

Monitoring Report for Policy 2.1 Treatment of the Traveling Public

Service Committee Review Date: April 6th, 2022

Board Meeting Review Date: April 21st, 2022












INFORMATION TYPE:
Decision
RECOMMENDED ACTION(S):
Board considers accepting this monitoring report as level B – In compliance, except for item(s) noted
ISSUE SUMMARY:
<p>This monitoring report covers the period of FY 2020 and FY 2021 (Oct 2019-Sept 2021). The evidence in this report covers work prior to the Cyber Attack that took place in Oct 2021. Except for where mentioned, data was internally sourced between November 2021 and March 2022. Retrieving some of the data points for this report was not possible as some of the data storage systems were compromised in the attack. This report also reasonably relies on an FTA Triennial Audit conducted in 2018 as pertains to the presence or lack of deficiencies in the way we engage with the Traveling Public. The next Triennial Audit is expected to take place in 2022.</p> <p>In December 2021 the Board accepted this report but raised concerns with some interpretations and evidence and asked that the report be resubmitted in February 2022. Concerns were: explicit incorporation of bus stops in policy 2.1.1, and over-reliance on infrequent federal reviews as evidence (2.1.1, 2.1.2, 2.1.3 2.1.5).</p> <p>I certify that the information presented in this report is true and complete, and I request that the Board accept this as indicating an acceptable level of compliance.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;">  <p>CEO's Signature</p> </div> <div style="text-align: center;"> <p>March 28, 2022</p> <p>Date</p> </div> </div>
ATTACHMENTS:
Monitoring Report for Policy 2.1: Treatment of the Traveling Public

Table of Contents

POLICY TITLE: TREATMENT OF STAFF:	Page #	Compliance
2.1 With respect to the agency’s operations and interactions with riders, potential riders, pedestrians, cyclists, other road users, and the general public the CEO shall not cause, allow, or fail to address conditions, procedures, or decisions that are unsafe, undignified, disrespectful, unclear, or overly intrusive. Further, without limiting the scope of the foregoing by this enumeration, the CEO shall not:	3	
2.1.1. Provide facilities, vehicles, or services that are not reasonably accessible to potential riders regardless of mobility limitations.	4	
2.1.2 Allow anyone, including people who have disabilities or seniors, to be discriminated against with respect to the AAATA’s services.	5	
2.1.3 Operate without providing effective, comprehensible, accessible, and timely information	6	
2.1.3.1. Fail to respond to questions or complaints in a timely and reasonable manner.	10	
2.1.4 Discourage persons from asking questions, airing a complaint, or being heard.	11	
2.1.5 Operate without established and enforceable standards for customer service and the safety of the public including pedestrians, cyclists, and other road users.	12	
2.1.5.1 Fail to communicate standards and expectations to the public and riders.	13	
2.1.6 Use methods of collecting, reviewing, transmitting, or storing personal information that allows improper access or inappropriate disclosure	14	
2.1.6.1 Use forms that elicit personal information for which there is no clear necessity.	15	

 Compliant
  Partially Compliant
  Non-Compliant

Preliminary CEO Interpretations and Evidence

EXECUTIVE LIMITATIONS POLICY 2.1:

With respect to the agency’s operations and interactions with riders, potential riders, pedestrians, cyclists, other road users, and the general public the CEO shall not cause, allow, or fail to address conditions, procedures, or decisions that are unsafe, undignified, disrespectful, unclear, or overly intrusive. Further, without limiting the scope of the foregoing by this enumeration, the CEO shall not:

Degree of Compliance: Partially Compliant

Interpretation

“Riders and potential riders” mean anyone physically located in the areas where AAATA services are available. Otherwise, the Board has fully defined their intent with this policy in the following policies.

Evidence

The board has fully interpreted this policy in the lower-level policy statements. Therefore, compliance with the lower-level policies demonstrates compliance with this policy statement. I report this policy as partially compliant based on partial compliance on some of the following policies.

Compliance Timeline: Compliance with this policy will be achieved when subsequent policies are fully compliant. See sub-policies for more information.

EXECUTIVE LIMITATIONS POLICY 2.1.1:

The CEO shall not... Provide facilities, **bus stops***, vehicles, or services that are not reasonably accessible to potential riders regardless of mobility limitations.

