for "Bus Gate Accessibility" and "Subway Accessibility".

Accessibility

We are always working to make the Port Authority Bus Terminal as convenient and accessible as possible.

Our paging system operates over the terminal's loudspeakers and on scrolling message screens throughout the facility, making it easier for travelers to hear or see important announcements.

We provide free assistance (including wheelchair escort service) for travelers who may have difficulty navigating their way through the facility. Simply visit our Information Booth or dial "54" on any in-house telephone to request staff assistance.

Restaurants and restrooms at the Port Authority Midtown Bus Terminal are all ADA accessible, as are the bank, pharmacy and other retail establishments.

Bus Gate Accessibility

Most gates at the Port Authority Bus Terminal are fully accessible. However, Gates 50-56 and 200-234 are not wheelchair accessible. These gates have departures for select NJ Transit, Rockland Coach, and Lakeland Bus routes. To arrange for wheelchair pickup for a route that is scheduled to depart from one of these gates, please dial 212-564-8484.

For a list of bus carriers and their contact information, click here

Subway Accessibility

For fully wheelchair accessible access to the subway, use the North Wing, between 41st and 42nd Streets.

4. At Port Authority airports, the agency works to ensure that travelers know lessees are prohibited from discriminating on the basis of disability and that customers who feel they have suffered such discrimination can report incidents directly to the Port Authority --- including to the agency's independent Office of Inspector General. The Port Authority widely publicizes this information, with details on how complaints can be filed through multiple channels. Notices at the Port Authority's airports posted by

the Port Authority explain to the public that, “[i]t is unlawful for airport operators and their lessees, tenants, concessionaires and contractors to discriminate against any person because of . . . disability in the public services and employment opportunities.” Port Authority contact information is provided for complaints. Complaints are received through direct communication with the Port Authority via multiple channels --- including the weblinks (such as ADA@panynj.gov and AirportCustomerCare@panynj.gov, and AirportFeedback@panynj.gov); by phone hotline; through social media; and through written correspondence. The system works: the Port Authority receives complaints and acts on them decisively.

This said, and as the Draft Report notes, the agency has not historically mandated that third-party airport terminal operators and other lessees always provide formal notification to the Port Authority of disability-related complaints they may potentially receive. It appears likely that most complaints have been submitted directly to the Port Authority. But it is possible that some complaints could have been sent only to the lessees themselves, and the Draft Report suggests that the Port Authority should require airport terminal operators to forward copies of substantive accessibility-related complaints to the Port Authority. Accordingly, the Port Authority Aviation Department has developed a process to obtain copies of discrimination complaints received directly by terminal operators. General Manager’s Bulletins (attached as Exhibit A) have been distributed to LaGuardia Airport (“LGA”), Newark Airport (“EWR”) and John F. Kennedy Airport (“JFK”) this month.

Errors in the Draft Report

Although the Port Authority agrees with most of the recommendations that have been made by your office during the course of this audit, there remain a small number of factual misunderstandings in the Draft Report. Each is addressed briefly below.

First, the Draft Report suggests that an underground connection between the George Washington Bridge Bus Station and a nearby New York City Transit (“NYCT”) subway station should be renovated and improved. However, the passageway belongs to NYCT and is not Port Authority property.

[Comment 2](#)

Second, the Draft Report suggests that the Port Authority improve an underground connection between the PABT and a NYCT subway station, noting that the “subway entrance is an inclined pathway [and that it] lacks automatic doors for mobility-impaired individuals.” But again, the inclined pathway is not Port Authority property. Moreover, it bears noting that the provision of automatic doors at the underground entrance is not required by the ADA or any other law. Indeed, automatic doors may be inappropriate given safety concerns related to smoke control as well as maintenance requirements.

Third, the Draft Report asserts that the Port Authority is under an obligation to reconstruct the PABT to make the second level gates and gates 50-56 accessible to persons who use wheelchairs. While the Port Authority is under no legal obligation to renovate the PABT, which was built decades before the ADA was enacted into law, it should be noted that the Port

[Comment 3](#)

Authority is indeed planning to entirely and completely replace the PABT with a new structure—a structure that will be built at a cost of billions of dollars, to meet and exceed ADA specifications. In the meantime, through the robust wheelchair pickup program that it maintains, the Port Authority provides a reasonable and workable accommodation to bus passengers whose disabilities prevent them from accessing the gates in question via stairs or escalators. (And OSC has not taken issue with the wheelchair pickup program and has not suggested that it is an insufficient accommodation.)

