

D. Service Animals¹

A service animal is (i) an animal individually trained and which performs functions to assist a person with a disability; (ii) an animal that has been shown to have the innate ability to assist a person with a disability, *e.g.*, a seizure alert animal; or (iii) an emotional support animal. You should be aware that there are many different types of service animals that perform a range of tasks for individuals with a disability.

Service Animal Permitted to Accompany Passenger on Flight and at Seat Assignment

You must permit dogs and other service animals used by passengers with a disability to accompany the passengers on their flights. In addition, you must permit a dog or other service animal to accompany a passenger with a disability to the passenger's assigned seat and remain there as long as the animal does not obstruct the aisle or other areas that must remain unobstructed for safety reasons. [Sec. 382.55(a)] The service animal must be allowed to accompany the passenger unless it poses a direct threat to the health or safety of others or presents a significant threat of disruption to the airline service in the cabin. *See also* Appendix VI, DOT Guidance Concerning Service Animals in Air Transportation; FAA Flight Standards Information Bulletin for Air Transportation (FSAT) #04-01A, "Location and Placement of Service Animals on Aircraft Engaged in Public Air Transportation" <http://www.faa.gov/avr/afs/fsat/fsatl.htm>.

¹*See also* Appendix VI.

Chapter 7: Interacting with People with Disabilities

When assisting and interacting with individuals with disabilities, you should use language that gives an accurate, positive view of them. You should focus on the person first, not the disability, and avoid language that reinforces myths, stereotypes, and discrimination.

Below is a chart listing some currently acceptable terminology and terminology to avoid when addressing or referring to people with disabilities.

<i>Use</i>	<i>Avoid</i>
Person with a disability	Handicapped or deformed
Person who is deaf	The deaf
Person who is blind or visually-impaired	The blind; the visually-impaired
Woman with an emotional disorder, psychiatric illness, or psychiatric disability	Crazy, demented, lunatic, psycho, or maniac
Person using a wheelchair, wheelchair user	Confined to a wheelchair, wheelchair bound, or crippled
Person with AIDS or living with AIDS	Afflicted with AIDS, victim of AIDS, or suffers from AIDS
Congenital disability	Birth defect
Man who has cerebral palsy	Afflicted with cerebral palsy or suffers from cerebral palsy
Woman who has Down syndrome	Mongol, mongoloid, or retarded
Person with head injury, people who have sustained brain damage, or woman who has traumatic brain injury	Brain damaged
Person who has a speech disorder or woman without speech	Mute or dumb
Man with quadriplegia or woman who is paralyzed	Crippled
Person of small or short stature	Dwarf
Nondisabled	Normal, able-bodied, healthy, or whole

It may not be apparent whether a person is an individual with a disability. You should provide an opportunity for a passenger to self-identify as an individual with a disability by asking if the person needs assistance and, if so, how best you can assist with those needs. Keep in mind that you cannot require an individual with a disability to accept special services, including pre-boarding.

Some Examples of Physical Impairments [Sec. 382.5(a)(1)]:

- Orthopedic impairment;
- Deafness (profound hearing loss);
- Hard of hearing (mild to profound hearing loss);
- Vision impairment and blindness;
- Speech disorder;
- Cerebral palsy;
- Epilepsy;
- Muscular dystrophy;
- Multiple sclerosis;
- Cancer;
- Heart disease; and
- Diabetes.

Some Examples of Mental or Psychological Impairments [Sec. 382.5(a)(2)]:

- Mental retardation;
- Depression;
- Anxiety disorders;
- Specific learning disabilities; and

- Brain injury.

Below is a list of general tips to consider when interacting with people with disabilities followed by tips relating to interacting with individuals with one or more of the five basic types of disabilities. These tips are aimed at ensuring that services, facilities, and other accommodations are provided to passengers with disabilities in a respectful and helpful manner.

