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E-BULLETIN

An Overview of the Air Carrier Access Act

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This document summarizes the new Air Carrier Access Act (ACAA) regulations that were changed to incorporate new requirements. Since the ACAA has been in effect 19 years, the regulations have been updated 10 times and have been the subject of frequent written and oral interpretations. Air carriers have also dramatically changed the way they do business. The regulations were updated to incorporate these changes and interpretations. They have also been reorganized and renumbered. These new regulations now address almost every accessibility issue that a passenger with a disability may face on board the aircraft and in an airport. The updated ACAA regulations become effective May 13, 2009.

New key changes include:

- Applies to both U.S. and foreign carriers
- New requirements for airport and aircraft accessibility and changes in airport services including reservations, facilities,

in-flight and aircraft acquisitions

- Requires 48-hour notification and changes requirements for passengers who use respiratory assistive devices
 - Clarifies how airlines must provide effective communication for passengers who are deaf or hard-of-hearing
 - Requires 48-hour notification that a customer is bringing an emotional support animal or psychiatric service animal on board the aircraft
- [Visit the Disability Law Index to review the new ACAA](#) and compare it with the older set of regulations.

Call your regional ADA Center at 1-800-949-4232 for questions on the ACAA, the Americans with Disabilities Act and other disability-related laws.

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New regulations,¹ whose purpose is to carry out the Air Carrier Access Act of 1986,² as amended, went into effect on May 13, 2009. Both U.S. and foreign air carriers are prohibited from discriminating against passengers on the basis of disability. Both U.S. and foreign air car-

riers are required to make aircraft, other facilities, and services accessible. Air carriers also must take steps to accommodate passengers who have a disability.

Definition of Disability

The ACAA protects individuals who have a disability. Under the ACAA, an individual with a disability is a person who has a physical or mental impairment that, on a permanent or temporary basis, substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.³ If you are familiar with the Americans with Disabilities Act (ADA)⁴, then you may notice that the ACAA definition of an individual with a disability is almost identical to ADA definition. There is one important difference, though. The ACAA covers even temporary impairments while the ADA requires the impairment to be long term or permanent.

Proof of Disability

An air carrier must not require any kind of proof as a condition for the provision of transportation, except in some very limited circumstances.⁵ If a person is traveling in a stretcher or incubator, needs medical oxygen during a flight, or if there is reasonable doubt that the person can complete the flight safely without requiring extraordinary medical assistance during the flight, then the air carrier may require a written statement from a physician. The statement needs to say that the passenger is capable of completing the flight without requiring extraordinary assistance during the flight. It must be dated within ten days of the initial departing flight.⁶ The air carrier may also require such a written statement if the passenger has a communicable disease that could pose a direct threat to the health or safety to others on the

¹ 14 C.F.R. Part 382.

² 49 U.S.C. §41705 *et seq.*

³ 14 C.F. R. §382.3.

⁴ 42 U.S.C. §12101 *et seq.*

⁵ 14 C.F.R. §382.23(a).

⁶ 14 C.F.R. §382.23(b)

flight. In that case, the physician statement should say that the disease or infection would not, under present conditions in the patient's case, be communicable to other people during the normal course of a flight. It should also state what precautions should be taken to prevent transmission and it must be written within ten days of the flight for which it is presented.⁷

Advance Notice

A carrier must not require a passenger with a disability to give advance notice that s/he will be traveling on a flight.⁸ However, if the passenger with a disability will require certain specific services, then advance notice must be provided.

An air carrier may require that a passenger with a disability who requires carrier-supplied in-flight medical oxygen give up to 72 hours advance notice on international flights and 48 hours advance notice on domestic flights, and check in one hour before the check-in time for the general public. A 48 hours advance notice and check in one hour before the check-in time for the general public is required to use a ventilator, respirator, continuous positive airway pressure (CPAP) machine, or portable oxygen container (POC).²

An air carrier does not have to allow an incubator or a person who must travel on a stretcher on the plane, but if it chooses to do so, it can require 48 hours advance notice and check in one hour before the check-in time for the general public.¹⁰ Also, an air carrier does not have to provide a hook-up for a respirator, ventilator, CPAP machine, or POC to the aircraft electrical power supply, but if it chooses to do so, it can require 48 hours advance notice and check in one hour before the check-in time for the general public.¹¹