**-The current policy does not mention bus stops. This addition is a recommended policy update.*

Degree of Compliance: Partially Compliant

Interpretation

Compliance with this policy will be demonstrated when all aspects of TheRide’s operations, buses, bus stops, and facilities, comply with the Americans with Disabilities Act (ADA) requirements for accessibility or a plan is in place to reach compliance. Specifically, this means that:

- A. All fixed-route buses are wheelchair accessible with functioning ramps or lifts and appropriate tie-down equipment.
- B. All fixed-route buses have functional visual and auditory stop announcements,
- C. All buildings, park n ride lots and other general structures are already wheelchair accessible,
- D. Financial and staff resources are available to ensure that all bus stops *near sidewalks* are made wheelchair accessible by 2032.

These measures are reasonable because they address all elements necessary for passengers to be able to use transit services, are within the AAATA’s financial resources to afford, and align with legal accessibility requirements found in the ADA which can be objectively determined by an outside authority (FTA) and have become an industry standard. In addition, the requirement for sidewalks is reasonable because such connections are required by the ADA, but the AAATA does not control municipal sidewalk planning, so timing is less certain.

Evidence

- A. 100% of buses are wheelchair accessible with ramps or lifts, wheelchair spaces, and appropriate tie down equipment (CEO Carpenter, 01/03/22). An inspection of maintenance procedures and records (Manager Lundquist, 01/20/22) confirms that ramps, lifts, and ties downs are inspected and confirmed functional *before* a bus is put into, or returned to, public service.
- B. An inspection of fleet inventory records (Manager Lundquist, 01/20/22) confirms that all fixed-route buses have auditory announcements and visual signs indicating stops. Inspection of records (Deputy CEO Smith, 01/20/22) indicates that these systems were functioning accurately during the monitoring period.
- C. An inspection of all facilities (i.e., two bus terminals, two park n ride lots, and one office building) (Manager Roose, 01/19/22) confirmed that all buildings were accessible to wheelchairs. All buildings have automatic doors which were functional during the monitoring period or repaired promptly.

D. A review of bus stop records (Deputy CEO Yang, 01/19/22) confirms that 1,063 out of 1,249 (85%) bus stops are near sidewalks, 639 (59%) of bus stops near sidewalks are already wheelchair accessible. Most heavily used stops are already accessible. The current goal is to make the other 424 bus stops near sidewalks accessible. The AAATA’s annual budget includes \$215,000.00 dedicated to the construction of more bus pads and lead walks. However, due to the pandemic and recent staffing changes, little progress has been made on installing new bus pads, and a new staffing plan is required.

During the most recent FTA Triennial Review (2018) no deficiencies were noted in any of the above areas according to federal requirements.

Compliance Timeline: TheRide is compliant with all elements above except for having a clear staffing plan for installing more bus pads and lead walks. We will be compliant with having a new staffing plan by October 2022. Making all eligible bus stops wheelchair accessible is expected to take 10 years as it depends, in part, on sidewalk repairs by outside parties (i.e., municipalities).

EXECUTIVE LIMITATIONS POLICY 2.1.2

The CEO shall not... Allow anyone, including people who have disabilities or seniors, to be discriminated against with respect to the AAATA’s services.

Degree of Compliance: Compliant

Interpretation

Compliance with this policy will be demonstrated when

- A. No regulator, judge, or other legally empowered authority concludes that TheRide has violated any Federal or State law pertaining to discrimination; specifically, Title Vi of the Civil Rights Act of 1964, the Americans with Disabilities Act. This is reasonable because it addresses discrimination at an individual level, legal definitions, and provides objective outside expertise.
- B. Any changes triggering a federal Civil Rights review (Title VI) review were found to have no disproportionate impact to any protected class This is reasonable because it addresses discrimination at a group level, includes well-defined legal definitions, and can be taken to an outside impartial body (FTA).

This interpretation is appropriate because discrimination is a legal infraction which is tightly defined by law. Accusations of discrimination are unfortunately common, and legal requirements may not be the same as subjective experience. TheRide cannot meet everyone’s expectations but can anticipate and comply with the law. This is reasonable because legal standards can be anticipated and compliance can be objectively determined, or at least determined by an outside legal authority.