Fourth, the Draft Report asserts that the Port Authority is under an obligation to rebuild four PATH stations in Manhattan that are not accessible to persons whose disabilities prevent the use of stairs. But the PATH stations in question were built in the early 20th century, long before the ADA was enacted into law. As OSC has apparently acknowledged, PATH has complied with its obligations to make certain pre-ADA “key stations” accessible and OSC has not pointed to anything to suggest that the four stations in question (none of them “key stations” or otherwise subject to an accessibility obligation) are required to be wholly rebuilt for accessibility. Given its longstanding commitment to continually improve service for its customers, including its customers with disabilities, the Port Authority is, of course, watchful for opportunities to advance accessibility in the PATH system during future capital projects or otherwise.

[Comment 4](#)

Fifth, the Draft Report recommends, pursuant to 49 C.F.R. § 27.72, that the Port Authority enter into agreements ensuring compliance by airport terminal operators and other contractual parties with operational boarding requirements for passengers with disabilities. The Port Authority has already satisfied its obligations under 49 C.F.R. § 27.72. As OSC acknowledged in its Draft Report, Port Authority direct leases contain language requiring compliance with all applicable laws, including the ADA. Specifically, OSC confirmed that an October 2020 lease it reviewed contains both general legal compliance language and specific language on the ADA. OSC further asserted, however, that leases “provided for 2017 and 2018 were not in compliance with the requirements.” But the 2017 and 2018 agreements are sub-leases between the Port Authority’s direct lessees and subtenants taking possession of certain airport areas, and they explicitly require the subtenants to comply with all applicable laws.

[Comment 5](#)

In addition, as an added layer of protection, the Port Authority has recently begun incorporating binding compliance obligations directly into flight fee agreements --- to reiterate compliance obligations and to impose additional direct contractual obligations in this area. (As a general matter, an airline that operates at one of the agency’s major commercial airports must enter a flight fee agreement.) The new language provides as follows:

(#) Boarding and Deplaning Assistance to Passengers with Disabilities

Airline shall comply, at its own expense, with all Applicable Laws relating to the boarding or deplaning of passengers with disabilities, including, but not limited to, 49 U.S.C. § 41705, 14 C.F.R. § 382, and 49 C.F.R. § 27.72.

This language has been incorporated into all flight fee agreements for Newark Airport effective as of September 2020. For JFK and LGA, the language is being incorporated into

riders to existing flight fee agreements that the Port Authority intends to send out no later than March 31, 2021.

Finally, the Draft Report takes issue with the formatting and navigation of some Port Authority websites and recommends that the Port Authority collaborate with disability community representatives on design and testing issues.

In keeping with our commitment to customers with disabilities, we strive to meet or exceed the recommendations of the Web Content Accessibility Guidelines 2.1, a voluntary and widely accepted website accessibility standard produced by the World Wide Web Consortium. The specific website accessibility issues raised in your report are (1) that agency websites contain “no option to format text for visually impaired people,” and (2) that there is no agency website accessibility policy.

The first assertion is incorrect. All modern web browsers allow users to enlarge text to make it more readable for persons with visual impairments. The Port Authority’s websites accommodate this functionality in all respects.

As for your second statement, while the Port Authority has long had general accessibility policies available on its websites, we did not previously post a policy that is specific to websites. We appreciate your suggestion on this score, and have now posted such a policy. It is available at <https://www.panynj.gov/port-authority/en/Accessibility.html>.

Aside from accessibility and formatting issues, the Draft Report asserts that “[n]avigation to PANYNJ’s accessibility and complaints page isn’t straightforward, requiring visitors to click through two links (About >FAQs > Americans with Disabilities Act).” After your office raised such concerns during the preliminary phase of this audit, we consulted with the Abilities Network and others, and then adjusted the means by which users navigate to the website’s ADA information and complaint forms. The current website is now more easily navigable.

