

<b>CUSTOMER DETAIL</b>		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
<b>INCIDENT DETAIL</b>		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 301 DISCOURTESY
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route C CALIFORNIA STREET CABLE CAR		Direction OUTBOUND
Incident Date 11-12-2016		Incident Time 11:30
Vehicle Number 0060		Location CALIFORNIA STREET AND SANSO
Department CBL OPS		Division CABLE CAR
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p><b>Incident Details</b> Caller states: I was on the California cable car on Saturday. I have my service animal, a pit bull, between my two feet. I need to remove the leash because there are people walking around. The operator told me that I need to have the leash on. I told him that I am keeping my service animal under control. The operator starts yelling at me. I feel like that they are trying to find something to instigate. My dog was sitting between my 2 legs the entire time. There are nowhere states that I need to have my animal on leash all the time. He just kept yelling that there is a young girl on board. The father of this young girl turn to me not to worry. The dog is fine.</p> <p>This goes back to a retaliatory history. He told me that if he saw me again then he will not allow me to get on board.</p>		
<b>AGENCY HANDLING AND RESOLUTION DETAILS</b>		
Date Logged 11-15-2016		
Date Closed 03-22-2017		
Resolution Code [REDACTED]		

# Neutral Hearing: [REDACTED]

## Regarding Claimed Disability-Related Rule Violation

PSR # 511773

Hearing Date: 1/9/2017

Parties: [REDACTED] ("Patron")

Operator: [REDACTED]

Union Rep.: Derrick Johnson

MTA Rep. (Cable Car Division): Ed Proctor

Incident Date: November 12, 2016

Incident Time: Ca. 1:30p

Route: 61 California St. Cable Car

Participants: The patron attended in person, along with the operator, his Union Rep. and Mr. Proctor

### Patron's Allegations:

The patron, [REDACTED], testified that he accessed the California St. cable car on the afternoon of the 12<sup>th</sup> (at the California and Kearny stop), and at that time got on the car with his female, certified service dog, "Rosie," a type of dog that is or resembles the pitbull breed. He testified that for safety reasons when entering or exiting cable cars with his dog, he always does not use a leash for Rosie. He indicated that tripping (on the leash) is a [REDACTED] problem when his dog is leashed, and because his dog is so obedient and well-trained, Rosie is always very compliant and jumps on and off while close to him and has never caused any difficulties in any setting when off-leash. He also indicated that he does not use a muzzle [REDACTED] for Rosie, and that such is not required under any ADA or MUNI rules of which he is aware. He [REDACTED] that she is an extremely docile animal, does not fight with other dogs, does not bark or growl, and does not represent any sort of threat to passengers on any MUNI conveyance. His experience with this animal goes back for nine years, but it has only been one year [REDACTED] so that he has been taking Rosie along with him on cable cars, which he uses as much as four times each week.

On the instance of the 12<sup>th</sup>, the patron sat on one of the available inside seats with Rosie situated calmly between his legs. Apparently because there was a young girl seated nearby (who may have initially been concerned about her own safety vis-à-vis

Rosie, the operator advised [REDACTED] that he should leash Rosie for the duration of the trip up California [REDACTED] [REDACTED] indicated at the hearing that he was not required by any rules or guidelines to leash his dog, that Rosie was not threatening anyone, and that he would not comply with the operator's request. I understand that at one point the father of the young girl indicated to the operator that Rosie was "not bothering" them, and at that point the operator dropped the issue and the car proceeded through the Kearny intersection where it had been for [REDACTED] cycles while the exchange between [REDACTED] and the operator had occurred. But even after the car started up the California hill, the operator continued a "verbal assault" about the leash issue.

According to [REDACTED], he felt abused and embarrassed by the operator's request that he leash up Rosie during the trip. [REDACTED] noted that in the past he has had difficulties with other cable car operators who have been reluctant to stop for him and Rosie, and he indicated that one reason to have Rosie off-leash at a cable car stop is so the operator does not notice him with a dog until after the car has stopped.

[REDACTED] testified that he exited the car at Polk St. but obtained the operator's badge number as he did so. He was particularly concerned about the operator's apparent threat that he would not pick up [REDACTED] in the future if he was unwilling to leash his service dog.

### Operator's Testimony:

The operator, [REDACTED], testified that at the time of this incident he was concerned about the presence of children in the car and felt that in order to reduce the threat that someone might reasonably feel about this dog, [REDACTED] must use a leash for the dog while on that particular trip. He indicated that the car was fairly crowded at the time. [REDACTED] indicated that Rosie was sitting to [REDACTED] right, and not between his legs. [REDACTED] also indicated that he desisted with the contact with [REDACTED] once the girl's father said that there was no problem with the animal, and at that point he returned to the controls and started the car up the street. He indicated that there was a 10 minute ride to where [REDACTED] exited the car (apparently at Powell St.). [REDACTED] denied threatening [REDACTED] with a future refusal of service, and indicated that he does not plan to refuse service to [REDACTED] at any point in the future should they encounter each other on the California line. The operator was not sure about leashing requirements for service animals under MUNI Rules.

### **DVD Evidence:**

DVD evidence was available at the hearing, but was not particularly helpful. The back camera DVD provided a glimpse of [REDACTED] entering the car, but the parties were not able to get any images from the front camera DVD. Inasmuch as these camera do not capture audio, the cable car DVDs are not as helpful in these matters as those used on the LRV. It seems obvious that a better video recording system needs to be installed on the cable cars.

### **Hearing Officer Analysis**

From the testimony of both the patron and the operator, and without the evidence that a DVD record could provide, there is insufficient evidence for me to find that there is a bona-fide complaint against the operator under the SF Municipal Railway Rules. There was no denial of service to [REDACTED] by the operator or anyone connected with the SFMTA.

I understand that according to [REDACTED], there may be ADA-related provisions that do not require an owner to use a leash for a service animal that is otherwise fully controlled by the owner, and further that the operator in this instance should not have insisted that [REDACTED] put a leash on Rosie before getting onto the cable car. But if that interaction did occur as described, I cannot find that the operator's request for a leash on Rosie rises to the level of a Rules violation.

To [REDACTED] point, my investigation here finds that there may be a similar rule under the SF Municipal Railway Rules—one that generally permits service animals to be unleashed while accompanying an owner aboard MUNI vehicles, as long as the service animal remains under its owner's control. The overriding consideration in public transit is always the safety of each of the patrons. If an operator determines that a given service animal may represent a concern for the safety of any other patron aboard a coach, cable car or LRV, an operator is certainly allowed to request that an owner use a leash for his or her service animal while aboard the transit vehicle.

### **Finding**

By a preponderance of the evidence here, this incident does not constitute a specific disability-related rule violation under applicable MUNI Rules provisions. I find that the operator, [REDACTED], was within his rights in requesting that [REDACTED] use a



leash for Rosie on this particular occasion for the duration of this trip up California St. There was some acknowledgement by both parties of at least an initial concern about Rosie that was expressed by a small girl sitting nearby, the operator became aware of that patron's concern, and that concern justified the operator's reasonable request for [REDACTED] to leash up Rosie. On that basis, there just is insufficient evidentiary support here for a finding that [REDACTED] abused his discretion as a MUNI operator under these circumstances.

Dated this 3<sup>rd</sup> day of February, 2017

Respectfully,

James Doyle

SFMTA Hearings

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

<b>CUSTOMER DETAIL</b>		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
<b>INCIDENT DETAIL</b>		
Category UNSAFE OPERATION		Type 108 GEN CARELESS OP
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 36 TERESITA		Direction INBOUND
Incident Date 01-31-2017		Incident Time 12:29
Vehicle Number 8512		Location LAGUNA HONDA BLVD DEWEY B
Department WDS OPS		Division WOODS
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p><b>Incident Details</b> PATRON STATES: "I AM IN A WHEELCHAIR AND KNOWING THERE WERE MORE STOPS I ASKED THE OPERATOR TO SECURE ME IN AND WHEN HE STARTED GOING MY CHAIR BEGAN MOVING. IT WAS CAUSING ME TO FALL OUT OF MY CHAIR. THEN WHEN WE GOT TO FORESTHILL THE STRAP WAS SO TIGHT ACROSS MY CHEST AND I COULDNT RELEASE PRESS THE BUTTON BECAUSE OF MY CONDITION. I ASKED THE OPERATOR FOR HELP AND HE SAID HE WASNT GOING TO DO IT AND THAT I NEEDED TO DO IT MYSELF. I SAID MAN HOW AM I GOING TO DO THAT? FINALLY HE RELEASED THE STRAP BECAUSE HE COULDNT MOVE THE BUS WITHOUT UNSTRAPPING ME."</p>		
<b>AGENCY HANDLING AND RESOLUTION DETAILS</b>		
Date Logged 01-31-2017		
Date Closed 03-16-2017		
Resolution Code [REDACTED]		

**OVERVIEW**

PSR #	516736	INCIDENT DATE	01-31-17	DATE RECEIVED	02-01-17
LINE/ROUTE	36-Teresita	LOCATION	Laguna Honda Blvd and Dewey Blvd		
HEARING DATE	02-15-17	HEARING TIME	10:00am	HEARING LOCATION	Floor 3; Room 3074

FORMAT (check box)		In person?	<input checked="" type="checkbox"/>	By phone?	<input type="checkbox"/>
OPERATOR	Name		Cap ID		
UNION REP	Name	Siegfried Henderson ✓	Division	Woods	
HEARING OFFICER	Name	Julie Rosenberg	Telephone Number	415 701-5144	

**HEARING LOGISTICS**

ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>
Did the customer verify the operator's identity?	Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input checked="" type="checkbox"/>	
	No	<input type="checkbox"/>		No	<input type="checkbox"/>	
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?			
	No	<input type="checkbox"/>				

**COMMENTS**

Operator properly secured patron with belt. wheel lock does not work for this type of electric wheelchair. No evidence in video that wheelchair was moving. Patron did not request further securement. Operator properly released strap and assisted Patron. Video shows operator being attentive.

**HEARING OUTCOME**

Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
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Signature of Neutral Hearing Officer	Julie Rosenberg
Date	2-15-17



**CUSTOMER DETAIL**

Name [REDACTED]	
Phone [REDACTED]	Email [REDACTED]
Address	

**INCIDENT DETAIL**

Category UNSAFE OPERATION	Type 107 FALL WITH INJURY	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 6 HAIGHT-PARNASSUS	Direction OUTBOUND	
Incident Date 01-24-2017	Incident Time 14:14	
Vehicle Number 5447	Location HAIGHT ST BUCHANAN ST SAN F	
Department POT OPS	Division POTRERO	
Employee ID [REDACTED]		

**Employee Physical Description [REDACTED]**

**Incident Details** I was on the bus on going home at Van Mess and market. The bus driver change sifts. The new driver on the bus. I am a senior walking with a walking stick. I was seating at the front seat. So I got get off the bus at the front door. I ring the bell to stop at Buchanan st. I grab the pole and put my leg on the stair and than my walking stick and I put my leg on the 2nd stair .the driver close the door on me , the door hit my walking stick and it hit my right leg and I fall on the stair totally backward. The drive did not do anything and he say to a passenger "Pick her up, pick her up." the driver said move her. The other passenger try to see how I was hurt . The driver just said pick her up , he just seat there did not do anything . the passenger tell the driver I am not going to pick you up she need an ambulance and he just seat there tell the passenger pick her up pick her up, she is not hurt and he told the guy to move me said I can get the block . the guy said he need to call the ambulance otherwise he will call the police than he call the ambulance and he move away from the bus before the ambulance get there

I had a pacemaker and heart problem .I dont how badly I hurt , when the ambulance come the paramedic come they could help me because they could lift me off the stair. They had to wait for the 2nd ambulance come to help me and to lift me off the stair and I was transfer to the hospital .  
given claim number.