Some of the tips relate to specific legal requirements, but most of them set forth suggestions for interacting in a way that would constitute good customer service and demonstrate a sensitivity to the issues concerning passengers with disabilities. The following tips should be read and employed with the above qualification in mind.

General Tips for Interacting with Individuals with Disabilities

- **Always ask.** The most effective and simplest step for you to take when you are uncertain about a passenger's needs is to ask, "May I assist you?" or "Please let me know how I can assist you." A passenger with a disability has the most information about his or her abilities, level of familiarity with the airport and airline, and needs when traveling.
- **Appreciate the passenger's perspective.** Take into consideration the extra time and energy that traveling may require for a person with a disability. For example, you should realize that a person with a disability may not have the flexibility and spontaneity to react to unexpected situations. Understand that making adjustments may take more time or may require additional attention or services for passengers with a disability.
- **Be yourself and be self-aware.** It is important to relax, be yourself, and maintain the conversational style you would use for anyone else when you are speaking with a person with a disability. Be aware of the possibility that your body language could convey discomfort or impatience; try to avoid this. Also, respect the privacy of individuals with disabilities. Asking about a person's disability can be perceived as intrusive and insensitive. It might be interpreted as placing the disability above the human being.
- **Don't make assumptions.** Don't assume that all individuals with a disability automatically need assistance. Keep in mind that if the setting is accessible, individuals with a disability would usually prefer to operate independently.
- **Emotions matter.** Acknowledge the emotions of the person in a stressful situation, *e.g.*, frustration or disappointment. When acknowledging the emotions of others, it may be more effective to use "you" rather than "I." For example, use, "*You* must be frustrated

by having to wait for your checked wheelchair.” Not, “*I completely understand how you feel, I had to wait forever at a supermarket check-out yesterday.*”

- **Focus on the person, not the disability.** The emphasis is on the person first, not the disability.
- **Keep the passenger informed.** When providing an accommodation to a passenger with a disability, keep the passenger updated about the progress or timing in connection with such accommodation.
- **Knowledge is useful.** Be aware of the services, information, and resources available to a person with a disability who asks about a particular accommodation. If you don’t know the answer to the question, treat the individual with respect and courtesy and say, “Let me find out for you.” Don’t make guesses about what accommodations or services to provide a person with a disability. When explaining requirements under the law to a passenger with a disability, avoid rendering legal advice or counseling the person in any way.
- **The passenger is the expert.** Offer assistance only if the passenger appears to need help. If the passenger asks for help, ask how you can assist and listen to the passenger’s response and instructions before you act. If you have any doubts as to how to assist a passenger with a disability, you should ask the passenger for guidance before acting. Avoid being overly enthusiastic about helping and always think before you speak and act when offering assistance.
- **Respect personal space.** Be sensitive about physical contact. Avoid patting an individual with a disability or touching the individual’s wheelchair or cane. People with disabilities consider their assistive devices to be part of their personal space.

- **Speak directly to the passenger.** Always make eye contact and speak directly to a person with a disability, not the person's companion, attendant, or interpreter.
- **Treat each passenger as an individual.** It is important to recognize that people with disabilities may vary in their ability to perform certain tasks. Individuals with a disability are best able to assess and gauge what they can and cannot do in a particular situation.

It is always important to keep the above tips in mind when assisting and communicating with passengers with disabilities. As a practical matter though, you will need to be aware of different considerations depending on the type of disability the passenger self-identifies as having.

Below are five basic types of disabilities with a list of considerations to keep in mind when you are communicating with and accommodating passengers with each type of disability. Even though these five types of disabilities are set forth here, each passenger with a disability should be considered as an individual with individual needs. It is important for you to communicate with each passenger about that particular passenger's needs under the circumstances and to avoid making assumptions about the passenger's needs. The five basic types of disabilities addressed below are: People who are blind or visually-impaired; people who are deaf, hard of hearing, or deaf-blind; people with mobility disabilities; people who have difficulty speaking, and people with disabilities that are not apparent (*e.g.*, a cognitive or emotional disability, diabetes, etc.).