Evidence

- A. An internal review found no records of any valid formal accusations of discrimination against the AAATA, nor any findings that discrimination laws were broken (Njuki, 02/14/21).
- B. An internal review (Manager Fickau, 01/20/22) shows that TheRide complied with all requirements of the American with Disabilities Act, including sections 223 and 224 and FTA Circular 4710.1, during the monitoring period. During the period, there were two changes large enough to trigger the Title VI review (Deputy CEO, Yang, 01/20/22); the restoration of full fixed-route services in August 2021 and the proposal to adjust passenger fares in the FY2022 Budget (September 2021). In both cases reviews were developed and found no disproportionate impact on the community. This makes intuitive sense as restoring services and decreasing fares are generally beneficial to all groups.

In addition, during the most recent FTA Triennial Review (2018) no deficiencies were noted in any of the above areas according to federal requirements. The Review covered requirements such as disparate impacts, disproportionate burdens, equity analysis, limited English proficiency, public participation, service change policies, etc.

EXECUTIVE LIMITATIONS POLICY 2.1.3:
 The CEO shall not... Operate without providing effective, comprehensible, accessible, and timely information.

Degree of Compliance: Partially Compliant

Interpretation

The Board has partially interpreted “providing timely information” in policy item #2.1.3.1. Compliance with the lower-level policy, along with the following, will constitute compliance with this policy>

Accurate information on how to use our services (i.e., fixed-route time tables and maps, paratransit information, staff contact information) and general information about the agency is available prior to travel is available and accessible in the following formats:

1. **Printed Material:** Printed Ride Guides available prior to new service beginning, and also upon request in English, Spanish, and Mandarin (per federal requirements).
2. **On-Line:** TheRide’s website with features allowing use for persons with sight limitations and in non-English languages.
3. **Real-Time Information:** Available on TheRide’s website and as a live feed for use in third-party apps.

4. **Personal Responses:** Staff are available by phone from 8:00AM to 5:00PM Monday thru Friday to answer questions, and at the Blake Transit Center to answer questions from 7:00AM to 10:00PM on weekdays, 7:00AM-6:00PM on Saturdays and 8:00AM-6:00PM on Sunday.

These interpretations are reasonable because they are within the control of the agency, address federal requirements for information stemming from the ADA and Title VI, are affordable given the resources available, and respond to the vast majority of public needs for trip planning or special accommodation.

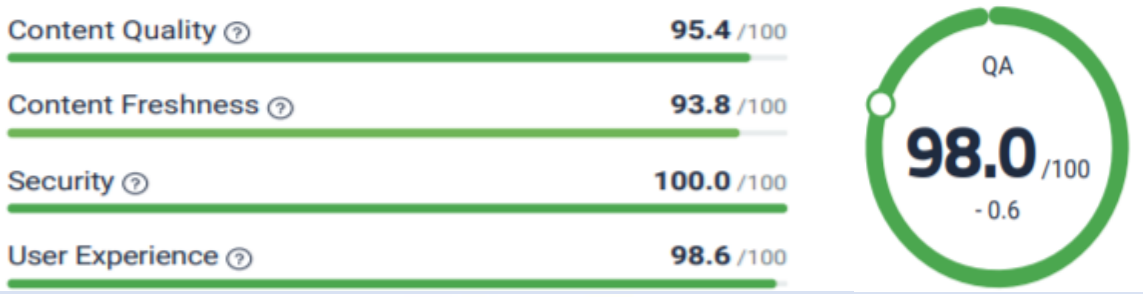
Evidence

1. **Printed Material:** At the onset of the pandemic in March 2020, TheRide scaled down services to essential trips only per CDC guidelines. Since then, services have drastically scaled up to meet public demand. It was not possible to timely publish RideGuides consistent with the drastic service changes. Route and schedule guides were published for the service bid beginning on January 31st 2022. Any changes to these guides have been noted online and on the guides. Since there were no printed guides during the monitoring period, the CEO reports being partially compliant with this policy.
2. **Online Material:** TheRide is accessible online through TheRide.org website. SiteImprove, a third-party website analysis software was used to evaluate TheRide.org for its accessibility, reliability, content quality and freshness, security, and overall user experience. A graphic illustrating quality and accessibility of the website during the monitoring period is provided below.