**AGENCY HANDLING AND RESOLUTION DETAILS**

Date Logged 01-25-2017
Date Closed 03-09-2017
Resolution Code [REDACTED]

**PATRON TESTIMONY**

Patron testified that she rang the bell at Laguna and Haight to prepare to de-board the bus on Haight at Buchanan. Patron stated that she was sitting in the disabled row when she rang the bell. She testified that she was the first person at the front door.

As she approached the door she observed Operator looking out his side window.

Patron stated that she had "one foot on the top step and one foot on the next step" when the doors started to close. Patron testified that the door knocked her backwards and as she fell backwards she hit her left leg and back on the stairs and her head on a pole. She testified that she ended up with her face and head on the floor.

**OPERATOR TESTIMONY**

Operator admitted that he saw Patron leave her seat and walk toward the door carrying two bags. Operator testified that he opened the bus door and "five or six" people got out. He stated that he did not see Patron step down the front steps. He looked out his side view mirror to check traffic for 5-10 seconds, preparing to pull out from the curb.

Operator stated that the bus was a new bus and that the button controlling the door was very sensitive to touch and it closed quickly when he hit the button. He stated that he thought Patron had already gone down the steps. As the door closed, he pressed the button again to re-open it. He stated that he did not see if the door hit Patron or not.

Operator testified that Patron fell backward "in slow motion." He believed that she pitched back when the door closed and lost her balance. He believed this may have happened because she was wearing high heels.<sup>1</sup>

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<sup>1</sup> Patron denied wearing high heels adverting to the fact that she uses a cane and is in her 70's.

## HEARING OFFICER ANALYSIS AND FINDINGS

Unfortunately, there was no video footage of the fall itself. The video pulled for this case starts after the incident, with Patron lying on the front steps of the bus.

However, although the hearing officer could not determine whether or how the front door actually hit Patron when Operator touched the button, it is clear from Operator's testimony that he closed the door prematurely.

He admitted that he saw Patron moving toward the front door and he admitted he thought Patron had gone down the steps when he hit the button closing the door.

Operator had an opportunity to observe Patron to make sure that she able to de-board safely. He evidently took his eye off her to look out his side view mirror.

**Under Section 6.14 of the Operator Rules and Instructions:**

Operators must provide ample time for passengers to board and de-board vehicles. Seniors and people with disabilities may require additional time.<sup>2</sup>

Patron was obviously in need of accommodation as a senior and likely as someone with mobility problems. At a minimum, Operator failed to accommodate her.

### Finding 1

By a preponderance of the evidence, Operator violated Rule 6.14 when he closed the front door prematurely on Patron on January 24, 2017.

Patron also alleged that Operator had failed to help her up after she fell and did not immediately call an ambulance. However, the attached record shows that Operator followed proper procedure by calling Operations Control Central which dispatched an ambulance to the scene.

### Finding 2

Operator satisfied Rule 4.12.1 by timely notifying OCC of the fall on the bus on January 24, 2017.

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<sup>2</sup> See also Operator Bulletin 2017-022

51629B

A review of video footage following the fall shows Operator arguing with Patron regarding the nature of the fall.

Rule 2.8.3 reads: Avoid disputes with any person, no matter what the provocation.

**Finding 3**

**By a preponderance of the evidence, Operator violated Rule 2.8.3 by engaging in a dispute with Patron following her fall on January 24, 2017.**

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 301 DISCOURTESY
ADA? X	Title VI? X	Other Disc.
Trapeze Line/Route 14 MISSION		Direction OUTBOUND
Incident Date 02-07-2017		Incident Time 08:56
Vehicle Number 7230		Location MISSION ST RICHLAND AVE SAN
Department POT OPS		Division POTRERO
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p><b>Incident Details</b> Patron stated: "I have disability and I want to report the bus drivers behavior towards me. I was on the bus with my baby and had my stroller out. The bus was empty and the driver told me to go to the back of the bus. It was my stop to get off but he wanted me to go to the back of the bus. "</p> <p>02/08/17: PSR emailed to Superintendent. KLB                      02/08/17: Contacted patron via Language Line ( Operator # 251301)                      02/08/17: Follow-up Title VI mailed to patron. KLB</p> <p>Patron statrdt that the bus was empty and that the Operator told both her and another hispanic female to go to the back f the bus but did not tell the white patrons to go to the back of the bus. KLB</p> <p>03/10/17: 2nd Follow-up Title VI mailed to patron. KLB</p> <p>Video requested by Angie G. KLB</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 02-07-2017		
Date Closed 04-04-2017		
Resolution Code [REDACTED]		



**Neutral Hearing: [REDACTED]**  
**Regarding Claimed Disability-Related Rule Violation**

**PSR # 517239**

**Hearing Date: 3/6/2017**

**Parties:** [REDACTED] ("Patron")

**Operator:** [REDACTED]

**Union Rep.:** George Elias [REDACTED]

**Incident Date:** February 7, 2017

**Incident Time:** Circa 9:00a [REDACTED]

**Route:** MUNI Metro 14 Mission

**Participants:** The patron attended via phone; the operator and his Union Rep. appeared in person at this hearing. The patron's testimony was facilitated via a Spanish translator through the Language Line. [REDACTED]

**Patron's Allegations:**

The patron testified that she had wanted to enter the 14 Mission bus via the front door but was apparently not allowed to do that. She entered the 14 by means of the middle door and was accompanied by a stroller which was apparently loaded with a small child who was concealed by plastic curtains. Once on the 14, the patron indicated that the bus operator advised her to move to the back, but inasmuch as she was getting off after only a few blocks, she did not move from her location in front of the middle door of the bus. She also indicated that she felt discriminated against by the operator who apparently insisted that she move out of the way of other passengers who would need to enter or exit from the middle door. She objected to his unfair treatment, indicating that he would not have treated someone of another race in the way that she was treated at the time, and that she has had some similar issues with this operator in the past. She also stated that she should be asked nicely to move, if that's what he wanted her to do. After several blocks (or approximately 5 to 10 minutes, she exited the 14.

### **Operator's Testimony:**

The operator, [REDACTED], indicated that he was polite to [REDACTED], but that he wanted her to move to a position on the bus which did not block the middle door and would not endanger other passengers by virtue of the stroller which remained in the aisleway during the entire time [REDACTED] was on the bus.

### **DVD Evidence:**

DVD evidence was available at the 3/6/17 hearing but was not particularly helpful. The DVD provided video of [REDACTED] entering the bus and occupying a position in front of the middle door (sometimes standing beyond the yellow door line) and continuing in that location with her stroller for the length of her trip. The audio portion of the DVD did not provide much accessible data about the conversation or verbal contacts between the operator and [REDACTED]. It does show [REDACTED] talking on her cellphone for a portion of the ride, and seems to show her taking photos in the direction operator. From the DVD evidence, it is not possible to determine whether there was any sort of racism or mistreatment directed by the operator towards [REDACTED] during the duration of her trip.

### **Hearing Officer Analysis**

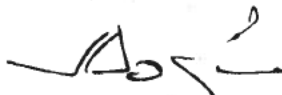
From the testimony of both the patron and the operator, and without any audio evidence from the DVD record, there is insufficient evidence for me to find that there is a bona-fide complaint against the operator under the SF Municipal Railway Rules. There was at the time no apparent evidence of disability on the part of [REDACTED] and the presence of her stroller does not rise to that level of concern.

### **Finding**

By a preponderance of the evidence here, this incident does not constitute a specific disability-related rule violation under applicable MUNI Rules provisions.

Dated this 7th day of March, 2017

Respectfully,



James Doyle

SFMTA Hearings

**CUSTOMER DETAIL**

Name [REDACTED]

Phone [REDACTED]

Email [REDACTED]

Address

**INCIDENT DETAIL**

Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT

Type 301 DISCOURTESY

ADA? X

Title VI?

Other Disc.

Trapeze Line/Route 24 DIVISADERO

Direction INBOUND

Incident Date 02-14-2017

Incident Time 11:00

Vehicle Number 5613

Location OAKDALE AVE 3RD ST SAN FRAN

Department PRE OPS

Division PRESIDIO

Employee ID [REDACTED]

Employee Physical Description [REDACTED]

**Incident Details** Customer states, "Driver refused me onto coach, Im disabled. Driver was on the coach, Im familiar with Muni rules. Driver was on his break, sitting on his coach, and talking on his cellphone on the coach. Refused to allow me to board. This was in between 11:00-11:30 AM. I have a Clipper card, I scanned my Clipper card for this travel. Im signaling to the driver that I wanted to ask a question. The driver told me, "Man why dont you leave me alone and let me enjoy my break in peace." I did inform the driver that if they are pulled into a valid Muni stop that patrons, that if there is no safety implication, that patrons can board the bus. Then the driver said to me, Also customers can not board the bus if the driver is not on the bus. Then the driver got off the bus and closed the door. For the purpose for me not to board the bus prematurely."

**AGENCY HANDLING AND RESOLUTION DETAILS**

Date Logged 02-14-2017

Date Closed 04-03-2017

Resolution Code [REDACTED]

# Neutral Hearing: [REDACTED]

## Regarding Claimed Disability-Related Rule Violation

PSR # 517746

Hearing Date: 3/6/2017

Parties: [REDACTED] ("Patron")

Operator: [REDACTED]

Union Rep.: Juan Coleman

Incident Date: February 14, 2017

Incident Time: Cir. 12:00p

Route: 24 Divisadero

**Participants:** The patron attended by phone; neither the operator nor the Union Rep. appeared, either by phone or in person, and I have not received any account from them about this incident.

### Patron's Allegations:

[REDACTED] indicated in his telephone account of this incident that at the time he was in pain due to a chronic low back condition, and that he needed to sit down when he arrived at the 24 Divisadero coach at the intersection of Oakdale and 3d St. The coach was empty at the time, except for the operator who was at the wheel and apparently on break with the coach's doors closed. [REDACTED] knocked on the front door, advising the operator that he is disabled and that he wanted to sit on the coach during the operator's break. The operator was in a phone conversation at the time, but indicated to [REDACTED] that he could get on the coach when the break ended—which would be in about 10 minutes. According to [REDACTED], he said that [REDACTED] should leave him alone so that he could enjoy his break in peace. [REDACTED]

At about 12:13p the operator left the coach and closed the door to prevent anyone from entering, indicating to [REDACTED] that passengers are not allowed onboard without an operator being present. [REDACTED] and the operator argued for several minutes while both were standing outside the coach, and [REDACTED] said that he felt quite disrespected by the language and the attitude of the operator towards him.