Tips for Assisting People Who Are Blind or Visually-Impaired

Communication

- Only offer assistance if it seems appropriate. Ask the person if you can be of assistance and, if so, how you can help.
- Identify yourself by name and job responsibility first.
- Always communicate using words rather than relying on gestures, facial expressions, or other nonverbal communication. For example, tell the passenger the gate number and the directions to get to the gate. If you are handing a boarding pass to a blind passenger, explain that you have the person's boarding pass and that you would like to place it directly in the person's hand. Always communicate in words what you are doing, *e.g.*, waiting to receive confirmation of a reservation, and identify any items you are giving to the passenger, *e.g.*, a credit card, tickets, voucher, etc.
- Make sure a passenger who is blind is made aware of all relevant information as it becomes available to all passengers. For example, if a boarding time is changed and the new boarding time is posted visually at the gate, you must inform the person orally. Advise the passenger when you are leaving the area and answer any questions the person has before you do.
- If individual safety briefings are required, conduct them discreetly with respect for the privacy of the person who is blind or visually-impaired.
- If a person uses a term relating to the condition of being blind or visually-impaired that you are not familiar with or that you don't understand, ask the person to tell you what his or her needs are. If you need additional information, you should contact the CRO to discuss how best to proceed. In addition, be aware that your carrier may provide

additional training to educate you about the different types of disabilities in order to enhance your ability to accommodate passengers with disabilities.

- Keep in mind that the special service request (SSR) field of the passenger name record (PNR) may contain information concerning a passenger who is blind or visually impaired.

Guiding a Person

- Never take the arm of a person who is blind without asking first, because the person could lose balance. In addition, if you don't ask first, the person who is blind could perceive a lack of respect because he or she was not given the option of receiving the assistance. Once you ask if you can offer your arm, let the person who is blind take it. You may direct the person's arm to a railing or the back of a chair to assist with seating.
- Walk approximately a half step ahead of the person if you are serving as a guide through the terminal. When encountering stairs, escalators, moving walkways, revolving doors, etc., give the person who is blind the option to choose whether to use the facility or conveyance. For example, you might say, "We can just keep walking or use the moving sidewalk. Which would you prefer?" Never assume that a person who is blind cannot use these devices because of blindness. Instead, offer the individual the freedom and flexibility to choose which devices and facilities he or she would like to use. Describe the environment in detail as you go and ask the person if he or she would like you to point out airport amenities such as restaurants, shops, ATM machines, restrooms, airline club lounges, displays, or other terminal facilities. Note any obstacles and their location in your path. If you need to provide a warning, be as specific as possible. Offer to orient

the person to the gate or other terminal area in case he or she would like to walk around, *e.g.*, you could say, “All even numbered gates are on our right when walking from security and odd numbered gates are on the left.”

- When you are done guiding the person to his or her destination, ask him or her if any other assistance is needed. Only if the person who is blind has requested should you inform other passengers or carrier personnel of the individual’s need for additional assistance.
- Be aware that many people who are blind prefer to walk rather than use wheelchairs, electric carts, etc. You may not require a person who is blind to use a wheelchair and, if requested, you must provide a walking guide for the person who is blind.

Service Animals and Assistive Devices

- Never pet or distract a service animal accompanying a person who has a disability. Don’t separate passengers who are blind from their service animals.
- Don’t move a person’s cane or assistive device if the person has placed it on the ground near a seat. If you ask and receive permission, you may help the passenger collect things if need be, *e.g.*, carry-on items, jackets.