Quality Assurance Metrics

The Overall QA Score is calculated by aggregating the results of a site’s performance in four categories:

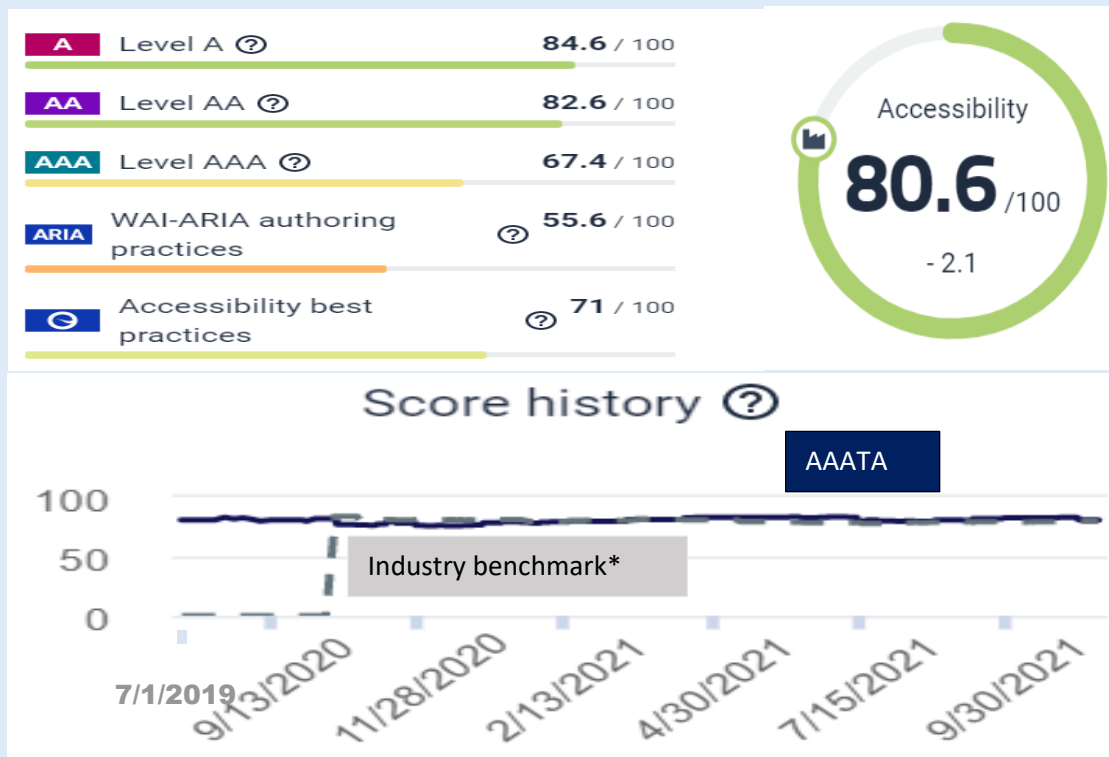
- **Content Quality** – The quality of a site’s content, which affects how quickly and accurately users are able to comprehend it.
- **Content Freshness** – How up to date a site’s content is, which affects user retention and engagement. It also impacts a site’s Search Engine Optimization (SEO).
- **Security** – How vigilant a site has been in only linking to safe domains and in keeping users’ personal information private.
- **User Experience** – How conducive content is to the usability of a site (broken links, document usability, image, size, pages with broken links).



