

# Advocates' Service Animal Proposal

*July 21st, 2016*

Unless indicated otherwise, everything in this document conveys what is proposed, not necessarily what is in the current regulations or guidance.

## §1. *Decision tree*

Airlines could use a mechanism like a "**decision tree**" at the point of ticket purchase. This decision tree would have the individual specify the type of animal with which the person plans to travel, and would educate that person as to the rights and responsibilities of traveling with that animal (see the "Decision Tree Appendix" for an exhibition of the concept). The decision tree idea is intended both to remedy ignorance and to ultimately be executed in a way that is easy to agree to for those who are doing the right thing, but might be imposing and dissuade those who aren't.

There are two options for the decision tree implementation, as detailed in the following two brackets.

[Option 1: Airlines could require ticket-purchasers to complete the decision tree by default. Reasonable exceptions to the allowed decision tree requirement would have to be made on a case-by-case basis.]

[Option 2: The decision tree would be voluntary. Airlines would be permitted to urge passengers to complete the voluntary decision tree inquiry; however, passengers will also be informed that they are not required to do so. If a passenger elects not to complete this inquiry, however, and his or her need for a service animal or emotional support animal is called into question, and not satisfied based on credible verbal assurance, then the airline may request verification to substantiate the passenger's disability-related need for the animal's accompaniment, which the airline may require as a consideration to permit the animal to travel in the cabin with no pet fee (in line with current policy under "Request documentation for service animals other than emotional support animals" Federal Register Vol 68, No. 90 Friday, May 9, 2003, p. 24876).]

Since additional guidance must be given as to how to assess an animal's behavior,

this guidance is given to passengers in the decision tree through the behavior standard (detailed in the section below, "*Categories of animals*"). For airline personnel, guidance should at least include a requirement for training regarding the behavior standard.

Under the decision tree process, no other documentation would be required. The process would not vary on the basis of disability, but requirements may vary based on the type of accommodation requested (e.g., for a service dog vs. an ESA cat). Any disability accommodation process, including a decision tree or other documentation procedure, must be accessible for people with all types of disabilities.

Airlines would be highly encouraged to have all passengers complete the initial decision tree inquiry. In the version detailed in the appendix, the decision tree would address whether the passenger would be traveling with any animal, whether a pet, service animal, or ESA. This would allow airlines to be much better informed and prepared. Each airline might expand its decision tree to allow passengers to make other declarations—whether about a disability-related request for reasonable accommodation, or personal preferences—as the airline might find useful.

## §2. *Categories of animals*

The category of "service animal" does not include ESAs. A **service animal** is:

- a dog
- trained to do work or perform a task to mitigate a person's disability on the flight or at the destination
- trained to behave properly in public settings

A service animal that is trained to behave properly in a public setting is expected to comport to the **behavior standard**, which includes:

- being housetrained
- generally controlled via some form of tether when reasonable (a disability or disability assistance may justifiably prohibit the use of a harness, leash, or other tether at a given time)
- not being disruptive or destructive

- not acting aggressively or otherwise creating a threat to health or safety
- not being placed on a seat (on the user's lap is acceptable for disability mitigation)
- not unduly encroaching on another passenger's space without permission
- always remaining under control of the handler

A person with a disability would have the same access with such a service animal (used for disability mitigation during the flight or at the destination) as service animal users have under current regulations. However, there is no distinction among service animal users on the basis of their type of disability—psychiatric service animal users are not treated differently from other service animal users.

An **ESA** is an animal that:

- is used to mitigate a person's disability on the flight or at the destination (e.g., its presence reduces the likelihood or effects of a panic attack)
- need not be trained to do work or perform a task to mitigate a person's disability
- is *either* (1) a dog that is trained to behave properly in public settings *or* (2) is either not a dog or not so trained. If (1), the dog has access in the same manner as a service animal, but is not trained to do work or perform a task to mitigate a person's disability (or it would be a service animal, not an ESA). If (2), the animal must be transported in a pet carrier.

The ESA category splits into two distinct treatments based on species and training. If a dog is trained to behave properly in public settings, it would be allowed outside of a pet carrier with a person with a disability. Such an ESA would be expected to comport to the behavior standard above, just like a service animal.