Tips for Assisting People Who Are Deaf, Hard of Hearing, or Deaf-Blind

Communication

- Remember that people who are deaf, hard of hearing, or deaf-blind have various ways of communicating, *e.g.*, sign language, speech/lip reading, TTY, hearing aid or implant. A person's deafness can go unnoticed unless the person self-identifies as a person who is deaf, hard of hearing, or deaf-blind.
- When speaking, look directly at the person who is deaf or hard of hearing. The person may use speech/lip reading as a method of communicating. Use normal lip movement. Use a normal tone of voice when speaking to a person who is deaf or hard of hearing. Don't shout because shouting distorts the sound, words, and lip movement. Sometimes you may need to rephrase your message because many words have the same lip movement, *e.g.*, 15 and 50 have the same lip movement. If writing a note, make the message short and simple.
- Identify yourself by name and job responsibility first.
- If individual safety briefings are required, conduct them discreetly with respect for the privacy of the person who is deaf, hard of hearing, or deaf-blind.
- Make sure a passenger who is deaf, hard of hearing, or deaf-blind receives all relevant information as it becomes available to all passengers. For example, if a boarding time is changed and the new boarding time is announced, you must inform the person through an accessible method of communicating.
- If a person uses a term relating to the condition of being deaf, hard of hearing, or deaf-blind that you are not familiar with or that you don't understand, ask the person to tell

you what his or her needs are. If you need additional information, you should contact the CRO to discuss how best to proceed.

- A deaf-blind person may communicate through the printing on palm method, an alternative to using sign language. This method involves “writing” with your fingertip on the palm of the deaf-blind person’s hand. Use the fleshy part of your fingertip, not your nail. Always use all upper case letters and use the same reference point for each letter. More specifically, hold the deaf-blind person’s hand the same way each time, so the top and bottom letter falls in the same place. Make sure the words you print are “right side up” for the person receiving the message. Write as large as possible and start in the upper left for a “W” and finish in the upper right. Use the entire palm area for each letter. Use one stroke for both the letter “I” and the number “1”. The difference will be obvious from the context of what you are spelling. When you finish a word, “wipe it off” using the palm of your hand. This action indicates that you have finished one word and you are beginning a new word.
- Keep in mind that the special service request (SSR) field of the passenger name record (PNR) may contain information concerning a passenger who is deaf, hard of hearing, or deaf-blind.

Guiding a Person Who is Deaf-Blind

- Touch the person gently and offer your arm. Let the person take your upper arm near your body; this way he or she can feel the change in gait as you approach different barriers and prepare for them. Don’t take or grab the arm of the person who is deaf-blind (particularly the arm with which the person is holding a cane or guide dog

harness) and don't push him or her along. If the person has a guide dog, go to the side opposite the service animal and offer your arm (usually the person's right side). Remember the person who is deaf-blind cannot hear you. Therefore, information regarding obstacles, stairs, etc. must be given tactually. Deaf-blind people often have poor balance so it is helpful to offer a steady hand to aid in orientation. Never leave a deaf-blind person in an open space, place his or her hand on a wall, post, railing, or whatever is available.

Service Animals

- Never pet or distract a service animal accompanying a person who has a disability. Don't separate passengers who are deaf, hard of hearing, or deaf-blind from their service animals.

Tips for Assisting People Who Have Mobility Disabilities

Communication

- If a person uses a term to describe a mobility disability that you are not familiar with or that you don't understand, ask the person to tell you what his or her needs are. If you need additional information, you should contact the CRO to discuss how best to proceed.
- If individual safety briefings are required, conduct them discreetly with respect for the privacy of the person with a mobility disability.
- When having a long conversation with a person who is using a wheelchair, stoop down or sit nearby so that you are closer to eye level.

Wheelchairs and Other Assistive Devices

- Be aware of the types of wheelchairs and assistive devices used by people with mobility disabilities when traveling. You must be able to provide information to people about the different types of wheelchairs, services, and other equipment provided or accommodated by your carrier on the particular flight.
- Understand the proper function and storage of the different types of wheelchairs and assistive devices. Ask the person with the mobility disability the best way to handle the device.
- Consider keeping information handy about businesses providing wheelchair repair in the area in case a person with a mobility disability needs the information.