At approximately 12:20p the operator returned to his driver's seat and allowed [REDACTED] and others to enter. They continued to argue with each other for several minutes until [REDACTED] sat down.

### Operator's Testimony:

The operator [REDACTED] was not available for this hearing. On that basis the operator's actions during this incident must be evaluated solely on the basis of the audio and video evidence from the DVD.

### DVD Evidence:

DVD evidence was available by the time of the hearing and particularly helpful in this case in the absence of testimony from the MUNI side. The video piece begins with a focus upon the operator standing alone on the coach and on his cellphone during what is clearly a personal break in the operator's route schedule. The operator takes a seat on one of the benches behind the driver's chair, and he is in that posture when [REDACTED] knocks on the front door, asking the operator if he can be allowed to come in. The operator, [REDACTED], indicates that he is on his break and that it will be about 10 minutes. Through the door [REDACTED] tells the operator that he has a right to be on the coach during an operator's break. Soon the operator leaves the coach, closes the door and continues with what seems to be an ongoing conversation on his cellphone. An argument lasting several minutes ensues between the operator and [REDACTED] as the two are standing somewhat apart outside the coach, sometimes almost shouting at each other. [REDACTED] can be heard to say that he has a disability.

At approximately 12:20p the operator returns to the coach, keeps the front door open and several people enter, including [REDACTED]. There is a continued back and forth between the two men for several more minutes until [REDACTED] sits down on one of the middle range seats for the duration of the DVD, which ends at a time of 12:30p (while [REDACTED] is still in his seat). The interaction which has continued on the coach between the operator and [REDACTED] focuses on whether each is disrespecting the other, and [REDACTED] seems to be quite offended by the operator's conduct towards him.

## Hearing Officer Analysis

From the testimony of both the patron and the operator, and based upon the evidence provided by the DVD, it is apparent that this incident could have been handled in a much better fashion which may have resulted in a more cordial outcome. As a MUNI coach operator tasked with the responsibility to engage in respectful behavior towards the public (MUNI Rule 2.8.1) and required to avoid disputes with any person (MUNI Rule 2.8.3), and advised not be discourteous to patrons (MUNI Rule 2.13.1(F)), [REDACTED] probably should have allowed [REDACTED] to sit with him on the coach during the extent of the operator's break. [REDACTED] had advised the operator that he has a disability, and while he was not using any obvious device such as a cane to assist him at the time, the operator should give a patron the benefit of any doubt about the extent of an announced infirmity. By leaving the coach during his break, [REDACTED] was forced to remain standing outside, which seems to have added some fuel to the fire.

While some folks may elicit or tend to elicit reactions on the part of MUNI operators, it remains incumbent upon operators to refrain from responding to patrons in ways that may be construed as disrespectful in ignoring or not fully considering a patron's infirmity or disabling condition.

On the other hand, in the stressful working conditions that typically exist for all MUNI operators, work breaks are allowed and must be taken. In addition, the MUNI system runs on fixed schedules, and operators cannot be arriving at coach stops sooner than their schedule allows. Bathroom breaks, refreshment breaks and traffic conditions may occur erratically, resulting in schedule adjustments, and the nature and extent of such breaks for these purposes are mostly left up to the discretion of each individual operator. It is certainly acceptable (and perhaps even recommended) for an operator to relax by himself or herself during these brief periods amid the hectic pace of a given run, but there are limits depending upon circumstances.

Once again, while it is certainly understood that a patron should not be allowed to remain on a coach when no operator is present, there should be enough leeway in an operator's break-time to allow a disabled passenger to sit on a coach while the operator is taking his or her break at the same time. This allowance would even be more imperative during inclement conditions that make waiting out on the street more unpleasant.

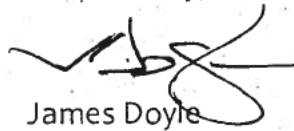
## Finding

Because an in-transit operator break amounts to personal time during which an operator is allowed to recuperate from the inherently stressful conditions of coach operations in this city, I cannot find a Muni Rule violation in terms of the operator's choice in this instance to refuse to allow [REDACTED] to enter the coach during [REDACTED] break, or while [REDACTED] was not present on the coach. This was the event that resulted in the subsequent interaction.

Based upon the available evidence, however, it does seem as though the verbal interaction between the operator and this patron leaves something to be desired in terms of how an operator should properly deal with members of the public while operating a MUNI vehicle. [REDACTED] should be careful not to engage reactively with patrons, even when he may feel provoked by something said to him during the course of his work.

Dated this 3d day of April, 2017

Respectfully,



James Doyle

SFMTA Hearings



**CUSTOMER DETAIL**

Name [REDACTED]

Phone [REDACTED]

Email [REDACTED]

Address [REDACTED]

**INCIDENT DETAIL**

Category UNSAFE OPERATION

Type 107 FALL WITH INJURY

ADA? X

Title VI?

Other Disc.

Trapeze Line/Route 9 SAN BRUNO

Direction OUTBOUND

Incident Date 02-07-2017

Incident Time 09:50

Vehicle Number 8816

Location 16TH AND POTRERO /

Department WDS OPS

Division WOODS

Employee ID [REDACTED]

Employee Physical Description [REDACTED]

**Incident Details** muni patron states, "I asked the driver to lower the lift because im disabled so she does it and I got on and the bus was crowded and she started to go I said hold on im not even in my seat yet and she said well hurry up and sit down [REDACTED] took off and i didnt fall but I almost fell and twisted myself and lurched forward and almost fell on a woman and baby. Im clearly disabled and she acted in an unprofessional manner. I didnt fall but it got injured and hurt and went to SFGH."

**AGENCY HANDLING AND RESOLUTION DETAILS**

Date Logged 02-07-2017

Date Closed 06-29-2017

Resolution Code [REDACTED]



original

# Neutral Hearing: [REDACTED]

## Regarding Claimed Disability-Related Rule Violation

PSR # 517285

Hearing Date: 5/9/2017

### Parties:

Patron: [REDACTED]

Operator: [REDACTED]

Union Representative: **Seigfried Henderson**

Incident Date: **February 7, 2017**

**Incident Time:** Cir. 9:50 a

**Route:** 9 San Bruno

### Participants

[REDACTED] attended in person along with [REDACTED] (the operator) and Union Rep. Henderson. [REDACTED] was not happy to have had to return for a second time to complain about this incident: inasmuch as the first hearing scheduled for March 14th had to be rescheduled after a determination was made that the DVD did not include a record of the incident at issue here, and because the operator had not been afforded an opportunity to appear at the first hearing on March 14<sup>th</sup> because of some miscommunication that seems to have occurred in the Woods Division.

### 311 Complaint

[REDACTED] indicated in his complaint that he had asked the operator to lower the coach's kneeler—which she did before he entered. The coach was crowded at the time and according to the complaint, the operator started to leave the stop before he had found a seat. [REDACTED] voiced that he had not reached a seat, and the operator responded for him to "Hurry up." [REDACTED] further noted that as the coach started off he nearly fell onto a woman passenger with a baby in her lap, causing some twisting injuries to [REDACTED] torso. He stated that the operator's conduct was unprofessional, and that his injuries apparently required him to go to SF General for treatment.

## Burden of Proof

The Patron has the burden of proving, by a preponderance of the evidence, that the Operator committed a disability-related MUNI Rule violation.

## Rules

**MUNI Railway General Notice:** "Provide ample time for passengers to board and de-board your coach. Seniors and people with disabilities may require extra time and accommodations." [General Notice 2017-022] This Notice requires that operators remember to:

- Do not move your coach until passengers are seated or have a firm hold on a stanchion or handrail

## Patron's Testimony

██████████ stated at the hearing that in general he felt disrespected by the apparently angry attitude of ██████████ at the time of this incident. He clearly recognized her at the hearing, although ██████████ did not recognize him, nor did she specifically recall the incident he was complaining about.

██████████ is an obviously disabled ██████████ having a lower right leg prosthesis which he keeps visible under rolled up trousers. In doing so he apparently finds that folks will recognize that he needs an additional measure of consideration amid the jostling that often accompanies modern urban life here. In addition to a visible prosthesis, ██████████ carries a large cane which is almost fully wrapped in red, white and blue tape that twists diagonally around the cane, making it quite noticeable.

██████████ indicated at the hearing that while as a result of the lurching of the coach he experienced right shoulder and right knee pain, ██████████ did not go to an ER or eventually have treatment for any of the effects of his near fall, although his complaint indicates that he went to SF General following this incident. At the time of this incident, ██████████ had already intended to go to SF General at the time because he had an appointment for a different health issue, and did not receive any medical or other treatment for the effects of this 9 San Bruno coach incident.

Following this incident, [REDACTED] reaction was to immediately contact 311, and [REDACTED] expressed at the hearing that he could not understand why MUNI was unable to produce the correct DVD video record of this incident because he had reported it so quickly. While [REDACTED] relies upon MUNI for much of his transportation and generally approves of MUNI's transportation system, [REDACTED] indicated that in his view the system for adjudicating complaints at MUNI could be much improved. [REDACTED] also indicated that [REDACTED] was not just complaining about [REDACTED] conduct at the time of this February incident, but was also concerned that there are incidents like this throughout his transit experiences in San Francisco. In general, [REDACTED] seemed to be as concerned about the prospect of incidents like this one occurring in the course of [REDACTED] future transit trips as he was about the fact of this past incident.

### **DVD Evidence**

The DVD record provided with [REDACTED] hearing packet for the March 14<sup>th</sup> hearing failed to contain the segment of the video record for the incident which is the subject of this accessibility hearing. By the time it was discovered that the DVD record was not the correct one, it was too late to obtain the correct video record because of the regular overwriting that occurs with MUNI's video capture system. Accordingly, there was no DVD record available for this incident at the time of the May 9, 2017 rehearing.

### **Hearing Officer Analysis**

Relying primarily upon the testimony of [REDACTED] which I find to be very credible, there is evidence of a disability-related MUNI Rule violation in terms of what seems to have come from the unexpected forward movement of the 9 San Bruno coach before [REDACTED] was able to find a seat or a secure a safer standing position on board. [REDACTED] has a clearly visible disability which causes him to move considerably more slowly and cautiously out of a reasonable concern for his personal safety. [REDACTED] has mentioned that he is one fall away from sustaining a much more disabling condition.

### **Finding**

I find that by a preponderance of the evidence, [REDACTED] has established that the operator violated a disability-related MUNI Rule violation (based upon General Notice 2017-022) in terms of causing [REDACTED] coach to lurch or otherwise leave the stop where [REDACTED] boarded before he had sufficient time to find a seat or before [REDACTED] had secured a safer position onboard.