Air carriers can also require 48 hours advance notice and check in one hour before the check-in time for the general public in order to receive any of the following:

- transportation for an electric wheelchair on an aircraft with fewer than 60 seats;
- provision of hazardous materials packaging for batteries or other assistive devices that are required to have such packaging;
- accommodation for a group of 10 or more individuals with a disability who make reservations and travel as a group;
- provision of an on-board wheelchair on an aircraft with more than 60 seats that does not have an accessible lavatory;
- transportation of an emotional support or psychiatric service animal in the cabin;
- transportation of a service animal on a flight segment scheduled to take 8 hours or more; and
- accommodation of a passenger who has both severe vision and hearing impairments.¹²

It is up to the air carrier to provide the service or accommodation if the advance notice is given, and to make sure that reservation and other administrative services ensure that, when the advance notice is given, the notice is communicated, clearly and on time, to the people who will be responsible for providing the service or accommodation.¹³

Even if the passenger does not meet advance notice or check-in requirements, the air carrier must still provide the service or accommodation if it can do so by making reasonable efforts, without delaying the flight.¹⁴

Safety Assistants

Air carriers may not generally require that a passenger with a disability travel with another person as a condition of being able to have the

⁷ 14 C.F.R. §382.23(c).

⁸ 14 C.F.R. §382.25.

² 14 C.F.R. §382.27(b).

¹⁰ 14 C.F.R. §382.27(c)(1), (c)(3).

¹¹ 14 C.F.R. §382.27(c)(2).

¹² 14 C.F.R. §382.27(c)(4) – (c)(10).

¹³ 14 C.F.R. §382.27(e).

¹⁴ 14 C.F.R. §382.27(g).

air transportation. ¹⁵ However, passengers who fall into certain categories may be required to travel with a safety assistant if the air carrier determines that it is essential for safety. The categories are:

- a passenger traveling in a stretcher or incubator;
- a passenger who, because of mental disabilities, is unable to comprehend or respond appropriately to safety instructions from carrier personnel;
- a passenger with a mobility impairment so severe that the person is unable to physically assist in his or her own evacuation of the aircraft; and
- a passenger who has both severe hearing and severe vision impairments, and if the passenger cannot establish some means of communication with personnel that is adequate to communicate safety instructions and enable the passenger to assist in his or her own evacuation of the aircraft. ¹⁶

If the passenger with a disability believes that s/he can travel independently, but the air carrier disagrees, then the air carrier must not charge for the safety assistant's transportation. The air carrier is not required to find or provide the safety assistant. If the passenger voluntarily chooses to travel with a personal care attendant or safety assistant that the air carrier does not require, the air carrier may charge for the transportation of that person.¹⁷

Concern that a passenger with a disability might need help with personal care, like using the lavatory or eating, is not the basis for requiring the person to travel with a safety attendant. Air carriers have to make sure that personnel are trained about this. The air carrier is allowed to tell passengers that air carrier per-

sonnel are not required to provide those kinds of services.¹⁸

Special Charges for Services and Accommodations

Air carriers are not allowed to impose charges for providing facilities, equipment, or services that the ACAA requires the air carriers to provide to passengers with a disability.¹⁹ However, if a passenger must use more than one seat because of the passenger's size or condition (like the use of a stretcher), then the carrier may charge for the extra seat(s). This is not considered a special charge.²⁰

If the air carrier has a website for reservations and ticket purchase that is not accessible to people with certain disabilities, then it must allow people with disabilities to make reservations and purchase tickets in another way (such as by phone) without imposing additional charges. And if there is a price discount that is available only for online purchases, it must provide the same discount to people with disabilities who cannot access the inaccessible website.²¹

Restrictions and Waivers

Air carriers must not impose restrictions on passengers with a disability that they do not impose on other passengers. This includes restricting passengers' movements within the terminal, requiring passengers to stay in a holding area to get transportation, services, or accommodations, making passengers sit on blankets on the airplane, making passengers wear badges or other special ID, or mandating separate treatment for passengers who have a disability.²²

Air carriers must not require passengers with a disability to sign any kind of release or waiver of liability in order to get transportation services or accommodations. This includes

¹⁵ 14 C.F.R. §382.29(a).