Assisting with Transfers and Movement through Terminal

- If you must transfer a person with a mobility disability from an aisle chair to a seat on the aircraft, or perform any other kind of transfer, explain the transfer procedures and listen to any instructions or preferences from the person before undertaking the transfer.
- Be aware that, under the law, you can never physically hand-carry a person with a mobility disability (even if both of you are willing) except in an emergency evacuation situation.
- When providing transportation between gates, ask the person with the mobility disability if the person would prefer to be pushed or not. If the answer is yes, use elevators and avoid escalators and moving walkways. When maneuvering through the terminal, say, “Excuse us.” Not, “Excuse me.”
- Be aware that, under the law, carriers are not permitted to charge passengers with disabilities for services or equipment required by part 382. If, however, a passenger with a disability voluntarily offers to tip you for providing a service, you should consult your carrier’s policy to determine whether you can accept it.

Service Animals

- Never pet or distract a service animal accompanying a person who has a mobility disability. Don’t separate passengers with a mobility disability from their service animals.

Tips for Assisting People Who Have Difficulty Speaking

Communication

- Ask the person how he or she prefers to communicate.
- A pencil and paper may be okay for short conversations.
- If you do not understand something that is said, tell the person you don't understand and ask the person to repeat.
- Be patient, it may take a while to communicate.
- Let the individual speak without attempting to finish his or her sentence.
- To obtain information quickly, ask short questions that require brief "yes" or "no" answers.
- Don't shout.
- Difficulty speaking does not indicate a lack of intelligence.

Tips for Assisting People Who Have Disabilities that are Not Apparent

Communication

- Do not make assumptions about the needs of people if their behavior appears to be unusual to you. Cognitive disabilities may cause people to reason, draw conclusions, or respond more slowly. People with cognitive disabilities may appear easily distracted. Depending upon the disability, the person may understand materials in written form or through a verbal explanation. They may also find the background noise of a busy airport terminal extremely distracting.
- Disregard any speech impairments or physical ties by being patient and aware of your own body language and facial expressions that could convey your own discomfort.
- If individual safety briefings are required, conduct them discreetly with respect for the privacy of the person with a disability that is not apparent. Similarly, if there is a concern that the person is not medically stable enough for air travel, conduct the inquiry in a discreet manner and involve the CRO, if necessary.
- If a person with a disability that is not apparent uses a term to describe a disability that you are not familiar with or that you don't understand, ask the person to tell you what his or her needs are. If you need additional information, you should contact the CRO to discuss how best to proceed.

Service and Emotional Support Animals

- Be aware that people who have disabilities that are not apparent may travel with emotional support animals or other service animals. Never pet or distract a service

animal accompanying a person who has a disability that is not apparent. Don't separate passengers from their service or emotional support animals.

Alphabetical Index

Advance notice	27-31, 55
Air travelers with disabilities traveling as a group	27, 28
Optional services and equipment	29
Services and equipment	27
Air Carrier Access Act (ACAA)	1-3, 5, 6, 8, 10, 11, 15, 82
Air carrier <i>see</i> Carrier	
Airport facilities or airport	4, 9-12, 14, 20-21, 22, 24, 25, 30, 45, 49, 68, 70, 73, 81, 82-84, 86, 94, 98, 106
Accessibility of terminal facilities and services	45-46
Baggage claim area	73
Copy of 14 CFR Part 382	24
Standards for Accessible Design under the Americans with Disabilities Act	45
Aircraft	
Accessibility	54-56
Aircraft with 30 or more passenger seats	30, 42, 54
Aircraft with more than 60 passenger seats	42, 55
Aircraft with fewer than 60 passenger seats	27, 30
Aircraft with 100 or more passenger seats	24, 54
Aisle armrest	32, 54, 58
Fixed	21, 58
Movable	32, 54, 61, 62
Information about	31-32
Lavatory	28, 32, 42, 50, 52, 55, 71, 77
Maintenance of	11
Replacement of interior elements, etc.	55, 56
Retrofitting	55
Stowage space	24, 56, 72
Substitution of another	31
Air transportation	5, 8, 9, 12, 22, 33, 34, 51
Assistive devices	8, 9, 23, 27, 32, 46, 47, 66, 70, 71, 72, 73, 74-77, 95, 99, 103
Canes	23, 70, 95, 99, 101
Carry-on item	23, 24, 70-73, 77, 78, 99
Checked baggage	71, 72, 74
Liability concerning loss of or damage to	32, 76
Waiver of liability	32, 76
Note preexisting damage	32, 76

