

City of Portland, TNC Driver's Committee
Quarterly Ombuds Report
Drivers' Committee Meeting: January 13, 2019

The first notice of the City of Portland / TNC Driver's Committee Ombuds program was sent to the TNC drivers in October 2019.

Seventeen complaints were received from a total of fifteen individuals.

Number of Complaints by Category:

Insurance - 1 Complaint

- Lyft. L.S. Driver/complainant was in car accident caused by another driver (dent in door), before pick-up and while searching for the rider with App on. Driver believed if the App were open, he would be covered by Lyft's collision coverage. Driver was deactivated and required to provide proof to Lyft the repair was completed.

The City of Portland Addendum requires that if a driver holds personal Collision/Comprehensive coverage on their policy, the Company will also maintain coverage for physical damage to the vehicle, *with a \$1,000 deductible*. Lyft applied its user services agreement as written, and the complainant notified of agreement and accuracy of application. This complaint was closed.

Remaining issues are whether the drivers understand insurance and if this information is clearly presented before individuals become drivers for TNCs.

Deactivation / Offboarding / Suspension – 7 Complaints

- **Three drivers complained of being deactivated after riders made complaints.**
 - Uber. I.I. Driver was deactivated after asking questions of two riders with a canine, relating to whether it was a service animal. Driver ultimately transported one rider, but not the canine and second rider. Driver's questions violated Uber's policy of allowing only two questions to be asked of riders, which is in place following a settlement with the National Federation for the Blind (NFB). Driver asked to be reinstated and Uber responded its decision was final and unappealable.
 - Uber's policy states that:
 - A driver may only ask two questions when an animal is present to confirm it is a service animal:
 1. Is the animal required because of a disability? and;
 2. What work or task has the animal been trained to perform?
 - The driver-partner may not request that the rider present documentation proving that the rider's animal is a service animal.

- There is no requirement that a service animal wear a tag, be registered, or display any kind of proof that it is a service animal.
- Complaints related to service animal denials are investigated and then acted upon pursuant to our settlement with the NFB, which was approved by a federal district court. The criteria for review and the process are largely set out in the NFB Settlement.
- In general, we have a specialized support team that handles all service denial-related complaints. That team interviews both the rider and driver and reviews other information and then executes the policy outlined in the settlement agreement.
- The star reviews given to drivers by riders and to riders by drivers do not have an impact. Every driver is given a full opportunity to provide their version of events on the phone and drivers can always write in. They do not receive the written complaint submitted by a rider (if any) but may hear parts of the rider's account when they are interviewed.
- Drivers acknowledge and agree to the policy when they sign up.

Uber's policy appears to provide that a driver may continue to drive, even if they have violated the policy if the action was not undertaken "knowingly." The Ombuds and Uber representative discussed the question of whether this behavior was found to be knowingly undertaken, and issue is now under review.

- Lyft. B.W. Driver was deactivated after a rider traveling with wheelchair called and complained that driver refused to transport rider. Driver correspondingly contacted Lyft and complained that rider was verbally abusive and smoking and this is what led to the disagreement over providing transportation. Lyft deactivated driver on basis of rider's complaint. Ombuds contacted Lyft for additional information regarding this complaint, the deactivation process, and policies. Lyft has not provided this information, complaint is open/pending.
- Uber. H.R. Deactivated after rider complained of inappropriate contact. Driver was contacted in December by Uber notifying him that his account was suspended, pending investigation of a complaint from a rider in November. Driver disputed this complaint. A telephone call and investigation followed. Driver was with Uber for 3.5 years and was deactivated 2-3 days after the phone call / investigation. This complaint is pending, intake and investigation underway.
- **Four drivers complained after being deactivated or not on-boarded for a background check errors.**
 - Uber. L.R. Driver converted from a Commercial Drivers' License (CDL) endorsement when elected to drive full-time for Uber. This change triggered a suspension from Uber. Driver's background report confirmed clear to drive, this issue is now pending with a request for Uber to review this information.
 - Uber. S.G. Driver notified by Uber of suspension due to more than 3 traffic-related incidents in 3 years. Driver provided information disputing this, one collision was fault of another

driver, was told it was City's policy. Ombuds contacted City who ran background check which indicated driver was able to drive under City code, this was provided to Uber. Closure pending confirmation of reinstatement from driver.

- Uber. S.Y. Complaint that after resolving driver's license issue, was not re-activated. This complaint was closed after Ombuds did not receive any response to inquiries from the driver.
- Uber. B.W. Driver complained about inability to be a driver based on incorrect interpretation of background report where charges were dismissed in Florida and included in Checkr report. Complaint pending with request to Uber for review of dispute and reinstatement, background report has been re-issued.

Compensation - 6

- Uber. A.R. Driver complaint of incorrect calculation of compensation.
 - Driver also informed when contacting company there is a 10-day limit, and after 10 days, drivers' compensation will not be reviewed. Uber's user agreement provides for 15 days.

This complaint for compensation is pending with information requested from driver. Ombuds has also requested additional compensation information from Uber and request is pending.