¹⁶ 14 C.F.R. §382.29 (b).

¹⁷ 14 C.F.R. §382.29(c).

¹⁸ 14 C.F.R. §382.29(f).

¹⁹ 14 C.F.R. §382.31(a).

²⁰ 14 C.F.R. §382.31(b).

²¹ 14 C.F.R. §382.31(c).

²² 14 C.F.R. §382.33.

waivers of liability for damage to, or loss of, wheelchairs or other assistive devices.²³

Information for Passengers

Air carriers must provide the following kinds of information about the accessibility of the aircraft expected to make a particular flight:

- the specific locations of seats with movable armrests (by row and seat number);
- the specific location of seats that the air carrier does not make available to passengers with a disability (such as exit row seats);
- any aircraft-related limitations on the ability to accommodate passengers with a disability, including limitations on the availability of entry-level boarding to the aircraft at any airport involved with the flight;
- any limitations on the availability of storage facilities in the cabin or bay;
- whether the aircraft has an accessible lavatory; and
- the kinds of service to passengers with disabilities that are, or are not, available on the flight.²⁴

Information and services must be available to people who use text telephone, whether through the carrier's TTY, voice relay, or other technology. Air carriers must provide access to TTY users during the same hours that telephone service is available to the general public. There can be no extra charges for TTY users. Carriers must list their TTY number any place they list their phone number. If the carrier does not have a TTY, then it must state how TTY users can reach reservation and ticketing services, such as through a voice relay service.²⁵

Airport Facility Accessibility

Airports must be accessible to, and usable by, individuals with disabilities. Air carriers are

responsible for accessibility for all airport facilities that are owned, leased, or controlled by the air carrier. Airport facilities have the same accessibility standards as do places of public accommodation under Title III of the ADA, including the implementing regulations promulgated by the U.S. Department of Justice.²⁶

Air carriers must ensure that transportation systems within terminals, and between the terminal and other destinations, including moving sidewalks, shuttle vehicles, and people movers, comply with the accessibility requirements of the U.S. Department of Transportation's ADA rules.²⁷

Animal relief areas must be available for service animals that accompany passengers departing, connecting, or arriving at an airport.²⁸

Captioning must be enabled at all times on all televisions and other audiovisual displays that are capable of displaying captions and are located in any part of the terminal where passengers can go. New or replacement televisions or audiovisual displays must have high-contrast captioning capability.²⁹

Security Screening

All passengers, including passengers with disabilities, are subject to Transportation Security Administration (TSA) security screening in U.S. airports. Likewise, at foreign airports, passengers, including passengers with disabilities, are subject to the security screening measures required by law in the country where the airport is located.³⁰

If the air carrier imposes security measures that go beyond those mandated by TSA or a foreign security screening, then it must use the same criteria for passengers with disabilities as for other passengers. Passengers who use a mobility or other assistive device should not be

²³ 14 C.F.R. §382.35.

²⁴ 14 C.F.R. §382.41.

²⁵ 14 C.F.R. §382.43.

²⁶ 14 C.F.R. §382.51(a)(1) and (a)(2).

²⁷ 14 C.F.R. §382.51(a)(3). Rules found at 49 C.F.R. parts 37 and 38.

²⁸ 14 C.F.R. §382.51(5).

²⁹ 14 C.F.R. §382.51(6)(7)(8).

³⁰ 14 C.F.R. §382.55(a).

subject to special screening just because of the device unless the device activates a security system or security personnel make a judgment that the device might conceal a weapon or other prohibited item. Air carriers may not require searches of individuals with disabilities to a greater extent, or for different reasons, than for other passengers.³¹

If a passenger with a disability requests a private screening, then it must be provided in time for the passenger to catch the plane. But if, with the use of technology, an appropriate screening of a passenger can be performed without necessitating a physical search of the person, then a private screening is not required.³²

Automated Kiosks

If a carrier has an automated kiosk in a terminal that is not readily usable by a passenger with a disability for things like ticketing and getting boarding passes, then the carrier has to provide equivalent service to the passenger with a disability. This can be achieved by carrier personnel assisting the passenger in using the kiosk or by allowing the passenger to come to the front of the line at the check-in counter.³³