Medical devices and medications	9, 72
Mobility aids	32, 46, 47, 77
Wheelchairs <i>see</i> Wheelchair	
Attendant	23, 44, 50-53, 58, 79, 96
Decision contrary to self-assessment of passenger	51-53
Interpreter	58, 80, 96
Personal care	50, 58
Purpose of	52, 53
Reader/Assistant	58
Recruiting	52, 53
Require	23, 44, 50-51
Safety as the basis for requiring	51
Seating assignment	51, 58, 66
Awareness and Sensitivity	85, 91-107
Training	85, 97-98
Baggage	8, 9, 10, 15, 23, 71-78
Carry-on	23, 71-72, 73, 78
Checked	71-72, 73, 74
Handlers	8, 10, 15
Blind or visually-impaired individuals	24, 58, 81, 91, 92, 96, 97-99
Accommodations	24, 58
Tips for assisting	91, 92, 96, 97-99
Boarding or enplaning and deplaning assistance	4, 7, 18, 21, 23, 24, 42, 43, 66-70, 77
Services personnel and equipment	42-43, 47, 66
Ramps or mechanical lifts	42, 47, 66, 67, 68
Level-entry boarding	67-68
Prohibition against hand-carrying	67, 68-69
Cargo compartment, bay, or hold	32, 34, 35, 71, 73
Carrier	<i>passim</i>
Contractors of	1, 8, 10, 32
Domestic or U.S.	2, 3, 15, 90
Employees or personnel of	1, 2, 8, 10, 15, 19, 32, 44, 47, 49, 51, 52, 53, 67, 78, 80, 83, 85
Foreign	3, 15, 90
Indirect	1, 12, 15
Policies and procedures of	6, 9, 12, 30, 35-36, 38, 44, 78, 85, 86, 87-89, 104

Charges for services and accommodations	25, 26, 71, 75, 104
General prohibition against	25, 51, 52-53, 71, 75, 104
Reasonable charges for optional services	25
Changing planes or providing transportation between gates	18, 23, 42, 47- 48, 104
Assistance	18, 23, 42, 47-48, 104
Obligation of delivering carrier	47-48
Civil rights of air travelers with disabilities	1, 89
Communicable disease or infection	37-39, 40-42
If direct threat to health or safety of others	38-39, 40
Refuse transportation	37-37, 41
Require medical certificate	37-39, 40-42
Impose special condition or restriction	39, 41
Complaints, disability-related	3, 4, 9-10, 25, 82-90
Complaints resolution official (CRO)	9-10, 25, 28, 36, 38, 41, 42, 49-50, 51, 53, 67, 69, 82-90, 97, 101, 103, 106
Availability	9-10, 25, 49-50, 82-83, 86, 90
In person	86
By telephone or TTY	49-50, 86
Complaints made during the trip	83-84
Written complaints received after the trip	84-85
Recording, categorizing, and reporting	90
Responsibilities of carrier employees other than CRO	85-86
Process to resolve	86
ACCESS	4, 87-88
General complaint resolution tips	89-90
Connecting assistance <i>see</i> Changing planes or providing transportation between gates	
Contractor or contractor employee	1, 8, 10, 32
Customer service	4, 5, 28, 31, 39, 43, 48, 50, 53, 64, 72, 76, 84, 86, 87, 89, 93
Deaf, hard of hearing, or deaf-blind individuals	13-14, 17, 24, 36, 37, 48-50, 58, 80-81, 83, 91, 92, 96, 100-102
Accommodations	24, 37, 48-50, 80-81, 83
Tips for assisting	100-102
Definitions	8-14
Department of Transportation (DOT)	2-5, 8, 10-11, 33, 34, 49, 54, 64, 68, 73, 84, 85, 90
Disability hotline	11, 49, 82