### **Other Non-Disability Rule Violations**

Non-disability rule violations are not under the jurisdiction of this hearing. However, the hearing officer sees some evidence of at least one other rule violation that should be considered by the Division Superintendent who oversees this operator:

Muni Conduct Rule 2.8.1: Polite, respectful behavior is required of all employees in their dealings with the public, their subordinates and each other.

Here, the operator seems to have been short with this Patron. While [REDACTED] did not recall the incident, [REDACTED] did not deny that it could have occurred at the time with this particular Patron. Under the Rules, it remains incumbent upon all operators to refrain from responding to patrons in ways that may be construed as disrespectful.

Dated this 22<sup>d</sup> day of May, 2017

Respectfully,



James Doyle

SFMTA Hearings

<b>CUSTOMER DETAIL</b>		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
<b>INCIDENT DETAIL</b>		
Category INATTENTIVENESS/NEGLIGENCE	Type 201 PASSUP/DIDNT W8	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 29 SUNSET	Direction OUTBOUND	
Incident Date 02-25-2017	Incident Time 22:39	
Vehicle Number 8624	Location OCEAN AVE LEE AVE SAN FRANK	
Department WDS OPS	Division WOODS	
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p><b>Incident Details</b> Patron said "I was waiting for the 29 outbound at Ocean and Lee, and the bus passed me by. I was clearing at the stop, but the bus went to the island where there K train runs. That is not where the bus is supposed to stop. I waived at the driver, and he just waived back at me and did not stop. I am a disabled person, and I would a ADA hearing, and I want a video pull. In the video, I am wearing a blue jacket, red sweatpants, white tennis shoes and a gray beanie hat. I would like a copy of the video pull, and a digital recording of the ADA hearing."</p>		
<b>AGENCY HANDLING AND RESOLUTION DETAILS</b>		
Date Logged 02-25-2017		
Date Closed 03-24-2017		
Resolution Code [REDACTED]		

# Neutral Hearing: [REDACTED]

## Regarding Claimed Disability-Related Rule Violation

PSR # 518502

Orig. Hearing Date: 4/11/2017

Parties: [REDACTED] ("Patron")

Operator: [REDACTED]

Incident Date: February 25, 2017

Incident Time: Cir. 10:40p

Route: 29 Sunset

### Participants

The Patron attended by phone; neither the operator nor the Union Rep. appeared, either by phone or in person.

### 311 Complaint

The Patron made a complaint to 311 about an incident which allegedly occurred on February 25, 2017. In the complaint, the Patron stated that he was waiting for the outbound 29 Sunset MUNI coach at the designated stop at the intersection of Ocean and Lee, and was passed by instead of being allowed to board the MUNI coach at that location. He indicated that instead of stopping at the regular stop, the coach went beyond the stop to the island where the K train stops. The Patron also indicated that the MUNI operator waved at him as he drove by.

### Burden of Proof

For purposes of this hearing, the Patron has the burden of proving, by a preponderance of the evidence, that the Operator committed a disability-related MUNI Rule violation.

### Rules

The San Francisco Municipal Railway Rules are relied upon here to determine whether a Patron's complaint has established a disability-related MUNI Rules violation.

Under Rule 4.15.5: When a disabled person is observed in any position of a multiple coach zone, all operators are to [REDACTED] doors, and announce the line and destination of the vehicle. No pass up of a disabled person is permitted.

### **Patron's Testimony**

The Patron indicated in his telephone account that he has an ongoing physical disability. He stated that at the time of this incident he was at a bus stop on Ocean Ave. at Lee St. awaiting the 29 Sunset coach which he had wanted to board on that particular evening. He indicated that he was alone at the stop and raised his arm as the #29 coach approached that intersection. The driver did not stop, and the Patron believes that that conduct was a clear denial of service on the part of MUNI, and was a disability-related Rules violation whether or not the operator knew of the Patron's disability.

### **DVD Evidence**

From a review of the episode from the DVD record of this coach for the evening of the 25<sup>th</sup>, it is apparent that the Patron was passed up by the 29 Sunset coach at the time. It is clear that the Patron (in the specifically colored clothes that he had described he was wearing at the time—blue jacket, red sweatpants, white tennis shoes), has his right arm raised high as the coach passes by him at the Ocean and Lee stop. The Patron was standing out near the curb and in a position where he could be easily observed by the MUNI operator. The speed of the bus does not appear to slow at that location, and it is not apparent that the operator even noticed the Patron at the corner; the operator does not appear to turn his head in the Patron's direction just before the bus passes by, and does not appear to wave at the Patron as he passes.

### **Hearing Officer Analysis**

Given the circumstances as they have been described by the patron and as they are presented in evidence of the DVD record, it would appear as though the operator simply failed to notice this Patron at the time on that particular Saturday evening. Because this particular patron did not appear to be disabled, passing him up at that time cannot constitute a violation of Rule 4.15.5.

In terms of whether there is a basis for finding that there is a violation of a disability-related MUNI Rule, the analysis must involve what observations a transit operator would reasonably be able to make about a given potential passenger waiting to board a coach or other transit vehicle. Where the potential passenger has no

evidence of disability, or paraphernalia that reasonably reflects a disability (e.g. a cane, crutches, walker, wheelchair, etc.), or any observable handicap (such as splinted limbs or bandages, or a limping gait as he or she approaches the stop, etc.), a finding of an intentional denial of service of one who is disabled is not appropriate.

### **Finding**

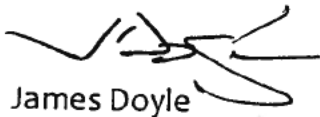
Based upon a preponderance of the evidence here, and because there was no observable evidence of disability for the Patron, there is no disability-related violation of MUNI Rules as it pertains to this Patron.

### **Other Rule Violations**

Other non-disability-related Rule violations are not under the jurisdiction of this hearing process. However, if other non-disability-rule violations are identified by the hearing officer in conjunction with a patron's complaint, such violations should be communicated to the operator's superintendent for consideration. In this case, the operator's failure to observe the Patron at the Ocean Ave. and Lee Ave. stop amounts to a violation of MUNI Rule 4.16.1, which mandates that passengers intending to board should be allowed to do so at designated stops.

Dated this 20th day of April, 2017

Respectfully,



James Doyle

SFMTA Hearings





**CUSTOMER DETAIL**

Name [REDACTED]	
Phone [REDACTED]	Email [REDACTED]
Address	

**INCIDENT DETAIL**

Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT	Type 302 ALTERC: EMP/CUST	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 9 SAN BRUNO	Direction OUTBOUND	
Incident Date 02-13-2017	Incident Time 09:50	
Vehicle Number 8443	Location 6TH AND MARKET /	
Department WDS OPS	Division WOODS	
Employee ID [REDACTED]		

**Employee Physical Description**

[REDACTED]

**Incident Details** Per Muni patron. I use a wheelchair and I was at 6th and Market heading towards San Bruno. Thats a stop that has no wheelchair access because they cannot safely put the ramp down. I was on my feet; I can get around with limited mobility. I can stand and walk a half block, but after that Im done. My husband had my wheelchair folded and was walking behind me. We both walked up to the bus. The driver refused to open the door till my husband stood in front of the bus. It was bus 8443. The driver id [REDACTED]. The driver opened the door and said, You cannot board the bus here. I told him I dont need the ramp. I boarded and then my husband did. He said you cant get on here again. I asked why? He said because he said we cant load the ramp there. I said I can lift my wheelchair... If i can board safely I should be able to get on. People with boxes and carts board all the time. They can board no problem without the ramp. But I cant do the same thing? Just because Im disabled? That discrimination. He was African American, thinning hair close to his head, 35 yrs old, no glasses. Limited facial hair, maybe a beard and or a mustache. I have problems with this driver every single time at this bus stop. I was 25 cents short on the fare; I only had a dollar on me. I dont want that to come up later. Before all that happened he was already trying to throw me off the bus. Usually Muni drivers will let us slide and not give us a transfer. We didnt want to deboard without a transfer, if he was going to kick us off. There was no reason to kick us off the bus. My husband was trying to ask him a question. He said you need to sit down. He said I can stand on the bus, behind the yellow line. He started screaming at us to get off. Normally we would wait for a police report but we had somewhere to go. And he was trying to take the bus out of service. I said we will deboard the bus but I want your badge number and he refused to give it to me. I was trying to look at sleeve and he turned his arm away. If he thinks he didnt do anything wrong, why did he turn away? Im like Im not leaving till I get the badge number. I tried to reach towards him, not touch him...he threatened me and my husband. If we dont get off the bus right away, he is taking off his jacket and going to settle my husband. That was uncalled for especially as we were trying to get his badge number. We got off the bus ... he put out of service at Civic Center. It was ok for me to deboard without the ramp but not board without the ramp. I want a hearing but the receptionist the last time didnt know where the hearing was. She sent me to 3 different rooms. The security guards downstairs didnt know either. Please put the room number in the letter you sent me so I know where to go to.

**AGENCY HANDLING AND RESOLUTION DETAILS**

Date Logged 03-28-2017
Date Closed 05-31-2017
Resolution Code [REDACTED]

# Neutral Hearing: [REDACTED]

Regarding Claimed Disability-Related Rule Violation

PSR # 520715      Hearing Date: 4/17/17

## Parties:

Patron: [REDACTED]

Operator: [REDACTED]

Union Representative: Seigfried Henderson

Witness: [REDACTED]

Incident Date: February 13, 2017

Incident Time: Cir. 10:50 a

Route: 9 San Bruno

## Participants

[REDACTED] appeared in person. Neither the Operator nor the Union Representative appeared at the hearing, although Notice of the Hearing was provided to the Operator's Superintendent. [REDACTED]

## 311 Complaint

The Patron, who usually uses a wheelchair, wanted to access the 9 San Bruno coach at the 6<sup>th</sup> and Market Street stop. The Patron is aware that there is no wheelchair access at that location because the ramp cannot be safely put down. The Patron can get around with limited mobility for short periods of time and was on her feet at the time of the incident. [REDACTED] had the wheelchair folded and was walking behind her. As [REDACTED] attempted to board, the Operator initially refused to allow the two of them to enter at the front door of the coach (the door remained closed). [REDACTED] stood in front of the coach holding [REDACTED] folded up wheelchair swearing and yelling at the Operator. Only then did the Operator open the door. The Operator told them that they could not board the bus at that location because the stop would not accommodate the wheelchair ramp. The Patrons indicated to the Operator that they did not need the ramp because [REDACTED] was

carrying the folded up wheelchair. The Patron stated that she has problems with this driver every single time at this bus stop.

The Patrons were 25 cents short on the fare and stated that usually Muni operators let them "slide" and not give them a transfer. The Patrons indicated that the Operator started screaming at them to get off. At that point the Operator indicated that he intended to take the coach out of service. The Patron tried to get the Operator's badge number and he refused so she reached toward him, not to touch him, and he threatened the Patron and her husband. He told them if they don't get off the bus right away he was going to "settle" with [REDACTED]. They left the bus when the Operator took it out of service at the Civic Center.