Accessible Lavatories on the Aircraft

In aircraft with more than one aisle, if lavatories are provided, at least one must be accessible. The accessible lavatory must allow a passenger with a disability to enter, maneuver to use all lavatory facilities, and leave, by using the aircraft's onboard wheelchair. It must offer the same kind of privacy that other passengers have. The lavatory shall have door locks, accessible call buttons, grab bars, faucets, and dispensers usable by passengers with a disability, including wheelchair users and persons with manual impairments.³⁴

An aircraft with only one aisle does not have to have an accessible lavatory.³⁵

On-Board Wheelchairs

If an aircraft has more than 60 passenger seats and an accessible lavatory, it must be equipped with an on-board wheelchair.³⁶ If a passenger requests an on-board wheelchair, then the carrier must provide it if the aircraft has more than 60 passenger seats, even if it does not have an accessible lavatory. The basis of this request must be that the passenger can use an inaccessible lavatory, but cannot reach it from the seat without the use of an on-board wheelchair. Passengers can be required to give advance notice for this service.³⁷

Stowing of Passengers' Wheelchairs

Air carriers must ensure that there is a priority space in the cabin that is large enough to stow at least one typical adult-sized folding, collapsible, or break-down manual passenger wheelchair that would fit in a space of 13 inches by 36 inches by 42 inches without having to remove the wheels or otherwise disassemble it. This applies to aircraft with 100 or more passenger seats. The space has to be somewhere besides the overhead compartments or under-seat spaces that passengers use for carry-on items.³⁸

Seating Accommodations

For a passenger who uses an aisle chair to access the aircraft and who cannot readily transfer over a fixed aisle armrest, the carrier must provide a seat in a row with a movable aisle armrest. Personnel must be trained in the location and proper use of movable aisle armrests, including appropriate transfer techniques.³⁹

An adjoining seat must be provided for a person assisting a passenger with a disability in the following circumstances: when a passenger

³¹ 14 C.F.R. §382.55(b).

³² 14 C.F.R. §382.55(c)(d).

³³ 14 C.F.R. §382.57.

³⁴ 14 C.F.R. §382.63(a).

³⁵ 14 C.F.R. §382.63(b).

³⁶ 14 C.F.R. §382.65(a).

³⁷ 14 C.F.R. §382.65(b).

³⁸ 14 C.F.R. §382.67.

³⁹ 14 C.F.R. §382.81(a).

with a disability is traveling with a personal care attendant who will perform functions during the flight that airline personnel are not required to perform (like assistance with eating); when a passenger with a vision impairment is traveling with a reader/assistant who will perform functions for the person during the flight; when a passenger with a hearing impairment is traveling with an interpreter who will be interpreting during the flight; or when the air carrier requires a passenger to travel with a safety assistant.⁴⁰

A passenger traveling with a service animal must be given either a bulkhead seat or not a bulkhead seat, whichever the passenger requests.⁴¹

A passenger who has a fused or immobilized leg must be provided a bulkhead seat or other seat that gives more legroom on the side of an aisle that better accommodates the person's disability.⁴²

Air carriers are not required to furnish more than one seat per ticket or to provide a seat in a class of service other than the one the passenger purchased. A carrier must never deny transportation to any passenger in order to provide required accommodations.⁴³

Moving Within the Terminal

Air carriers are required to provide assistance when requested by a passenger with a disability to transport the passenger between gates to a connecting flight, as well as from the terminal entrance, or vehicle drop-off point, through the airport to the gate for a departing flight, and from the gate to the terminal exit or a vehicle pick-up point. This includes providing assistance in accessing key functional areas of the terminal, like ticket counters and baggage claim. It also includes a brief stop, at the passenger's request, at the entrance to a rest room on the

route.⁴⁴

Carriers at U.S. airports must, if requested, in cooperation with the airport operator, escort a passenger with a service animal to an animal relief area at the airport.⁴⁵

When providing assistance to move through the terminal, carriers must assist passengers who are unable to carry luggage, with transporting both checked and carry-on luggage. The carrier may ask the passenger for credible verbal assurance that s/he cannot carry the luggage in question. If credible verbal assurance is not provided, the carrier may require documentation.⁴⁶