Enforcement action	2, 5, 8, 84, 85
Deplaning <i>see</i> Boarding or enplaning and deplaning	
Disability	<i>passim</i>
Individual with a	12, 20, 22, 23, 26, 32, 57, 92, 95
Involuntary behavior	22, 56-57
Qualified individual with a	12, 20, 22, 78
Physical or mental impairment	12, 15, 16 18, 19, 92-93
“Record of” a	12, 16, 18
“Regarded as” having a	12, 16, 19
Self-identify as a person with a	20, 57, 92, 96, 100
Substantial limitation on major life activity	17-20
Temporary	12, 15, 17-18
Electric carts	23, 99
Enplaning <i>see</i> Boarding or enplaning and deplaning	
Extraordinary medical assistance	39
Facility <i>see</i> Airport facilities or airport	
Feasible or feasibility	30-32, 54
Federal Aviation Administration (FAA)	6, 7, 10, 11, 23, 25, 33, 56, 65, 70, 71, 72
Airworthiness directives	7
Flight	<i>passim</i>
Cancellation	22, 31
Delay	24, 29-31, 43, 48, 68, 74, 81
Incubator	29, 39, 51, 52
Indirect air carrier	1, 8, 9
Information	<i>passim</i>
Accessibility of the aircraft	31-32
Safety briefings	6, 24, 32, 51, 79-80
Sources of	1, 4-5, 95
Carriers’ web sites	72
Reservation agent	60
Timely and complete access to	24, 48, 49-50, 81
Interacting with people with disabilities	<i>passim</i>
General tips	91-96

Tips for assisting	
Blind or visually-impaired individuals	91, 94-96, 97-99
Deaf, hard of hearing, or deaf-blind individuals	91, 94-96, 100-102
Individuals with mobility disabilities	91, 94-96, 103-104
Individuals with non-apparent disabilities	91, 92, 94-96, 106-107
Individuals who have difficulty speaking	91, 94-96, 105
Involuntary behavior <i>see</i> Disability	
Lavatory on the aircraft	28, 32, 42, 50, 52, 55, 71, 77
Accessible	28, 32, 42, 55
Inaccessible	28, 55
Medical certificate	23, 37-42
Communicable disease or infection	37-39, 40-42
Medical oxygen	25, 29, 30-31, 39
Advance notice	29, 30-31
Mobility aid	32, 46, 47, 77
Obesity	16
Pre-boarding	22, 24, 64, 72-73, 92
Qualified individual with a disability <i>see</i> Disability	
Refusal or denial of transportation	6, 19, 20, 22, 23, 37-39, 41, 56-57
Relay call or operator	14, 49
Reservations	28, 37, 51, 60, 62, 63, 97
Respirator	29, 70
Safety	<i>passim</i>
Attendants	23, 51-53
Authority of pilot in command	83, 88
FAA regulations	6, 7, 10, 11, 23, 25, 33, 56, 65, 70, 71, 72
Individual safety briefings	6, 24, 32, 51, 79-80
Seating assignments and accommodations	20-21, 32, 33-34, 37, 56-66
Advance seat assignments	59-62
“Blocking” method	59-60
“Priority” method	60-62
Emergency exit row seating	23