**Industry benchmarks refers to nonprofit organizations using the same third-party company for website analysis purposes*

Website Accessibility Metrics

Accessibility – is based on automated and semi-automated checks in reference to Web Content Accessibility Guidelines (WAG) criteria that rate the website based on how operable, perceivable, understandable, and robust it is



**Industry benchmarks refers to nonprofit organizations using the same third-party company for website analysis purposes*

In addition, Triennial review in 2018 found no deficiencies with regard to consumer information, including: accessibility, paratransit information, and translation of material in Spanish, Korean, and Chinese (top languages in area) and Google Translate for the website. TheRide includes on most printed materials and on TheRide.org website that translated material and alternative formats are available upon request (Manager Boonin, 01/20/22)

3. **Real-Time Information:** TheRide’s real-time information system has been experiencing a series of setbacks and was not fully reliable during the monitoring period. The cyber-attacks posed new challenges on this effort. Real time data was later available to the public as of December 16. 2021.
4. **In-Person Assistance:** In a review of staffing levels (Williams, 2/14/22) from the monitoring period, staff can conclude that phone lines and the Blake Transit Center were staffed and answering customers inquires during the required hours of operation. Further, see policy 2.1.3.1 below.

EXECUTIVE LIMITATIONS POLICY 2.1.3.1:

The CEO shall not... Fail to respond to questions or complaints in a timely and reasonable manner.

Degree of Compliance: Compliant

Interpretation

Compliance with this policy will be demonstrated when:

- a) All written inquiries and concerns received through the customer service website are acknowledged within 2 business days and all phone calls entered in the customer concern tracking databased are acknowledged the same day.
- b) 90% of inquiries and concerns are resolved within 10 business days
- c) 99% of inquiries and concerns are resolved within 20 business days.
- d) Waiting time for responses to general inquiries about how to use AAATA services during business hours is less than 2 minutes.

These standards are reasonable because they have been the historical expectations for staff and are within limits of resources available.

Evidence

	Target	FY20	FY21	Target reached
a) Acknowledgement 1. Number of business days all inquiries and concerns received through the customer service website were acknowledged 2. All phone calls entered in the customer concern tracking databased were acknowledged	1. Same day 2. 2 business days	1. Same day 2. 2business days	1. Same day 2. 2business days	1. Yes 2. Yes
b) Number of business days 90% of written and phone call inquiries and concerns were resolved	10 business days	5 business days	5 business days	Yes
c) Number of business days 99% of written and phone inquiries and concerns were resolved	20 business days	5 business days	5 business days	Yes

d) Average phone waiting time for responses to general inquiries about how to use AAATA services during business hours	2 minutes	58 seconds	1 min 19 sec	Yes
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EXECUTIVE LIMITATIONS POLICY 2.1.4:

The CEO shall not... Fail to inform consumers of this policy, or to provide a way to be heard from persons who believe they have not been accorded a reasonable interpretations of their protections under this policy.

See CEO notes and Governance Coach notes for comments on this policy.

Degree of Compliance: Compliant

Interpretation

Compliance with this policy will be demonstrated when the Board of Directors receives no valid accusations that the CEO has impeded or discouraged anyone from addressing the Board during public comment time at regular board meetings. This is reasonable because anyone can use public comment time to address the board.

Evidence

All board meetings held during the monitoring period had at least two public comment periods. No accusations, valid or otherwise, were made relative to this policy. Board minutes are available on TheRide’s website.
(Please see CEO Note at the end of the monitoring report.)

EXECUTIVE LIMITATIONS POLICY 2.1.5:

The CEO shall not... Operate without established and enforceable standards for customer service and the safety of the public including pedestrians, cyclists, and other road users.

Degree of Compliance: Partially Compliant

Interpretation

The board has partially interpreted “established and enforceable standards for safety in policy item #2.1.5.1. Compliance with the lower-level policy as well as the following will constitute compliance with this policy:

- 1. Training:** AAATA bus drivers and other front-line personnel annually receive customer service training and safety training. Contracted services are required to, and confirmed to have, provide appropriate training.
- 2. Customer satisfaction:** Customers express high satisfaction of front-line staff demonstrated by a relatively low trend of complaints, and positive marks in semi-annual surveys of passenger satisfaction.
- 3. Safety:** Collision trend rates are low compared with historical performance and meaningful corrective actions are taken as appropriate.

This interpretation is reasonable because customers service and safety are largely determined by staff behaviors. I further interpret this policy to mean that front line staff (i.e., bus drivers, mechanics, contractors) will receive appropriate training for the safe operation of the vehicle, relevant laws, and will be held accountable for same. Safe operation includes awareness and consideration of other road users. Detailed operational performance and customers satisfaction are addressed further under policy 1.4 and Quarterly Service Reports.