As we move forward, the Port Authority continues to work on website improvements. Among other things, we are further upgrading navigation, fleshing out departmental accessibility information, and finalizing an improved feedback form. All of these changes, and more, are planned for later in 2021.

Audit Process

We have greatly appreciated the opportunity to work with your office as the audit has progressed. In particular, we thank you for the many helpful suggestions for action that the Port Authority has taken up. We note, however, that your Draft Report relates certain perceived shortcomings with the Port Authority’s participation in the audit process. We believe these concerns are simple misunderstandings and are happy to have an opportunity to set the record straight.

First, the Draft Report suggests that the Port Authority did not make available officials in the divisions under audit and did not honor certain document requests. This is hard to understand. Relevant officials in the divisions under audit were made available to OSC during numerous conferences, and many documents were exchanged. We assume that the

Comment 6

THE PORT AUTHORITY OF NY & NJ

misunderstanding here may be related to the impact of the COVID-19 pandemic, which has made scheduling *in-person* meetings and facility tours difficult. We regret this circumstance, but believe we have been fully forthcoming during the course of the audit.

[Comment 7](#)

Second, the Port Authority takes issue with OSC's characterization of its request for a letter concerning Port Authority representations during the course of the audit. OSC presented the Port Authority with a letter focusing on internal controls and other topics appropriate for a financial audit, but not, in our view, appropriate for the present review. The Port Authority proposed a revised representation attesting that to the best of the Port Authority's knowledge, information conveyed during the audit was accurate. Please be aware that we take seriously our obligation to comply with your audit and have, to the best of our ability, provided information in response to your inquiries which is complete and accurate. We would be pleased to more formally represent that this is the case in a letter signed by senior agency personnel who are responsible for compliance with accessibility laws and regulations.

In closing, as is apparent from the above, enhancing accessibility is a core value for the Port Authority and many of our staff members have worked hard to translate that value into practice. In that spirit, we thank you for your review and for your many helpful suggestions.

Very truly yours,



Michael Farbiarz
General Counsel

Exhibit A



September 15, 2020

AIRPORT GENERAL MANAGER'S BULLETIN # 20-25

TO: All Airlines and Airport Tenants

SUBJECT: DISCRIMINATION COMPLAINTS REPORTING OBLIGATIONS

The Port Authority of New York and New Jersey is committed to ensuring that no person is excluded from participation in, denied the benefits of, or subjected to discrimination in the receipt of its services **on the basis of race, color, national origin, sex, age, religion/ creed or disability.** Based on guidance from the New York State Office of the State Comptroller's recent audit of accessibility at Port Authority facilities, and in accordance with world class standards, we are asking our airport partners to forward copies of complaints of discrimination based on any of the above categories along with a statement describing all actions taken to resolve the matter and the results thereof within thirty (30) business days.

Tenants, vendors and their staff who receive such a complaint should immediately notify and forward a copy of the complaint to the airport ADA/Title VI Coordinator at LaGuardia Airport:

Keshia-Elaine Johnson
Email: kesjohnson@panynj.gov

The Port Authority continues to endeavor for open communication with airport stakeholders and we hope this communication will reinforce our commitment to this very important issue.

Anthony Vero

Anthony C. Vero, P.E.
Interim General Manager
LaGuardia Airport



LaGuardia Airport Hangar 7 | Marine Terminal Road, 3rd Floor | Flushing, NY 11371 | T: 718-533-3401 | M: 347-392-1721 | avero@panynj.gov

GENERAL MANAGER'S BULLETIN #2021-04

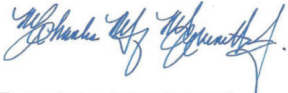
TO: Airport Community
DATE: February 23, 2021
SUBJECT: DISCRIMINATION COMPLAINTS REPORTING OBLIGATIONS

The Port Authority of New York and New Jersey is committed to ensuring that no person is excluded from participation in, denied the benefits of, or subjected to discrimination in the receipt of its services **on the basis of race, color, national origin, sex, age, religion/ creed or disability.** Based on guidance from the New York State Office of the State Comptroller's recent audit of accessibility at Port Authority facilities, and in accordance with world class standards, we are asking our airport partners to forward copies of complaints of discrimination based on any of the above categories along with a statement describing all actions taken to resolve the matter and the results thereof within thirty (30) business days.