### Burden of Proof

The Patron has the burden of proving, by a preponderance of the evidence, that the Operator committed a disability-related MUNI Rule violation.

### San Francisco Municipal Railway Rules

#### 4.20 Federal Law Requires Compliance with the Americans with Disabilities Act

### Patron's Testimony

The Patron and [REDACTED] indicated that they believed that they were discriminated against by the conduct of the 9 San Bruno coach Operator at the time. They believed the Operator did not want to have them board the coach because he would not open the coach's front door. He told them that they could not board at the 6<sup>th</sup> and Market stop because it would not accommodate a wheelchair. However, [REDACTED] was carrying the wheelchair and told the Operator they did not require the use of the ramp. The argument that ensued concerned the attitude of the Operator towards them, initially focusing on their use of the front door. However, the Operator also wanted them to pay the full fare after they told him that they had only one dollar to contribute to the fare. He had insisted that they pay an additional 25 cents for the fare. The Patrons noted that usually they are allowed to pay something less than a full fare by some Operators, and they resented this Operator insisting that they come up with the additional fare amount.

The Patrons continued to argue with the Operator, but then he wanted them to leave the coach. However, they were reluctant to do so without a transfer slip. They explained that they needed to continue on to SF General where they were scheduled

to have their meds administered by staff there, and they did not want to be late for their appointment. Both of the Patrons are required to go to the General on a daily basis to obtain restricted medications that they must take under supervision. They denied being out of meds at the time and indicated that they could have some medical issues due to lack of medications only after approximately 36 hours, and that at the time of this trip, it had only been approximately 24 hours since their last dose. They denied having been drinking or under the influence of any other mind-altering substance at the time of this incident. They also stated that they would have waited for the police to show up in response to their complaint (which has happened in the past), but because of their appointment, they could not wait.

### DVD Evidence

The DVD record shows that there was a delay of about 15 seconds from the time that the Patron and her husband approached the bus before the Operator opened the door. When the door was not immediately opened, [REDACTED] stood directly in front of the coach and started yelling and swearing at the Operator who then opened the door. Once the door opened, [REDACTED] said "What's the problem?" The Operator explained to them that that stop is not a wheelchair stop. [REDACTED] loudly stated that they didn't need the ramp because he was carrying [REDACTED] folded up wheelchair. By this time, the Patron and her husband had become quite agitated at the Operator. They walked back to the row of seats behind the Operator without paying the fare. The Operator reminded them of the farebox and [REDACTED] went forward and paid \$1.<sup>1</sup> The Operator asked for the remaining 25 cents for the fare, and [REDACTED] asked his wife for the money, but she did not comply, and the additional fare is not paid. Despite the fact that the fare is not fully paid, the Operator continues on his route.

The Patron and [REDACTED] continue to argue with the Operator. [REDACTED] moves to the front of the coach beyond the yellow line and waves his hand at the Operator and is argumentative and swearing. The Operator asked him to stand behind the yellow floor line—which [REDACTED] does. The Operator is driving the bus and trying not to argue with [REDACTED], however, [REDACTED] rather excitedly, continues that he is not arguing, and that he just has a question [i.e. about boarding a bus with a wheelchair].

<sup>1</sup> It appears that [REDACTED] was paying the fare for his disabled wife (\$1.25). There is no indication that he paid his own fare.

The Patron and her husband appear to be extremely upset throughout this interaction, with [REDACTED] loudly calling out from her seat behind the Operator that he is discriminating against them, and that she is going to file for discrimination against both the Operator and MUNI. She seems to ask for her husband to call the police, and then yells out that no one else should be allowed onto the coach. Their conduct is not warranted by anything that the Operator may have done in their presence.

Their yelling and threats seem to compel the Operator to abruptly announce that the coach is going out of service. At that point [REDACTED] shouts "Please, please" apparently not wanting to be ousted from the coach. [REDACTED] indicates that if the Operator gives them a transfer, they will agree to get off the bus. The coach pulls out of traffic at the Civic Center stop and [REDACTED] prepare to leave the coach, but without a transfer. As they do so, [REDACTED] walks up and confronts the Operator, loudly demanding to know the Operator's badge number and reaches her arm out towards him. The Operator insistently repeats that the Patrons must "Get off the bus!" As the door closes, [REDACTED] kicks the front door glass and breaks one of the small glass panels near the bottom of the door. One of the other patrons, who has witnessed this exchange, says something about these Patrons being on speed.

### Hearing Officer Analysis

The Operator did not immediately open the door because he believed the Patron and [REDACTED] wanted to use the ramp.<sup>2</sup> However, the delay in opening the door was 15 seconds or less, and he allowed them to board. Additionally, the Operator continued on his route and allowed them to ride despite the fact that the Patron and [REDACTED] did not pay the full fare.

The Patron and [REDACTED] created a safety hazard because they were unreasonably agitated and disruptive. This behavior interfered with the Operator's ability to drive safely. It is apparent that the Operator needed to control the situation by taking the coach out of service.

<sup>2</sup> It is also possible that the Operator had prior problems with the Patron and [REDACTED] and was reluctant to open the door.

## Finding

There is insufficient evidence to establish that the Operator discriminated against the Patron or violated a disability-related Muni Rule.

Dated this 23<sup>th</sup> day of May, 2017

Respectfully,

  
James Doyle

SFMTA Hearings

<b>CUSTOMER DETAIL</b>		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
<b>INCIDENT DETAIL</b>		
Category INATTENTIVENESS/NEGLIGENCE		Type 213 GEN DSTRACT DUTY
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 8 BAYSHORE		Direction OUTBOUND
Incident Date 04-06-2017		Incident Time 09:45
Vehicle Number 6617		Location POWELL/NORTH POINT
Department FLN OPS		Division FLYNN
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p><b>Incident Details</b> First, the driver allowed ambulatory passengers to board the bus BEFORE a student in a wheelchair, immediately disregarding protocol. [REDACTED] eventually lowered the ramp for the student in question, at which point the students aide and a second staff member informed the bus driver that they were supporting a student in a wheelchair. The students aide then told him and the student that she would meet him on the bus. The bus driver then refused to open the back doors for the students aide and the rest of the school group. All members of the school group banged loudly on the back door; when the driver didnt respond, the students aide walked to the front door and banged loudly again. The driver made eye contact with the aide, but refused to acknowledge her request and drove away. The student, who has great difficulty communicating his needs to strangers, was left UNACCOMPANIED on a public bus for 45 minutes, before the bus driver was radioed to stop and wait for another staff member at 5th and Mission.</p> <p>This is unacceptable behavior on the part of the driver in several ways. [REDACTED] was oblivious to my students needs, ignoring the fact that he was a disabled passenger. He did not listen to the comments made by my staff member, even though he acknowledged that she was speaking to him. Lastly, he blatantly ignored repeated requests to open ANY doors for my staff. My student requires 1:1 services at all times; this means he is NOT to go out into the community unaccompanied. The drivers actions put my students safety and well-being in jeopardy. It also shows a total lack of compassion and understanding on the part of the driver, who, as a service provider, should be made aware of the diversity of needs of his passengers.</p>		
<b>AGENCY HANDLING AND RESOLUTION DETAILS</b>		
Date Logged 04-07-2017		
Date Closed 06-12-2017		
Resolution Code [REDACTED]		

# Neutral Hearing: [REDACTED]

## Regarding Claimed Disability-Related Rule Violation

PSR # 521414

Hearing Date: 4/24/2017

**Incident Date:** April 6, 2017

**Incident Time:** Cir. 9:45a

**Route:** 8-Bayshore

### Parties:

Patron: [REDACTED]

Operator: [REDACTED]

Union Representative: Vertrina Davis

### Participants at the Hearing

- [REDACTED]: disabled Patron represented by [REDACTED] and [REDACTED]
- [REDACTED] and [REDACTED] Witnesses (student aides) who were present at the time of the incident and who appeared at the hearing on behalf of [REDACTED]
- The Operator
- The Union Representative

### 311 Complaint

A complaint was made on April 7, 2017 about an alleged incident that occurred on April 6, 2017. The complaint was made by [REDACTED] on behalf of the Patron, [REDACTED] who is unable to speak and uses an electric wheelchair. [REDACTED] was not present at the time of the alleged incident. The basis of the complaint is: (1) The Operator allowed ambulatory passengers to board [the front door] prior to boarding the Patron, and (2) the Operator refused to open the back doors for the Patron's aides and another disabled student. The complaint states that the aides



told the bus driver they were supporting a student in a wheelchair and that they (the aides) would meet the student [REDACTED] on the bus. According to the complaint, members of the school banged loudly on the back door and when the driver didn't respond, an aide walked to the front door and banged loudly again. The complainant stated that the driver made eye contact with the aide but refused to acknowledge her request and drove away.

### **Patron's Testimony**

Testimony at the hearing was primarily provided by [REDACTED] and [REDACTED] neither of whom were present at the time of the alleged incident. Their testimony was supplemented by [REDACTED] and [REDACTED] who are aides and who were present at the time of the alleged incident.

From their vantage point outside and to the middle of the coach, [REDACTED] and [REDACTED] saw the operator get up and assist [REDACTED] to the secure wheelchair area of the coach. By that time, the middle coach door had closed and it could not be opened by any lever or signaling device on the outside of the coach. The aides stated that they knocked loudly on the rear door and pushed an outer door button, but nothing seemed to alert the Operator that they were waiting to enter at that time.

The Operator then drove off, causing one of [REDACTED] party to run down Powell St. for a block or so in an attempt to catch up to the coach. Everyone in the party was concerned that [REDACTED] was being taken away, unaccompanied by anyone who could assist him. It was noted by those testifying that [REDACTED] requires one-to-one services at all times and must not be left alone. Because the party had been separated at the stop, [REDACTED] was left without attendants for approximately 45 minutes—which was the time it took for one of the attendants to contact MUNI and for the operator to be contacted by OCC to be informed of the situation. The incident was complicated by the fact that [REDACTED] is apparently unable to speak, and was not in a position to advise the Operator that his attendants had wanted to accompany him on the coach trip.

### **Operator's Testimony**

The Operator testified that he was totally unaware that [REDACTED] was accompanied by several attendants, and apparently did not realize that [REDACTED] was unable to inform him that he needed to have his attendants accompany him in the coach. When the Operator had finished making sure that [REDACTED] was securely situated in the wheelchair section of the coach, he pulled the coach away from the bus stop without realizing that there were other potential passengers that

wanted to board. He indicated that he did not hear any knocking or pounding on the door, and noted that the button at the outside of the door does not have a function of alerting the operator of a potential waiting passenger; its function is only to keep the door from closing.

The Operator indicated that he did not have any direct communication with [REDACTED] aides, and was not informed by any of the party that they had intended to board with [REDACTED]. He indicated that he knew that other MUNI Lines would be stopping at that location and that folks standing along a stop can often be waiting for another Line to arrive. He apparently assumed that the three individuals standing near the rear door of the coach were waiting for another coach. The operator stated that nothing like this had ever occurred to him in the past, that he has a good record for the five years that he has been driving MUNI coaches, and that he was extremely sorry for contributing to this incident which separated [REDACTED] from the people who were with him at the time.