Boarding and Deplaning

Carriers must offer pre-boarding to passengers with a disability who identify themselves at the gate as needing additional time or assistance to board, to stow accessibility equipment, or to be seated.⁴⁷

Air carriers must promptly provide assistance, when requested by a passenger with a disability, with enplaning or deplaning. This includes the services of personnel, the use of ground wheelchairs, accessible motorized carts, boarding wheelchairs, and/or on-board wheelchairs, ramps or mechanical lifts. Boarding and deplaning assistance must be provided through the use of lifts or ramps at any U.S. commercial service airport with 10,000 or more annual enplanements where boarding and deplaning by level-entry loading bridges or accessible passenger lounges is not available.⁴⁸

Carriers must not leave a passenger who has requested assistance unattended for more than 30 minutes by the personnel responsible for enplaning, deplaning, or connecting assistance in a ground wheelchair, boarding wheelchair or other device in which the passenger is not independently mobile.⁴⁹

⁴⁰ 14 C.F.R. §382.81(b).

⁴¹ 14 C.F.R. §382.81(c).

⁴² 14 C.F.R. §382.81(d).

⁴³ 14 C.F.R. §382.87(e)(f).

⁴⁴ 14 C.F.R. §382.91(a)(b).

⁴⁵ 14 C.F.R. §382.91(c).

⁴⁶ 14 C.F.R. §382.91(d).

⁴⁷ 14 C.F.R. §382.93.

⁴⁸ 14 C.F.R. §382.95.

⁴⁹ 14 C.F.R. §382.103.

Services on the Aircraft

Air carrier personnel must provide the following assistance, when requested, for a person with a disability:

- Assistance in moving to and from seats, as part of enplaning and deplaning;
- Assistance in preparation for eating, such as opening packages and identifying food;
- Assistance with the use of the on-board wheelchair, when there is one on the plane, to enable the person to move to and from a lavatory;
- Assistance to a semi-ambulatory person in moving to and from the lavatory, not involving lifting or carrying the person;
- Assistance in stowing and retrieving carry-on items, including mobility aids and other assistive devices stowed in the cabin;

Effective communication with passengers who have vision impairments and/or who are deaf or hard-of-hearing, so that these passengers have timely access to information the carrier provides to other passengers (info such as weather, on-board services, flight delays, and connecting gates).⁵⁰

Air carrier personnel are not required to provide extensive special assistance, including assistance in actual eating, assistance within the restroom; assistance at the passenger's seat with elimination functions; and provision of medical services.⁵¹

Live Safety Briefings

Air carriers must conduct an individual safety briefing for each person who may need the assistance of another person to move expeditiously to an exit in the event of an emergency. The safety briefing should also include the persons attendant (if they have one).⁵² Air

carriers may offer an individual briefing to any other passenger, but must not require an individual to have such a briefing, unless they meet the requirement of the previous sentence.⁵³ Individual safety briefing should be done as inconspicuously and discreetly as possible.⁵⁴ The air carrier cannot require a passenger with a disability to demonstrate that s/he has listened to, read, or understood the information presented.⁵⁵

Mobility Aids Brought Into the Aircraft Cabin

Carriers must permit passengers with a disability to bring the following kinds of items into the aircraft cabin, as long as they can be stowed in designated priority storage areas, in overhead compartments, or under seats:

- Manual wheelchairs, including folding or collapsible wheelchairs;
- Other mobility aids such as canes, crutches, and walkers;
- Canes used by individuals with vision impairments;
- Other assistive devices for stowage or use within the cabin, such as prescription medication and delivery devices like syringes or auto-injectors, vision enhancing devices, POCs, ventilators and respirators that use non-spillable batteries, as long as they comply with applicable safety, security, and hazardous materials rules.

Assistive devices do not count toward a limit on the number of carry-on items allowed.⁵⁶

Air carriers must ensure that a passenger with a disability who uses a wheelchair and requests pre-boarding can stow the wheelchair in the priority stowage area and have priority over other items brought onto the aircraft by other

⁵⁰ 14 C.F.R. §382.111.

⁵¹ 14 C.F.R. §382.113.

⁵² 14 C.F.R. §121.571(a)(3), 14 C.F.R. 135.117(b).