Other animals that are of species currently allowed would also still be allowed with a person with a disability, but would be restricted to a pet carrier. This would functionally prohibit animals of many larger, non-canine species. The animal may be removed from the carrier during the flight in order to provide disability mitigation. In that circumstance, the animal must be tethered to and under control of the handler, comporting to the behavior standard above.

**Miniature horses** and **capuchin monkeys** that provide disability mitigation during the flight or at the destination are not called "service animals" so as to avoid

confusion. However, their users may have similar access as service animal users or ESA users. This exceptional access would practically function the same as it already does, as follows.

The airline must determine whether any factors preclude the animal traveling in the cabin (e.g., whether the animal is too large or heavy to be accommodated in the cabin, whether the animal would pose a direct threat to the health or safety of others, whether it would cause a significant disruption of cabin service, or whether it would be prohibited from entering a foreign country that is the flight's destination). If no such factors preclude the animal from traveling in the cabin, an airline must permit it to do so with the person with a disability.

Miniature horses must be trained to do work or perform a task to mitigate a person's disability, and trained to behave properly in public settings. Miniature horses are also expected to comport to the behavior standard.

Capuchin monkeys must be trained for disability mitigation. They are exclusively used for residential disability mitigation and are not intended to assist their users in public settings. Capuchin monkeys are thus restricted to pet carriers while traveling.

If a dog or miniature horse is trained to behave properly in public settings, but is still in training to perform disability mitigation, a person with a disability can fly with the animal for the purpose of training the animal on the flight or at the destination. This animal would be known as a "**service animal in training**". The service animal in training is required to comport to the behavior standard.

### *§3. Further clarifications*

Complaint resolution officers (CROs) are responsible for handling any initial round of eligibility determination challenges, and must do so in a timely and otherwise reasonable manner. If a person's animal is determined ineligible, airlines may not deny a passenger boarding on that basis. While airlines must still accept an otherwise travel-eligible passenger, airlines are not required to arrange for local transport or boarding of the passenger's denied animal.

A passenger requesting accommodation to travel with more than two service animals, ESAs, or a combination of these can be required to provide reasonable

justification to the airline as to why each animal is needed for disability mitigation on the flight or at the destination.

Airlines may not restrict the total number of service animals or ESAs per flight, as this would functionally be placing a limit on the number of passengers with disabilities per flight. There are general regulations in place that cover any unusual situation that would threaten the health or safety of passengers based on the total number of service animals or ESAs on a flight.

## v Decision Tree Appendix v

The decision tree presented below is merely for exhibition of the concept, and the particulars are subject to change based on Reg Neg collaborations and design considerations. Bullet points represent selectable "radio buttons" (check boxes). Each subsequent group of options ("branch") that appears after a previous branch is completed is indicated with "[*new branch*]". Other explanatory notes also appear in brackets.

[*Initial inquiry*]

Do you plan to travel with an animal?

- Yes
- No

[<No>: The decision tree prompts the purchaser to alert the airline if this changes before travel, then takes the purchaser to the rest of the regular ticket purchasing procedure. <Yes>: The decision tree takes the purchaser to the branch below.]

[*new branch*] Animal type

My animal is a(n):

- Pet
  - Emotional support animal
  - Service animal (dogs only)
  - Other (please specify)
- [pulldown menu]

[The decision tree would include definitions of "emotional support animal" and "service animal" on this page. The decision tree would address miniature horses, etc. here as well, in the pulldown menu under "Other".]

[<Pet>: The decision tree returns the purchaser to the rest of the regular ticket-purchasing sequence or to a carrier-specific branch regarding pets. However, if the purchaser selects multiple options, the decision tree carries each decision tree branch to completion in succession before returning the purchaser to the rest of the regular ticket-purchasing sequence.]

[<Emotional support animal>: The decision tree takes the purchaser to the ESA branch below. The "service animal" branch is exhibited below the ESA branch.]

[*new branch*] Emotional support animal disability accommodations under federal law

- I have a disability and use an emotional support animal to mitigate my disability.

Please describe the species of the emotional support animal.

- Dog
  - Cat
  - Other (please specify)
- [comment field]

[<Other>: The decision tree would list prohibited species and may prompt the purchaser to call the airline for resolution.]

Please describe your animal's weight.