### **DVD Evidence**

The video footage from the bus cameras shows the bus pulling up to the zone and beyond the shelter. The Patron is inside the bus shelter and appears to be traveling alone.<sup>1</sup> (See Exh. 1, photograph from the video footage).

While the Patron is inside the bus shelter, the two aides and other disabled person are seen standing outside of, to the rear of and away from the shelter on the sidewalk (towards the front of the bus). They do not appear to be accompanying the Patron (See Exh. 2)

The DVD depicts two passengers quickly boarding the front door of the coach before the wheelchair access ramp was engaged and before the Patron was able to enter. The Patron had to travel in his wheelchair around the back of the bus shelter to access the bus and was behind the two passengers who boarded before the ramp was deployed. After the Operator deployed the ramp, he proceeded to the rear of the bus to fold up a row of seats so that the wheelchair could be properly secured or situated. The Patron is seen maneuvering the power chair by himself up the ramp before moving into the wheelchair section.

No one follows the Patron through the front coach door.

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<sup>1</sup>The other woman in the shelter at this time had her back to [REDACTED] and was not standing next to him. She was not his aide or companion.

The middle and rear doors open after the bus stops. A passenger enters through the middle door and another passenger enters through the rear door. The middle and rear doors close after the passengers enter. At this point, the aides and other disabled student are still on the sidewalk towards the front of the bus.

As [REDACTED] is boarding the front door, one aide and the disabled student walk to the middle door. It appears that the aide is pushing a button in an attempt to open the door.

After [REDACTED] is situated, the Operator returns to his driver's chair, he brings the ramp back into the bus and prepares to leave the stop. The two aides and other disabled student are on the sidewalk by the closed middle door. There is no knocking until the bus starts to leave. As the coach departs [REDACTED] runs after it for a short distance but is unable to catch up before the coach is too far away down Powell St. The video ends before the operator is informed of the fact that the Patron's party was left at that particular stop.

### **Hearing Officer Analysis**

Rule: General Notice 2017-017 requires that an operator board a passenger using a wheelchair before anyone else.

In this instance, [REDACTED] had to maneuver around the back of the bus shelter to access the front of the bus. This is because the front of the shelter (on the right as one faces out from the shelter) is close to the curb and there is no room for a wheelchair. (See Exh. 3). Thus, [REDACTED] may not have been immediately visible to the Operator as intending to board. Two passengers had already approached the door by the time [REDACTED] was visible and quickly got on the bus. At that point, the Operator deployed the ramp and accommodated [REDACTED]. He was not denied access.

Rule: The Americans with Disabilities Act requires that public transportation agencies accommodate disabled patrons. Accommodation would include ensuring that a disabled patron's aides ride with him or her.

In this instance, the Operator reasonably believed that the [REDACTED] was unaccompanied when riding Muni. He was apart from his aides, inside the bus shelter, while the aides stood outside of and away from the shelter. Furthermore, [REDACTED] boarded the bus without any assistance from the aides and the aides did not either precede or follow him onto the bus. The DVD does not show any direct communication between the aides and the Operator.

The DVD record confirms that the coach's middle and rear doors were closed by the time [REDACTED] was rolling up the front door ramp. Given the closed middle door, it is not clear why his aides did not come up to the front door to follow him on board. The aides' delay in entering, either when the middle door was still open or through the front door of the coach, supports the Operator's apparent assumption that the three individuals waiting alongside the coach on the sidewalk (possibly for another bus line) had not intended to enter.

[REDACTED] was not able to advise the operator of his situation, although he certainly does not immediately appear to be unable to communicate. His demeanor at the hearing was certainly that of someone aware of his surroundings and presumably able to communicate. That demeanor, if similar at the time on the 6<sup>th</sup>, perhaps was another reason for the operator to assume that [REDACTED] was traveling independently; he had certainly easily navigated the front ramp without anyone's help, and it appears by the video record to have been fairly self-sufficient at the time.

### **Conclusion**

Given the foregoing, the Operator did not commit a disability-related MUNI Rules violation. The disabled Patron was accommodated by the Operator and was not denied service.

There is no merit to the Patron's contention that the Operator purposefully left the aides behind in the zone. To the contrary, the Operator followed procedure by raising the seats to accommodate the Patron.

### **Other Potential Rule Violations**

Other non-disability-related Rule violations are not under the jurisdiction of this hearing process. However, if other non-disability-rule violations are identified here by the hearing officer in conjunction with a patron's complaint, such violations will be communicated to the operator's superintendent for consideration.

General Notice 2016-062 provides authority for all-door boarding. In this instance, the middle and rear doors were closed immediately after passengers entered. The Operator should have left them open while [REDACTED] was boarding.

Dated this 19<sup>th</sup> day of May, 2017

Respectfully,

  
James Doyle

SFMTA Hearings

<b>CUSTOMER DETAIL</b>		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address		
<b>INCIDENT DETAIL</b>		
Category UNSAFE OPERATION	Type 107 FALL WITH INJURY	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 21 HAYES	Direction INBOUND	
Incident Date 05-01-2017	Incident Time 05:46	
Vehicle Number 5629	Location HAYES ST SHRADER ST SAN FR/	
Department PRE OPS	Division PRESIDIO	
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p><b>Incident Details</b> Patron stated: "The bus driver shows up late everyday and I have pictures with the time stamped on my phone that he showed up late everyday and other passengers have complaint about this same bus driver being late everytime. The fact that the bus is 10 to 15 minutes every day and its very cold having to wait it is very unprofessional and dangerous. Not only does he shows up late everyday, he would speed up to try to make up for the time speeding going past 10 to 15 miles above the speed limit putting my life in danger. I hit my head this morning inside the bus because he was speeding so fast. I would be going to the doctor today and I have an urgent care appointment with the doctor at 2:00 p.m. today. The bus driver is rude, he doesnt say anything everytime when we say thank you or goodbye. Previous bus drivers had always been outstanding and I dont understand what is wrong with this bus driver. I feel sorry for him that it is obvious that he hates his job. He runs past one stop sign this morning and he did not make complete stop at every other stop signs. This happens daily Monday through Friday. I have requested to be be called back on numerous occasions prior but no one ever called me back. The number on file at 311 was not correct so the agent corrected for me this morning. I am requesting to be called immediately or I will pursue legally."</p>		
<b>AGENCY HANDLING AND RESOLUTION DETAILS</b>		
Date Logged 05-01-2017		
Date Closed 11-09-2017		
Resolution Code [REDACTED]		

PSR #	522817
Hearing Date:	May 15, 2017 (via phone)
Hearing Officer:	J. Doyle
Patron(s):	[REDACTED]
Operator:	[REDACTED]
Incident Date:	May 1, 2017

### 311 Complaint (Brief Summary)

The operator of the 21-Hayes gets to the Hayes and Shrader stop late every weekday morning, which causes the patron to be late to work at 6:00a. In apparently attempting to make up time on the trip into the city, the operator drives too fast, stops at intersections too abruptly and causes the patron to be jostled around on her seat for the remainder of the trip. On the 15<sup>th</sup> on this coach, the patron hit her head on a stanchion because of the operator's reckless driving. The operator also tends to be rude to the patron who no longer will take the 21-Hayes at her regular time of 5:30a.

**Burden of Proof:** The Patron has the burden of proving, by a preponderance of the evidence, that the Operator committed a disability-related MUNI Rule violation.

### Applicable Rules and Regulations

**Railway Rule 2.2.10:** Operators must operate vehicles and equipment according to Rules, Bulletins, Standard Operating Procedures, and other authorized instructions.

**Railway Rule 2.8.1:** Polite, respectful behavior is required of all employees in their dealings with the public, their subordinates and each other.

**Railway Rule 2.21.1:** Operator shall never operate a MUNI vehicle at a speed that is greater than that which is reasonable or prudent, and in no event at a speed that would endanger the safety of persons or property.

**Railway Rule 2.21:** Employees must be careful to avoid any act or situation that could cause injury to themselves or others.

### Patron's Testimony (Brief Summary)

The Patron started having trouble with the 5:30a stop of the 21-Hayes in February, because the operator was consistently 7 to 9 minutes late. Other riders on that route have also complained. It is often cold and dark at 5:30 and the Patron has a leukemia condition which can be affected by cold weather, potentially leading to pneumonia. She bumped her head on a nearby stanchion due to the reckless driving on the 15<sup>th</sup>, but other than a brief headache, the injury was apparently not serious. She would like the operator to be transferred to another route or time so that she could resume taking the 5:30a 21- Hayes with an operator who would adhere to the stop schedule.

### Operator's Testimony (Brief Summary)

Operator was not made available for this telephone hearing, and there has been no subsequent request by the operator or the Union to provide evidence related to this incident.

### DVD Evidence

The video record of this incident does not reflect any specific incident that could verify or explain the Patron's account of hitting her head on a stanchion of the coach on the morning of the 15<sup>th</sup>. There is no apparent evidence of rude behavior on the part of the operator towards the Patron, at least on this occasion, and it is difficult with this short video record to determine any sort of reckless driving pattern on the part of the operator.

### Hearing Officer Analysis


If GPS or other time-check records can determine whether the Ms 21-Hayes operator is consistently late at the Hayes/Shrader stop, some effort needs to be made to have the operator consistently reach that stop on time, instead of making passengers wait for 7 to 9 minutes. In terms of the other representations of this Patron, I suspect that she has valid complaints about the operator's driving behavior, although it is difficult to verify that behavior by means of the video record. Inasmuch as this Patron apparently presents no obvious indicia of physical disability, there is no basis for a claim for a disability-based MUNI Rules violation here.

### Access-Related Muni Rule Violations


None

### Other Rule Violations<sup>1</sup>

Whether this operator on this 21-Hayes route tends to run late or tends to speed, it not something that can be determined by the record here. If MUNI records can achieve any confirmation of either situation, that would establish certain Rule violations about safe driving, and in such a case the operator should be advised to correct coach speeds or late arrivals at stops. Such determinations are beyond the purview of this hearing.

  
\_\_\_\_\_

Hearing Officer

  
\_\_\_\_\_

Date

<sup>1</sup> Muni Rule violations that do not impact a patron's access to Muni service are not under the jurisdiction of this hearing process. However, if such rule violations are identified by the hearing officer, they will be communicated to the operator's superintendent for consideration.