⁵³ 14 C.F.R. §382.115(b).

⁵⁴ 14 C.F.R. §382.115(d).

⁵⁵ 14 C.F.R. §382.115(c).

⁵⁶ 14 C.F.R. §382.121.

passengers or crew. If the passenger with a disability does not preboard, the passenger may still use the area to stow the wheelchair or other assistive device on a first-come, first-served basis along with all other passengers seeking to stow carry-on items.⁵⁷

If the wheelchair is too big for the space while fully assembled, but will fit if wheels or other parts can be removed without the use of tools, the carrier must remove the applicable components and stow the wheelchair in the designated space. The other parts must be stowed in the areas for stowage of carry-on luggage.⁵⁸

If wheelchairs or other aids or devices cannot be stowed in the cabin because an approved stowage area is not available in the cabin or the items cannot fit in the stowage areas, then these items are given priority for stowage in the baggage compartment. The carrier must provide for the checking and timely return of passengers' wheelchairs and other devices as close as possible to the door of the aircraft so that passengers may use their own equipment to the extent possible unless the passenger requests the return of the items in the baggage claim area, or it would be inconsistent with regulations governing transportation security or the transportation of hazardous materials.⁵⁹

Stowage of Battery-Powered Mobility Aids

Unless restricted by baggage compartment size or aircraft worthiness considerations, a carrier must accept a passenger's battery-powered wheelchair or other similar mobility device, including the battery, as checked baggage. One-hour advance check-in may be required, but even if the passenger checks in after that time, the carrier must carry the device if it can do so

by making a reasonable effort without delaying the flight. The carrier cannot require that the battery be removed, as long as there is a manufacturer label that says it is non-spillable. Even if the battery is spillable, the battery need not be removed if it can be loaded, stored, and secured in an upright position. If not, then the carrier must remove and package the battery separately. A leaking or damaged battery should not be transported.⁶⁰

Electronic Devices that Assist with Respiration

Carriers, except for on-demand air taxi operators, who conduct passenger services must allow, on all aircraft with a capacity of more than 19 seats, any passenger with a disability to use a ventilator, respirator, CPAP machine, or an Federal Aviation Administration (FAA) approved POC, unless either the device does not meet FAA requirements for medical portable electronic devices and does not display a manufacturer's label that indicates the device meets those FAA requirements or the device cannot be stowed and used in the passenger cabin consistent with TSA, FAA, and US Department of Transportation Pipeline and Hazardous Safety Administration (PHMSA) regulations.⁶¹

Communicable Diseases and Other Medical Conditions

Air carriers cannot discriminate against individuals who have communicable diseases unless carrier personnel determine that the individual poses a direct threat, relying on directives issued by public health authorities, such as the U.S. Centers for Disease Control, Public Health Service, comparable agencies in other countries, or the World Health Organization.⁶² This determination cannot be based on the fact that the per-

⁵⁷ 14 C.F.R. §382.123(a).

⁵⁸ 14 C.F.R. §382.123(b).

⁵⁹ 14 C.F.R. §382.125(b)(c).

⁶⁰ 14 C.F.R. §382.127.

⁶¹ 14 C.F.R. §382.133(a).

⁶² 14 C.F.R. §382.21(b)(1).

⁶³ 14 C.F.R. §382.19 (b).

son's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience crewmembers or other passengers.⁶³

In making this assessment, air carrier personnel must consider how significant the consequences of a communicable disease are and whether it can be readily transmitted by casual contact in an aircraft cabin. For example, the common cold is readily transmissible in an aircraft cabin environment but does not have severe health consequences. Someone with a cold would not pose a direct threat. On the other hand, AIDS has very severe health consequences. However, it is not readily transmissible in an aircraft cabin. So someone would not pose a direct threat because he or she is HIV-positive or has AIDS. SARS, though, may be readily transmissible in an aircraft cabin and has severe health consequences. Someone with SARS probably poses a direct threat.⁶⁴

Service Animals and Emotional Support Animals

The definition of service animals includes guide dogs, signal dogs, psychiatric service animals, and emotional support animals. Air carriers are required to allow service animals traveling with persons with disabilities to sit with them in the cabin of the aircraft.⁶⁵ Passengers traveling with pets, as opposed to service animals or emotional support animals, do not have any rights under the ACAA. To determine whether a passenger with a disability is entitled to travel with a service animal, air carriers may ask questions and request documentation in certain circumstances. The questions that may be asked and the level of documentation that may be required will vary depending on the individual's disability and the type of service animal. The purpose for the variation in require-

ments is because 1) many people traveling with a service, comfort or psychiatric support animal may have a hidden disability so the need for a service animal is not apparent and 2) the reason an individual with an obvious disability requires a service animal is not always evident.