Evidence

- 1. **Training:** During the monitoring period, all bus drivers received customer service training and safe bus operations training upon hire. Not all drivers received refresher training due to staffing shortages for this reason we report partial compliance to this policy.(Taylor, 03/03/22). All staff are subject to standards for safe operation and disciplinary procedures. A review of contracts with private service providers (i.e., contractors) confirms that training requirements are included in contractual expectation and a review of their performance confirms the training occurred (Fickau, 03/01/22).
- 2. **Customer Satisfaction:** Measures of complaint and compliment rates, a proxy for satisfaction, can be seen in the table below. Satisfaction rates are similar to

earlier years, although the disruptions from the pandemic make it difficult to contextualize a trend.

	FY 20	FY 21
Compliments per 100,000 trips	2.8	2.1
Valid complaints per 100,000 trips	1.2	1.6

- Safety:** During this monitoring period, the ratio of collisions per 100,000 trips were 0.25 in FY 20 and 0.23 in FY 21 which was generally low. Safety items such as Drug and Alcohol policies and procedures, accident reporting, etc. are audited in the Triennial Review. The most recent Triennial Review found no deficiencies in these areas in 2018 and procedures have not changed since then. Safety statistics are reported quarterly to the Board and monitored daily by staff.

	FY 20	FY 21
Collisions per 100,000 trips	0.25	0.23

Compliance timeline: Driver refresher trainings are expected to restart this summer. Compliance should be expected by the next monitoring period.

EXECUTIVE LIMITATIONS POLICY 2.1.5.1:

The CEO shall not... Fail to communicate standards and expectations to the public and riders.

Degree of Compliance: Compliant

Interpretation

Compliance with this policy will be demonstrated when TheRide publishes a Code of Conduct for public behavior in terminals, in the printed Ride Guide and on the website. This is reasonable because more assertive methods seem unnecessary and provoke some riders.

Code of Conduct for the Public: The AAATA has a “Code of Conduct” outlining expectations for public behavior on agency property and in buses. The written codes are published in both transit centers, on all buses, in the Ride Guide, and on the website.

Evidence

An inspection of both terminals (Roose, 03/03/22) found that the Code of Conduct was posted in public area.

In addition, during the monitoring period, federal guidelines required masks to be worn in all terminals and buses. An inspection of terminals (Roose, 03/03/22) and random sample of buses (Lundquist, 03/01/22) found that all necessary notices were in place. This information was also on the website (Njuki, 02/20/22).

EXECUTIVE LIMITATIONS POLICY 2.1.6:

The CEO shall not... Use methods of collecting, reviewing, transmitting, or storing personal information that allows improper access or inappropriate disclosure.

Degree of Compliance: Compliant

Interpretation

The board has partially interpreted “collecting personal information that allows inappropriate disclosure” in policy item 2.1.6.1. Compliance with the lower-level policy along with the following will constitute compliance with this policy:

- a) Sensitive personal information regarding riders/customers collected for the paratransit (ARide), Gold Ride, and Fare Deal programs is handled and stored in a manner such that it can only be accessed by authorized staff who are using it for legitimate business reasons.
- b) Information is locked or otherwise secured at the end of every business day.
- c) Electronic information is only accessible to authorized staff
- d) Staff secure the information in accordance with the Americans with Disabilities Act requirements on maintaining Confidentiality of Applicant Information
- e) Inactive forms are destroyed after 7 years.

This is reasonable because personal information on customers is only collected for paratransit (ARIDE), GoldRide, and the Fare Deal programs.

Evidence

A review of instructions to staff (Fickau, 1/18/22) found that all staff are training to protect personal information and understand their responsibilities. Further review found that staff are complied with practices A-E above during the monitoring period. Audits previously done by the Federal Transit Administration found no deficiencies with this approach.

EXECUTIVE LIMITATIONS POLICY 2.1.6.1

The CEO shall not... Use forms that elicit personal information for which there is no clear necessity.