**CUSTOMER DETAIL**

Name [REDACTED]	
Phone [REDACTED]	Email [REDACTED]
Address	

**INCIDENT DETAIL**

Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT	Type 303 FARE/TFR DISPUTE	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 9 SAN BRUNO	Direction INBOUND	
Incident Date 04-25-2017	Incident Time 14:20	
Vehicle Number 8891	Location POTRERO AVE 16TH ST SAN FRA	
Department WDS OPS	Division WOODS	
Employee ID [REDACTED]		

**Employee Physical Description** [REDACTED]

**Incident Details** Patron states: I presented my medicare card as proof of being disabled. Operator said, " whats that"? I said, " thats my disability id", she said "no it isnt". I said, "every bus I travel in SF and in Concord have accepted this card for 20 years. Were you not trained on that"? She responded - after denying it - she said, " yes I was. If you want to ride the bus for free go ahead", while saying it in a demeaning way and embarrassing me ifo other patrons. Now she just kicked me off the bus while she is picking up new customers. So I am left on the corner disabled with no way to get home. She told another patron to tell me I had to get off the bus and she left me at 11th and Market when I needed to get to Bart at Civic Center. This is a serious ADA violation and I want this documented and I will be reporting this to the federal level of ADA rights"

**AGENCY HANDLING AND RESOLUTION DETAILS**

Date Logged 04-25-2017
Date Closed 08-03-2017
Resolution Code [REDACTED]

Patron's disability complaint concerned two episodes, one on his entering the bus, the other on exiting.

## 1. ENTERING

Patron complained that on entry Operator challenged his Medicare card as proof of disability. Operator was incorrect to do so given that Patron stated: "that's my disability card," sufficient to establish him as disabled.

However, the video of this incident shows that Operator dropped her inquiry, quickly passed Patron through, and did not request a fare from him. Operator testified that she just wanted him to find a seat so he would not linger beside her and distract her.

Patron complained that Operator passed him through in a demeaning way that embarrassed him with other patrons.

### FINDING 1

#### No disability-related rule or other rule violation

Patron was not denied access. There is no disability-related rule violation.

Further, although the video shows Operator was short with Patron this did not rise to the level of a discourteous act that might have violated Rule 2.8.3 (see below).

## 2. EXITING

Patron complained that Operator "kicked me off the bus" (at 11<sup>th</sup> and Market) when he wanted to proceed to Civic Center.

The video shows an argument among passengers on the bus after Operator passed him through. Patron is involved in the argument. Operator calls OCC, testifying at the hearing that she did not want a disturbance to continue. OCC instructs her to halt the bus. However, Operator admits that she told passengers "I have someone on the bus who is disruptive." This was unnecessary as it appears to have added to the tension on the bus. Further, on the video she is heard telling passengers "we're waiting on someone to get him off the bus." Likely she meant MUNI officials or SFPD. However, passengers may have taken this as a cue to bully Patron off the bus. Patron exits the bus through the back door. One of the passengers says to Operator, "All you got to say is you want him off and we got him off."

### FINDING II

#### No disability-related rule violation

Patron's access to public transit was cut short. Operator was ill-advised to address other passengers with her view of the matter given the fraught situation. The "someone" she told them she was waiting for "to get him off the bus" may well have been a MUNI official or SFPD, but it appeared to incite one or two of the passengers to be that "someone," and to bully Patron off the bus.

However, although Operator's words were inappropriate and likely contributed to Patron's discomfort and his premature exit from the bus, her words, even though they may have contributed to his loss of access, were not based on his disability. She was responding to the disruption and the potential safety issue, not to his disability status.

**FINDING III**

**Violation of Rule 2.8.3**

Rule 2.8.3 requires operators to "Avoid disputes with any person, no matter what the provocation."

Operator needlessly contributed to the dispute on board her bus.

<b>CUSTOMER DETAIL</b>		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
<b>INCIDENT DETAIL</b>		
Category INATTENTIVENESS/NEGLIGENCE	Type 208 NO PRIOR SEATS	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 31 BALBOA	Direction OUTBOUND	
Incident Date 05-20-2017	Incident Time 10:27	
Vehicle Number 5519	Location TURK ST LARKIN ST SAN FRANC	
Department PRE OPS	Division PRESIDIO	
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p><b>Incident Details</b> Customer stated: "I was waiting at Turk at Larkin for a 31 outbound, coach number 5519 came by and the operator informed me that Seniors were sitting in the wheelchair space. Therefore, she could not take me. Also, the bus seemed somewhat empty. No where full. I asked her, that had nothing to do with the wheelchair space. She informed me that she was not going to ask Seniors to move. I said OK. She said you can go and report me if you want. So that is what I am doing. Run number [REDACTED]"</p>		
<b>AGENCY HANDLING AND RESOLUTION DETAILS</b>		
Date Logged 05-20-2017		
Date Closed 07-07-2017		
Resolution Code [REDACTED]		



**SFMTA**

Municipal  
Transportation  
Agency

**Muni Neutral Accessibility Hearing Finding**

<b>PSR #:</b>	524066
<b>Hearing Date:</b>	June 13, 2017
<b>Hearing Officer:</b>	J. Doyle
<b>Customer &amp; other attendees:</b>	██████████ (Patron); ██████████ (Operator); ██████████ (Union Rep.)
<b>Incident Date and Time:</b>	May 20, 2017    10:27am

**Burden of Proof:** The customer has the burden of proving that the operator committed an access-related Muni rule violation.

**311 Complaint (Check Category)**

The Patron states that on May 20<sup>th</sup> he was waiting in his wheelchair for the outbound 31 Balboa coach at the Turk and Larkin stop. He states that he was unable to board that coach because the Operator advised him that there was no room in the wheelchair section. He contends that the Operator did not ask the passengers in that section to give up their seats to make room for him, and that the Operator was required to at least ask for that cooperation.

**Operator's Response (Brief Summary)**

The Operator (primarily through the Union Rep.) contended that there is no requirement to request passengers seated in the wheelchair section to give up their seats. The Operator (through the Union Rep.) claimed that General Notice 2016-014 controls the issue. General Notice 2016-014 was not offered into evidence at the hearing, but it was represented that that Notice does not require the Operator to ask seated passengers to give up their seats. At the hearing the Operator stated that she was concerned that any disabled individuals in the wheelchair section who chose to give up their seats to accommodate a wheelchair user might be injured if they then had to stand in the coach for the remainder of their trips. There was no testimony, however, that at that time there were visibly disabled individuals seated in the wheelchair section.

**DVD Evidence:  Yes  No**

The DVD depicts the Patron waiting by himself in his wheelchair at the Turk/Larkin stop as the coach's front door opens. The Operator is then seen (and heard) telling the Patron that there is no available room for him at the time. There is no attempt on the part of the Operator to ask the passengers seated in the wheelchair section to make room for the Patron waiting out at the stop. The Operator advises the Patron to wait for the next coach and then pulls away. At the time the wheelchair section of the coach is fully occupied with other passengers who were not in wheelchairs, but there is some additional available seating that could have accommodated any passengers willing to move out of the wheelchair section. There is no indication in the portion of the DVD record available for this incident that the Operator contacted Central Control about the inability of her coach to accommodate a wheelchair user.

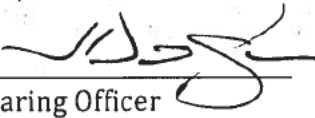
**Access-Related Muni Rule Violations:  Yes  No  Insufficient Evidence**

SF Municipal Railway Rule 4.20.7 states that "Operator must ask passengers to yield seats in the securement area for wheelchair users." This Rule is supplemented by General Notice 2017-017 (effective date of January 1, 2017) which advises that when boarding a wheelchair using passenger operators must ask anyone seated in the securement area to give up their seat, "... even if they are senior or disabled."

On this basis the 31-Balboa Operator's failure to request passengers to yield their seats to accommodate this particular Patron amounts to an access-related Muni Rules violation. The Patron here could have been provided the service he had needed at the time if the Operator had made the required request to her passengers. While none of the passengers seated in the wheelchair section may have given up their seats to accommodate the Patron, the Operator should have at least asked for that accommodation to occur. General Notice 2016-014 (which expired on December 31, 2016) has been clearly superseded by subsequent Bulletins related to this issue. Muni supervision in each of the Divisions should make sure that General Notice 2017-017 is communicated to each operator in the interest of helping wheelchair users to more readily board Muni coaches.

**Comments**

For Internal Use Only:

  
Hearing Officer

7-7-17  
Date

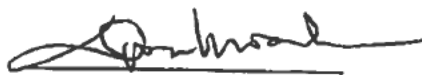
<b>CUSTOMER DETAIL</b>		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
<b>INCIDENT DETAIL</b>		
Category INATTENTIVENESS/NEGLIGENCE	Type 201 PASSUP/DIDNT W8	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route F MARKET & WHARVES	Direction OUTBOUND	
Incident Date 05-26-2017	Incident Time 16:25	
Vehicle Number 1071	Location MARKET ST GOUGH ST SAN FRA	
Department GNVA OPS	Division ISLAIS CREEK	
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p><b>Incident Details</b> Patron stated, "I was up on the platform where the disabeled stand and I waved my cane and i was at the stop for 10 minutes for the arrival and I waved my cane for a half a block away and she refused to pick me up. This is a violation of the amrican for disabilities act. [REDACTED] did this last Wednesday also."</p>		
<b>AGENCY HANDLING AND RESOLUTION DETAILS</b>		
Date Logged 05-26-2017		
Date Closed 07-05-2017		
Resolution Code [REDACTED]		



**SFMTA**  
Municipal  
Transportation  
Agency

**Muni Neutral Accessibility Hearing Finding**

<b>PSR #:</b>	524460
<b>Hearing Date:</b>	06/14/2017
<b>Hearing Officer:</b>	Ivan Morales (Hearing Officer)/ Mike Hanrahan (Hearing Section Supervisor)
<b>Attendees:</b>	██████████ (customer), customer's ██████ operator and union representative
<b>Incident Date and Time:</b>	05/26/2017, approximately 4:30pm.
<b>Burden of Proof:</b> The customer has the burden of proving that the operator committed an access-related Muni rule violation.	
<b>311 Complaint Category and Type</b>	
Inattentiveness/Negligence; 201 Pass-up/Didn't Wait	
<b>Operator's Response (Brief Summary)</b>	
The Operator stated she did not see the customer waiving a crutch. She confirmed stopping the train at the lower platform and speaking to the customer's son. She stated that she explained to him that the vehicle was full with three passengers who had wheelchairs and one passenger with a walker. She stated that she apologized for not stopping at the ADA platform and advised the customer's son that a train was following close behind. She further stated that she immediately notified Central Control of the incident.	
<b>DVD Evidence:</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Video/audio evidence was not available.	
<b>Access-Related Muni Rule Violations:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Insufficient Evidence	
The operator did not stop at the ADA platform and did not communicate directly with the customer as required by the rules. The operator stopped at the lower platform which is separate and quite a distance from the raised ADA platform. A disabled person with a crutch does not need to sit in a securement area. If the operator was willing to pick up passengers at the lower platform, she should have been able to pick up a passenger with a crutch at the raised ADA platform	
<b>Comments</b>	
As a mitigating factor, the record shows that the operator did call Central Control to report that a disabled patron could not be accommodated.	
For Internal Use Only: RR 4.12.5; B 09-006	