As evidence that an animal qualifies as a service animal, an air carrier must accept identification cards, other written documentation, presence of harnesses, tags, or the credible verbal assurances of the passenger with the disability using the animal.⁶⁶ If an air carrier is not certain of the animal's status, even after being told that an animal is a service animal, additional questions may be asked, including: "What tasks or functions does your animal perform for you?" "What has the animal been trained to do for you?" and "Would you describe how the animal performs this task or function for you?"

For emotional support or psychiatric service animals, air carriers may request very specific diagnostic documentation 48 hours in advance of a flight. The documentation must be 1) current (not be more than one year old); 2) be on letterhead from a licensed mental health professional; 3) must state that the person has a mental or emotional disability recognized in the Diagnostic and Statistical Manual of Mental Disorders (DSM IV); and 4) state that the animal is needed as an accommodation for air travel or for activity at the individual's destination. The documentation should also state that the health professional is treating the individual and include the date and type of the mental health professional's license and the state or other jurisdiction in which it was issued. It does not need to state the individual's diagnosis.⁶⁷

Unusual animals such as miniature horses, pigs, and monkeys may be allowed to travel as

⁶⁴ 14 C.F.R. §382.21(b)(2).

⁶⁵ 14 C.F.R. §382.177(b).

⁶⁶ 14 C.F.R. §382.117(d).

⁶⁷ 14 C.F.R. §382.117(e).

⁶⁸ 14 C.F.R. §382.117(f).

service animals.⁶⁸To determine whether the animal will be allowed in the cabin, the air carrier may take into account the animal's size, weight, and whether the animal would pose a direct threat to the health or safety of others, or cause a significant disruption in cabin service. If the animal would pose or cause any of these things, the animal may have to travel in the cargo hold. In addition, if there are restrictions on any of these animals at the final destination point of travel, the animal may not be allowed to fly at all. Other unusual animals such as snakes, other reptiles, ferrets, rodents, and spiders may be denied boarding as they may pose other safety and public health concerns. Foreign carriers are required to transport only dogs as service animals.⁶⁹

Service animals cannot be denied passage because other passengers are offended or annoyed by animals.⁷⁰ Any service animal may be denied boarding privileges if the animal barks, growls, jumps on people or misbehaves in ways that indicate the animal has not been trained to behave properly in public settings, poses a direct threat to the health and safety of others, or poses a significant risk of disruption of cabin service.⁷¹

People with disabilities can sit in any seat with their service animal unless they block an aisle or an area designated for emergency evacuation. If they cannot be accommodated in a requested seat, then they must be given the opportunity to move to another seat within the same class of service. A person with a disability may request a bulkhead seat or another seat that better suits their needs.⁷² A person traveling with a service animal may ask to pre-board.

Air carriers are not required to make modifications that would constitute an undue burden

or would fundamentally alter their programs. In order to accommodate a service animal, a carrier does not have to ask another passenger to give up all or most of the space in front of their seat (This is rarely necessary, since most service animals fit comfortably at the feet of the handler, beneath the seat in front of the handler.) Carriers may try to find someone willing to share their foot space. Carriers can voluntarily reseat a person traveling with a service animal to a business or first-class seat to accommodate a service animal, but are not required to do so.⁷³

In-flight services and facilities do not have to be provided to service animals. Individuals traveling with the animals must provide for the animal's food, care, and supervision.