Degree of Compliance: Compliant

Interpretation

I interpret “form” to mean any written or electronic means of information collection that can be stored and reviewed later. Compliance with this policy will be demonstrated when no written or electronic means of information is used to collect information and store for future review unless the Agency is legally required to collect, or it is necessary to effectively administer programs, or needed for safety and security of the public or staff or needed to document relevant processes.

The Deputy CEO of Finance and Administration approves any new form requesting personal information from a member of the public. This approach is reasonable because new forms are rarely created, and existing forms have already been reviewed and approved by the Deputy CEO of Finance and Administration.

Evidence

(Deputy CEO F&A, Reed 1/20/22) A review our records on 01/20/22 confirm that during the monitoring period, no written or electronic requests for personal information was made to the members of the public.

Additionally, the Deputy CEO, Finance and Administration confirmed on 01/20/22 that she did not approve any new form requesting personal information from members of the public.

CEO Notes

The CEO notes Policy 2.1.4 very difficult to interpret and present evidence for. Upon review this policy was not an original policy created by John Carver

There is a similar policy which reads: *“The CEO shall not...Fail to ... provide a way to be heard for person who believe they have not been accorded a reasonable interpretation of their protections under this policy.”*

The CEO would like to ask the Board to reconsider 2.1.4 as currently written, and perhaps seek advice from a Committee or a governance coach*.

**See governance coach notes below for advice on this policy.*

Governance Coach Notes

The governance coach has had a chance to review this monitoring report and recommends the following.

1. Consider rewording the following policies to remove double negatives i.e., *“shall not fail to”*.
 - a. Policy 2.1.1: “The CEO shall not...allow facilities, bus stops, vehicles, or services to lack reasonable accessibility for potential riders regardless of mobility limitations” Note: this policy update deliberately includes bus stops.
 - b. Policy 2.1.3.1: “The CEO shall not...Permit unfair, inconsistent, or untimely responses to questions or complaints from the traveling public”
 - c. Policy 2.1.5.1: “The CEO shall not allow the public and riders to be without easily accessible, understandable information with respect to services offered and expected conduct.”
2. As the CEO noted the current Policy 2.1.4 does not exist in the original John Carver work. The policy in John Carver’s work, noted in the CEO’s notes, (*“The CEO shall not...Fail to ... provide a way to be heard for person who believe they have not been accorded a reasonable interpretation of their protections under this policy.”*) has been abandoned because it adds little to the other provisions. If the policy were aligned with the Interpretation, e.g., [The CEO shall not] *“Allow the riding public or any stakeholder to be unaware of the process for registering a complaint or concern or of the avenues for addressing the Board”*. This would be an improved policy statement.
3. Policy 2.1.2 is redundant as the board already specifies in the General Executive Constraint (GEC) that the CEO shall not do anything unlawful, it might be worthwhile considering deleting this policy and address discrimination in the monitoring policy of the GEC. If this policy is intended to address equity, then it is likely covered in the Ends policies.

Monitoring Policy 2.1 Treatment of the Traveling Public

Guidance on Determining “Reasonableness” of CEO Interpretations

Govern for Impact (previously International Policy Governance Association) has developed the following guidance for Board members to use in deciding whether a CEO’s interpretation is “reasonable”:

An interpretation is deemed to be reasonable when it provides an operational definition which includes defensible measures and standards against which policy achievement can be assessed...

Defensible measures and standards are those that:

- *Are objectively verifiable (e.g., through research, testing, and/or credible confirmation of observable phenomena.)*
- *Are relevant and conceptually aligned with the policy criteria and the board’s policy set.*
- *Represent an appropriate level of fulfillment within the scope of the policy.*

- “What makes an Interpretation Reasonable and What are the Expectations for the Operational Definition: Policy Governance Consistency Framework Report Number 2”.

Board’s conclusion on monitoring report

The Board has received and reviewed the CEO’s Monitoring Report references above. Following the Board’s review and discussion with the CEO, the Board makes the following conclusions:

Executive Limitations Report (select one) The Board finds that the CEO:

- A. Is in compliance
- B. **Is in compliance, except for item(s) noted.**
- C. Is making acceptable progress toward compliance.
- D. Is *not* in compliance or is *not* making reasonable progress toward compliance
- E. Cannot be determined

Board notes: (If applicable)