  
Hearing Officer

Date 7/6/17



<b>CUSTOMER DETAIL</b>		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
<b>INCIDENT DETAIL</b>		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 301 DISCOURTESY
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 38R GEARY RAPID		Direction INBOUND
Incident Date 05-24-2017		Incident Time 09:17
Vehicle Number 6712		Location GEARY BLVD 33RD AVE SAN FRA
Department FLN OPS		Division FLYNN
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p><b>Incident Details</b> Patron stated: "I am disabled person and come and go with wheelchair and have problem balancing myself. I need my wheelchair to come and go- thats the only way I can walk. I cant go up and down hills, so I have to walk with it. So, when I got on the bus and the driver refused to lift the seat for me so I could my chair there. I then asked [REDACTED] to help me with the safety belt and he refused. [REDACTED] kept on shouting at me its not necessary to have safety belt. I told [REDACTED] I will not sit in wheelchair until I have the safety belt on me. He shouted at me to get off the bus. A lady helped me to pull the belt out, but the driver would not help. Finally, I put my wheelchair where it should be and I sit by the rear door with help at lady. When we reached Laguna and Geary, and when I got off bus, I asked him to free my wheelchair and he did finally come and help."</p> <p>Run: [REDACTED]</p>		
<b>AGENCY HANDLING AND RESOLUTION DETAILS</b>		
Date Logged 05-29-2017		
Date Closed 08-07-2017		
Resolution Code [REDACTED]		



**Muni Neutral Accessibility Hearing Finding**

<b>PSR #:</b>	524567
<b>Hearing Date:</b>	07/05/2017
<b>Hearing Officer:</b>	Ivan Morales (Hearing Officer)
<b>Customer &amp; other attendees:</b>	[REDACTED] (Patron) [REDACTED] (Operator) / Anthony Ballester (Union Rep.)
<b>Incident Date and Time:</b>	05/11/2017, approximately 5:15pm.
<b>Burden of Proof:</b> The customer has the burden of proving that the operator committed an access-related Muni rule violation.	
<b>311 Complaint (Check Category)</b>	
See attached complaint.	
<b>Operator's Response (Brief Summary)</b>	
Operator noted the Patron was not sitting in the wheelchair. Operator acknowledge telling the Patron to secure the wheelchair by deploying wheel locks and that a seat belt was not required. Operator acknowledged advising the Patron the bus will have to be taken out of service if the wheelchair's lock was not applied. Operator stated the Patron refused to secure the wheelchair by locking the wheels. Operator stated another passenger assisted the Patron in securing the wheelchair with the seat belt before he could provide assistance; therefore, he did not get involved. Stated patron was interested in securing the wheelchair, but sat in a regular bus seat in the middle of the bus.	
DVD Evidence: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Audio and video is not available.	
Access-Related Muni Rule Violations: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Insufficient Evidence	
No violation. Operator not required to secure wheelchair with a seat belt if the Patron is not sitting in it. Operator properly advised Patron to set the brakes on the wheelchair and she did not require assistance in setting the brakes.	
<b>Comments</b>	
It is difficult to verify the alleged violation as there is no video of the incident.	
For Internal Use Only:	

  
\_\_\_\_\_  
Hearing Officer

7/21/17  
\_\_\_\_\_  
Date



<b>CUSTOMER DETAIL</b>		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
<b>INCIDENT DETAIL</b>		
Category INATTENTIVENESS/NEGLIGENCE		Type 201 PASSUP/DIDNT W8
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 54 FELTON		Direction OUTBOUND
Incident Date 08-01-2017		Incident Time 14:45
Vehicle Number 8896		Location INNES AVE 3RD ST SAN FRANCISCO
Department WDS OPS		Division WOODS
Employee ID [REDACTED]		
Employee Physical Description hispanic male mid 30s		
<p><b>Incident Details</b> the driver (coach 8836 or 8866)pulled up a past the stop and only open the back door. I have a cane and a walker and said I cannot get on the back door, I walked up to the front door the driver,looked at me, shook his head no and pulled off"</p>		
<b>AGENCY HANDLING AND RESOLUTION DETAILS</b>		
Date Logged 08-01-2017		
Date Closed 09-23-2017		
Resolution Code [REDACTED]		



**Muni Neutral Accessibility Hearing Finding**

<b>PSR #:</b>	528352
<b>Hearing Date:</b>	8/22/2017
<b>Hearing Officer:</b>	Ivan Morales (Hearing Officer)
<b>Customer &amp; other attendees:</b>	[REDACTED] (Patron) - by phone [REDACTED] - (Operator [REDACTED]) - in person
<b>Incident Date and Time:</b>	08/01/2017, 2:44pm.
<b>Burden of Proof:</b> The customer has the burden of proving that the operator committed an access-related Muni rule violation.	
<b>311 Complaint (Check Category)</b>	
Patron alleges the operator of bus #8836 on the 54-Felton passed him up.	
<b>Operator's Response (Brief Summary)</b>	
Operator cannot recall incident.	
<b>DVD Evidence:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Yes. Audio and video evidence is available.	
<b>Access-Related Muni Rule Violations:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Insufficient Evidence	
Yes. The complaint is valid.	
<b>Comments</b>	
Video clearly shows patron standing with a cane while waiting in the bus stop. The operator pulls bus to the curb and opens the rear door. Patron is seen walking towards the front of the bus pushing cart as the operator is distracted by a uniformed off-duty Muni driver. Rear doors remain open for approximately 8 seconds. A passenger sees the patron and attempts to open the rear doors. The operator closes the rear doors and drives off. Patron is heard yelling for the bus as the bus drives away.	
For Internal Use Only:	

Hearing Officer

9/5/17

Date

**CUSTOMER DETAIL**

Name [REDACTED]

Phone [REDACTED]

Email [REDACTED]

Address

**INCIDENT DETAIL**

Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT

Type 303 FARE/TFR DISPUTE

ADA? X

Title VI?

Other Disc.

Trapeze Line/Route 9 SAN BRUNO

Direction OUTBOUND

Incident Date 08-16-2017

Incident Time 12:50

Vehicle Number 8628

Location 11TH ST HOWARD ST SAN FRAN

Department WDS OPS

Division WOODS

Employee ID [REDACTED]

Employee Physical Description [REDACTED]

**Incident Details** Patron states " I got on the bus I left my RTC card at home. I thought I can use my Medicare card and \$1.35 disabled fee. I went on the bus and I asked if this was ok?, he said "no we dont except that. He got kind of mean right away he argued with me about it. I thought I needed that and an ID. He got agitated. I got a seat in front, he kept yelling "you want the fair inspectors that I could call if need be to give me a ticket to get on the next stop". I believe, I am correct, if I use my Medicare card and fare. I am ok. I sat down he was going on an on, raising his voice. Another lady thought he was taking to her cause he was shouting very loud and tense. I thought I should get off the bus so I dont get in trouble but I thought I was correct so I stayed on the bus until I got off at Silver & San Bruno because I didnt want to get a ticket., when I should of stayed on two more stops."

**AGENCY HANDLING AND RESOLUTION DETAILS**

Date Logged 08-17-2017

Date Closed 09-07-2017

Resolution Code [REDACTED]



**Muni Neutral Accessibility Hearing Finding**

<b>PSR #:</b>	529393
<b>Hearing Date:</b>	9/13/17
<b>Hearing Officer:</b>	Ivan Morales
<b>Customer &amp; other attendees:</b>	Customer, Operator and Union Representative attended the hearing.
<b>Date and Time of Alleged Incident:</b>	8/16/17 at 12:50 pm.
<b>Burden of Proof:</b> The customer has the burden of proving that the operator committed an access-related Muni rule violation.	
<b>Complaint Category</b>	
Fare Dispute	
<b>Operator's Response (Brief Summary)</b>	
Medicare Card not valid for travel on Muni.	
<b>DVD Evidence:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Access-Related Muni Rule Violations:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Insufficient Evidence	
Customer stated she left her RTC Card at home and presented Operator with Medicare Card which is not valid for travel on Muni. Operator properly told the Patron that Medicare Card was not accepted and Patron could be cited for not having proof of payment. No violation, the incident concerned a dispute regarding the fare.	
<b>Comments</b>	
For Internal Use Only:	

Hearing Officer

Date 10/5/17

<b>CUSTOMER DETAIL</b>		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
<b>INCIDENT DETAIL</b>		
Category INATTENTIVENESS/NEGLIGENCE	Type 201 PASSUP/DIDNT W8	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route INGLESIDETHIRD	Direction OUTBOUND	
Incident Date 09-11-2017	Incident Time 14:10	
Vehicle Number 1508	Location OCEAN AVE JUNIPERO SERRA B	
Department GRN OPS	Division GREEN	
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p><b>Incident Details</b> Passenger stated, " I am on the disabled platform waiting for the K. I was holding my luggage to brace myself, but I was waving at the driver with my other hand. The driver looked towards me, and didnt even give me a second glance. She didnt even stop or anything. I was the only person on the platform, and I would like to request a hearing."</p> <p>9-15-17 /efl</p> <p>@ 11:01 AM patron called and said that she received an email about the hearing but kind of confused because she has so many reference # that do not know if somehow these are only one case. Patron mentioned that she did call to report another one unfortunately the 311 agent was not able to give her SRN # for accdg to her the system was down to call back or will give the patron a call back. Patron said till she called today, 311 did not give her a call back to give her new report #.</p> <p>I told her that the SRN 8007098 is difereent from this report for the SRN # of this is (given her the #) and so I told her that I will just close the second report for they were just the same accdg. to her. She said that to close pls. Patron will call back to speak and schedule her hearing-efl</p>		
<b>AGENCY HANDLING AND RESOLUTION DETAILS</b>		
Date Logged 09-11-2017		
Date Closed 12-06-2017		
Resolution Code [REDACTED]		



**Muni Neutral Accessibility Hearing Finding**

<b>PSR #:</b>	530927
<b>Hearing Date:</b>	October 2, 2017
<b>Hearing Officer:</b>	James Doyle
<b>Customer &amp; other attendees:</b>	[REDACTED] by phone. No other attendees.
<b>Incident Date and Time:</b>	September 11, 2017, approximately 2:10p
<b>Burden of Proof:</b> The customer has the burden of proving that the operator committed an access-related Muni rule violation.	
<b>Complaint Category</b>	
<b>Conduct Issue:</b> Pass up of passenger in disabled section of Muni ramp	
<b>Operator's Response (Brief Summary)</b>	
<b>Operator:</b> [REDACTED] She did not attend hearing. No statement from operator has been provided.	
<b>DVD Evidence:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
The video from the K Line train confirms that one individual on the disabled section of the Muni ramp at Junipero Serra and Ocean Ave. was passed by at the approximate time listed by the customer in her complaint.	
<b>Access-Related Muni Rule Violations:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Insufficient Evidence	
Violation of Rail Rule 4.12.5	
<b>Comments</b>	
The customer with her luggage was clearly waiting for the K train to stop for her at the disabled section of the boarding ramp, and the customer states that she waived to make sure that the operator saw her waiting on the ramp. The operator did not stop there, but did stop at the regular passenger ramp down the way. This apparent inattention on the part of the operator constitutes a disability-related Muni Rule violation.	
For Internal Use Only:	

James Doyle,  
Hearing Officer

October 5, 2017  
Date