In the terminal, air carriers must provide animal relief areas. They also must provide escort service to individuals traveling with service animals to these areas, upon request.⁷⁴

Complaint Resolution Officials

A Complaint Resolution Official (CRO) must be designated by any carrier providing scheduled service, as well as a carrier providing nonscheduled service using aircraft with 19 or more passenger seats.⁷⁵ A CRO must be available at each airport the carrier serves at all times when the carrier operates at the airport. The CRO may be available in person or by telephone. If a telephone link to the CRO is used, then TTY or similarly effective technology must be available for persons with hearing impairments. CRO services must be available in the language(s) in which the carrier makes services available to the general public.⁷⁶

Carriers must make passengers aware of the CRO's availability and contact info any time a person complains or raises a concern with car-

⁶⁹ 14 C.F.R. §382.117(f).

⁷⁰ 14 C.F.R. §382.117(a)(1).

⁷¹ 14 C.F.R. §382.117(f).

⁷² 14 C.F.R. §382.117(b).

⁷³ 14 C.F.R. §382.117(b).

⁷⁴ 14 C.F.R. §382.91.

⁷⁵ 14 C.F.R. §382.151(a).

⁷⁶ 14 C.F.R. §382.151(b).

rier personnel or contractors about discrimination, accommodations, or services for passengers with a disability that is not immediately resolved by carrier personnel. This includes issues at the airport, as well as when contacting reservation agents and accessing websites.⁷⁷

The CRO must be completely familiar with the requirements of the ACAA and its implementing regulations, as well as the carrier's procedures with respect to passengers with disabilities. The CRO should be the carrier's expert in compliance with the ACAA. The carrier must make sure that each CRO has the authority to resolve complaints on the behalf of the carrier. The CRO must have the power to overrule the decision of other personnel, except that the CRO does not have to be given authority to countermand a decision of the pilot-in-command of an aircraft when the decision is based on safety considerations.⁷⁸

Actions by the CRO

If the CRO gets a complaint before the action or inaction of the carrier personnel has resulted in a violation of the ACAA, then the CRO must take or direct whatever action is necessary to ensure compliance.⁷⁹ If the alleged violation has already happened, and the CRO agrees that it was a violation, then the CRO must provide a written statement setting forth a summary of the facts and what steps the carrier proposes to take in response.⁸⁰ If the CRO decides that the carrier's action does not violate the ACAA, the CRO must provide a written statement that has a summary of the facts and the reasons for the CRO's decision.⁸¹ The written statement from the CRO must tell the individual about the right to pursue Department of Transportation enforcement. The statement should ideally be given to the individual at the

airport, but if that is not possible, then it must be forwarded within 30 calendar days of the complaint.⁸²

Written Complaints

Carriers must respond to written complaints received by any means (letter, fax, email, electronic message) concerning matters covered by the ACAA and its implementing regulations,⁸³ unless the written complaint is sent or transmitted more than 45 days after the alleged incident.⁸⁴ Passengers must state, in the written complaint, whether the passenger contacted a CRO about the issue, and give the name of the CRO, the date of contact, and any written response from the CRO.⁸⁵ Within 30 days, the carrier must provide a written response that specifically admits or denies that a violation occurred. The written response must set forth a summary of the facts and either the steps that will be taken in response or the reasons for the decision that no violation occurred. The response must also inform the person of the right to pursue Department of Transportation enforcement.⁸⁶

Complaints Filed with the Department of Transportation (DOT)

If an individual believes that an air carrier has violated any provision of the ACAA and its implementing regulations, the individual may either seek assistance or file an informal complaint with the DOT no later than 6 months after the date of the incident by either:

- Going to the Department's Aviation Consumer Protection Division at airconsumer.ost.dot.gov and selecting "Air Travel Problems and Complaints," or
- Writing to DOT, Aviation Consumer Protection Division (C-75), 1200 New Jersey Avenue, SE, Washington DC 20590.⁸⁷

⁷⁷ 14 C.F.R. §382.151(c).

⁷⁸ 14 C.F.R. §382.151(d)(e).

⁷⁹ 14 C.F.R. §382.153(a).

⁸⁰ 14 C.F.R. §382.153(b).

⁸¹ 14 C.F.R. §382.153(c).

⁸² 14 C.F.R. §382.153(d).

⁸³ 14 C.F.R. §382.155(a).

⁸⁴ 14 C.F.R. §382.155(c).

⁸⁵ 14 C.F.R. §382.155(b).

⁸⁶ 14 C.F.R. §382.155(d).

⁸⁷ 14 C.F.R. §382.159(a).

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