Tenants, vendors and their staff who receive such a complaint should immediately notify and forward a copy of the complaint to the airport ADA/Title VI Coordinator at John F. Kennedy Airport:

Ajay Patel
Email: ajpatel@panynj.gov

The Port Authority continues to endeavor for open communication with airport stakeholders and we hope this communication will reinforce our commitment to this very important issue.



Charles R. Everett, Jr., C.M.
Deputy Director, Aviation & General Manager, JFK

GENERAL MANAGER'S BULLETIN #21-05

TO: All Airport Tenants
FROM: James R. Gill
DATE: February 12, 2021
SUBJECT: **DISCRIMINATION COMPLAINTS REPORTING OBLIGATIONS**

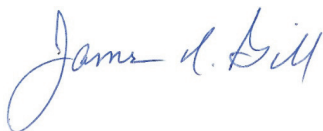
The Port Authority of New York and New Jersey is committed to ensuring that no person is excluded from participation in, denied the benefits of, or subjected to discrimination in the receipt of its services **on the basis of race, color, national origin, sex, age, religion/creed or disability**. In accordance with this commitment, we are asking our airport partners to take the following two steps:

First: Tenants, vendors, airlines, other partners and their staff who receive a complaint of discrimination based on any of the above categories must immediately notify and forward a copy of the complaint to the airport ADA/Title VI Coordinator at Newark Liberty Airport:

Cristina Kiley
Email: ckiley@panynj.gov

Second: Within thirty (30) business days of receiving such a complaint, you must also provide a statement describing all actions taken to resolve the matter and the results thereof. These follow-up communications should also be routed to the ADA/Title VI Coordinator.

We appreciate your attention to this very important issue.



James R. Gill, A.A.E., IAP
General Manager
New Jersey Airports

State Comptroller's Comments

1. We note that, in their response to our preliminary findings, dated August 14, 2020, and at the closing conference on December 9, 2020, PANYNJ officials stated that the plan was to address the conditions of tiles at the Newark, Newport, and Grove Street stations in early 2021. However, in their response to the draft report, officials now state that the platform-edge tiles at the Newport station were all replaced in 2018 and that, while there is a condition caused by water, it will not be addressed until the entire platform is rehabilitated beginning in 2023.
2. Making the GWBBS accessible to persons with disabilities and formally evaluating the ramp at the PABT subway station benefits riders of both systems. Without outreach, coordination, and communication among agencies, issues that cross multiple agencies will never be resolved – to the detriment of the disabled community. As such, we suggest that PANYNJ officials contact and work with the MTA on this issue.
3. We did not assert that PANYNJ is obligated to reconstruct the second-level gates and Gates 50–56. Rather, we pointed out the lack of available information for passengers with disabilities who try to access these gates. As discussed on page 3 of this report, PANYNJ officials indicated that signage would be installed and a wheelchair pick-up program started in October 2020. At the time of our visit on December 9, 2020, neither of these changes were implemented.
4. We made no statements about the timing of rebuilding pre-ADA key stations. Although we requested such information, PANYNJ did not provide it.
5. PANYNJ officials claim they complied with the requirement in all their agreements. Upon our request for support, officials provided documents; however, they did not contain specific language about the ADA. Nevertheless, it is a positive sign that PANYNJ has begun to incorporate this language in all of its agreements.
6. Contrary to PANYNJ comments, we did not have numerous conferences with relevant officials during the audit. In fact, after the opening conference, our contact with PANYNJ officials was limited to a few phone calls until we issued our preliminary findings. After that, there were a limited number of meetings to discuss the audit results. We look forward to improved conditions in future audits.
7. The representation letter is meant to obtain assurances from the auditee regarding access to personnel and records, internal controls, and all laws, rules, and regulations applicable to the audit. PANYNJ provided a representation letter that did not cover any of these items and, as a result, did not meet the purpose of such a letter.