- Uber, Lyft, Wingz. J.S. Driver complaint states that when they began driving nearly 5 years ago, driver was earning 80% of the passenger fare, which calculated at around \$1.55 per mile. Drivers are now paid by the mile and are now earning .75 cents per mile.
 - Driver suggests the City put a cap on the number of drivers per platform.
- Lyft. J.S. Mandatory training without compensation. Driver complained of in-App pop up notifying him of requirement to watch a Community Safety Education training video. Video was 20 minutes long, driver not compensated for this time. Ombuds has requested information from Lyft regarding training program, which is pending. Complaint is closed with understanding topic included in Ombuds report.
- Uber. B.T. Driver determined compensation was calculated correctly. Closed complaint.
- Lyft. J.F. When a rider cancels, the driver is given a \$5.00 payment. Driver suggests rider cancellation fees should be proportionate to the mileage driven. Rides are consistently in decline and drivers' income has decreased.
- Uber. R.H. Not paid cancellation fee, other complaints regarding process and compensation:
 - 1) "Unaccompanied minor" and "no car seat" are listed as cancellation options for drivers.

- 2) However, drivers are not automatically paid cancellation fees when a driver cancels due to an unaccompanied minor or lack of a car seat prior to the end of the 3-minute wait time. Drivers are instead required to contact support each time a cancellation occurs.
- 3) A recent cancellation by a driver for an “unaccompanied minor” (before the end of the 3-minute waiting time) erased all the trip details, and the driver had no record of the attempted pick up, which the driver needed in order to support his payment request. In that instance, the driver traveled for 19 minutes prior to arriving, to find the rider was an unaccompanied minor, at which time the driver cancelled the ride.
- 4) Had the driver cancelled the ride as a “no show” the driver would have been paid automatically for the ride. This incentivizes an inaccurate reporting system of riders and safety protections such as car seats and underage riders.
- 5) When the driver contacted the company, they were credited \$5.00. This amount was inadequate and when the driver continued to pursue the complaint, driver was informed that because they had already received a credit of \$5, they were not eligible for any additional compensation. Driver did not agree that \$5 was a settlement of their complaint.

Violation of Services Agreement – 1 Complaint

- Uber. Driver Privacy. T.W. Driver’s first and last name was provided on a rider’s receipt. This was a violation of Uber’s user agreement which provides only first name will be included to riders. Ombuds presented service agreement / guidelines to Uber representative with questions twice via email, no response to inquiries. Investigation by Ombuds staff indicates last names were provided on receipts in October 2019, but thereafter only first names included. Uber responded 1/2/20 that appears to have been a temporary issue. Complaint closure is pending confirmation from driver that this matter is resolved.

Technology / App – 2 Complaints

- Lyft. J.F. Ride frequency has been reduced and driver no longer makes minimum wage as a driver. Driver reports they have repeatedly tried to contact the TNC to discuss concerns about ride reduction, customer service hold times have been up to 45 minutes, and driver has been dropped from calls while waiting for support. Complaint closed with understanding information provided to Committee in report.
- Uber. M.E. Driver complaint filed for problems with App making driving impossible. Intake scheduling is underway.

Other Complaints - 2

- Lyft. P.M. Constructive Feedback / Better Support from Lyft when Low Rating Received.
 - On October 15, 2019, driver received a low rating. The following day Lyft notified driver their account was flagged, and they could be deactivated. Driver was not deactivated. Driver suggests that Lyft be more supportive of the drivers overall, particularly in situations of unsubstantiated complaints or low ratings. Complaint closed with understanding that information will be provided to Committee in report.
- Lyft. J.F. Grace Period of 5 Minutes and Prompting by App to make Calls to Rides about wait time. Driver notes:

1. Riders have a 5-minute grace period to enter the automobile. The app prompts the driver to call riders after 5 minutes have lapsed. This creates conflict between driver and riders, who typically know their time is up.
2. Suggestion is to have the app notify the rider, not the driver.

Complaint closed with understanding information will be provided to Committee in report.

Number of complaints resolved as driver requested: 1

Number of complaints unresolved: 7

Number of complaints closed due to non-responsive complainant or resolved prior to Ombuds formal review: 2

Number of individual complaints referred to Committee where driver-complainant did not wish to pursue complaint, but wanted complaint published to Ombuds and Committee: 5

Number of information requests to Uber outstanding: 2

Number of information requests to Lyft outstanding: 4

Issues the Ombuds Recommends Committee Consider:

- **Timeline for Compensation Review by TNCs:** Uber support advised complainant/driver there is 10-day review process for compensation disputes, after which time to review will occur. This contradicts the Uber User / Driver Services Agreement, which is given to drivers and provides for 15 days. Regardless, this timeline is very short for drivers to seek remuneration in cases of missing compensation.
- **Uber Compensation made by TNC in Responses to Complaint Treated as Settled:** Drivers that complain regarding compensation and are paid any amount (e.g. \$5.00) but are not satisfied, are told they have settled their complaint and are declined further review. This is based upon a driver's complaint and it is unclear if this is the consistent policy at Lyft, with information requested pending.
- **Procedural Due Process in Suspension and Deactivation of Drivers:** The deactivation and suspension processes have been shared in part by Uber, with no response from Lyft to Ombuds' requests. TNC processes for driver review, suspension and deactivation are not transparent, appear to be one-sided and lack procedural safeguards and due process for drivers. Drivers report they have a telephone interview, sometimes with correspondence via the App, and drivers are then notified of the outcome within 2-3 days. Drivers with many positive reviews report they are fearful of deactivation even with one rider complaint. The agreements typically state they are non-appealable and the TNC has sole discretion to deactivate drivers. The User / Driver Services Agreements require mandatory binding arbitration for all disputes.