- Under 25 pounds/11.3 kilograms
  - 25–50 pounds/11.3–22.7 kilograms
  - Over 50 pounds/22.7 kilograms (please specify)  
[comment field]
- 
- My emotional support animal is both trained to properly behave in public settings and is expected to comport to the Air Carrier Access Act ("ACAA") behavior standard below.

[If the purchaser selects the above statement and <Dog>, the decision tree produces the following statement, forcing a selection to proceed.]

- I understand that training an animal to properly behave in public settings involves successfully training the animal in a variety of environments in a way that is very likely to result in the animal behaving in the unpredictable environments of a busy airport and the crowded cabin of an airplane in flight. Generally, this requires purpose-driven training over a substantial period of time, as is customary with service animals. My emotional support animal is trained to properly behave in public settings, as outlined here.
- My emotional support animal is either not trained to properly behave in public settings, or not expected to comport to the ACAA behavior standard below.

[The decision tree would clearly present the behavior standard in the ESA and service animal branches. If the purchaser selects the above statement, or does not select <Dog> above, the decision tree produces the following statement, forcing a selection to proceed. If the purchaser also does not select <Under 25 pounds> (yet the animal must fit in a carrier), the decision tree may prompt the purchaser to call the airline for resolution.]

- I understand that my emotional support animal must fit into an approved pet carrier, and is restricted to that carrier unless providing disability mitigation during the flight. In that case, the animal must be tethered to its handler and under handler control, comporting to the

ACAA behavior standard. I understand that airline crew may require that my emotional support animal be placed in the carrier should it become disruptive during the flight.

- I understand that marking my emotional support animal as an emotional support animal (or "ESA") is recommended as a courtesy to others, but is not required. Such markings, emotional support animal registration, and emotional support animal identification have no impact on whether my animal must be properly trained and must obey the behavior standard, and I am advised not to assume any equipment or documentation will help me gain access.
- I plan to travel with more than one emotional support animal and I understand that the airline may require justification for multiple animals.

[If the purchaser selects the above statement, the decision tree would force the purchaser to select the following option to proceed.]

- How many additional emotional support animals will be accompanying you?  
[pulldown menu]
- I attest that these statements are true and I am aware that I am committing fraud if I knowingly make false statements here in order to secure federally regulated disability accommodations.

[*new branch*] Service animal disability accommodations under federal law

- I have a disability and use a service animal to mitigate my disability.

Please describe the species of the service animal.

- Dog
- Other

[<Other>: the decision tree displays the following.]



Under Air Carrier Access Act ("ACAA") regulations, only dogs may be service animals. If you are traveling with a miniature horse or capuchin monkey that mitigates your disability, or with an emotional support animal that mitigates your disability and can fit in an approved pet carrier, please select "Back" to pursue the appropriate option. Return to the start of these options if you wish to travel with a pet or without an animal.

- I understand that Air Carrier Access Act ("ACAA") regulations require a service animal to be individually trained to assist with a disabling condition; this assistance can occur during the flight or at the destination. This "disability mitigation" (assistance) training involves training an animal to reliably recognize and respond to either a command or a change in the user's body or environment, in a way that relieves negative symptoms or effects of a disability. This contrasts with someone's disability being relieved either by the mere presence of the animal, or through untrained behaviors. The animal accompanying me has been trained to assist with a disability, as described here.
- I understand that ACAA regulations require a service animal to be trained to properly behave in public settings. This involves successfully training the animal in a variety of environments in a way that is very likely to result in the animal behaving in the unpredictable environments of a busy airport and the crowded cabin of an airplane in flight. Generally, this requires purpose-driven training over a substantial period of time. My service animal is trained to properly behave in public settings and is expected to comport to the ACAA behavior standard below.
- I understand that marking my service animal as a service animal is recommended as a courtesy to others, but is not required. Such markings, service animal registration, and service animal identification have no impact on whether my animal must be properly trained and must obey the behavior standard, and I am advised not to assume any equipment or documentation will help me gain access.

- I plan to travel with more than one service animal and I understand that the airline may require justification for multiple animals.

[If the purchaser selects the above statement, the decision tree presents a forced choice to continue, as in the following selectable option.]

- How many additional service animals will be accompanying you?  
[pulldown menu]

- I attest that these statements are true and I am aware that I am committing fraud if I knowingly make false statements here in order to secure federally regulated disability accommodations.