No advance seat assignments	64
Pre-boarding	64
Other	64
Safety	32, 56-57
Specific seating accommodations required by law	57-59
Seating accommodations for air travelers with disabilities other than those required by law	62-64
Security	7, 14, 46-47, 99
Airport	14
Mobility aid or assistive device	46-47
Screenings	7, 14, 46-47
Private	47
Transportation Security Administration (TSA)	7, 14
Services and equipment	4, 5, 8, 10, 15, 18, 22, 27-31, 42-44, 47, 66, 71, 77-79, 88, 92
Advance notice for particular services and equipment	27-31
Optional services and equipment	25, 29
Incubator	29, 39, 51, 52
Medical oxygen for use on board	25, 29, 30-31, 39
Respirator hook up	29
Reasonable charge	25, 29
Stretcher	25, 29, 39, 51, 52
Required services and equipment	42-44
Service animals	5, 13, 25, 33-37, 58, 60, 61-62, 63, 64, 99, 102, 104, 106-107
Emotional support animals	13, 33, 34, 35, 106-107
Seat assignments and accommodations	25, 33, 37, 58, 60, 61-62, 63, 64
Verification of	34-36
Stowage and treatment of personal equipment	18, 23, 24, 43-44, 54, 56, 70-78
Assistive devices	23, 24, 43, 54, 56, 70-78
In the cabin	18, 23, 54, 56, 70-72
In the cargo compartment	24, 71
Wheelchairs	24, 43-44, 54, 56, 70-78
In the cabin	54, 56, 72-73, 75
In cargo compartment	24, 71, 73-77
Stretcher	25, 29, 39, 51, 52
Telecommunication devices for the deaf (TDD)	13-14
Terminal facilities <i>see</i> Airport facilities or airport	
Text telephones (TTY)	10, 11, 13-14, 25, 37, 49-50, 82, 83, 100
Relay call or operator	14, 49

Training	43, 44, 45, 67, 82, 85, 97-98
Employees and contractors	85
Transportation Security Administration (TSA)	7, 14
Travel agents	15
Ventilators	70
Wheelchair	<i>passim</i>
Aisle chair	21, 23, 28, 44, 58, 61-62, 77, 104
Assembly and disassembly	32, 43-44, 75-76
Assistance	8, 10, 13, 15, 18, 23 25, 27, 45, 47-48, 66, 71
Battery-powered	27, 29-30, 43-44, 72, 74-77
Hazardous materials	27, 30, 73, 75
Non-spillable battery	70, 74
Spillable battery	30, 74, 76
Boarding	28, 42, 67, 69-70
Collapsible	24, 72, 73, 75, 78
Folding	24, 28, 54, 56, 72, 73, 75
Ground	42, 47-48
On-board	28, 42-43, 55, 56, 77
Stowage <i>see</i> Stowage and treatment of personal equipment	

Part 382 Index

382.5 Definitions	
382.5	8, 9, 11, 12
382.5(a)(1)	92
382.5(a)(2)	92
382.7 General prohibition of discrimination	
382.7	10
382.7(a)(1)	22
382.7(a)(2)	22
382.7(a)(3)	22
382.21 Aircraft accessibility	
382.21	32
382.21(a)(2)	24, 54, 56
382.21(a)(3)	55
382.21(a)(4)	42
382.21(a)(4)(i)	55, 56
382.21(a)(4)(ii)	55
382.21(a)(4)(iii)	42
382.21(a)(i)	54
382.21(a)(ii)	54
382.21(b)(1)	55
382.21(b)(2)	55
382.21(c)	55
382.21(e)	56
382.21(f)	56
382.23 Airport facilities	
382.23(b)	45
382.23(c)	45
382.23(d)	45
382.23(e)	45
382.31 Refusal of transportation	
382.31	20, 56
382.31(a)	22
382.31(b)	22
382.31(c)	22
382.31(d)	22, 23
382.31(e)	19
382.33 Advance notice requirements	
382.33(a)	27
382.33(b)(1)	29
382.33(b)(5)	28
382.33(b)(6)	28
382.33(b)(7)	28

382.33(b)(8)	28,55
382.33(c)	29
382.33(e)	29
382.33(f)	31
382.35 Attendants	
382.35(a)	23, 44, 50
382.35(b)	51
382.35(b)(1)	51, 52
382.35(b)(2)	51
382.35(b)(3)	51
382.35(b)(4)	51
382.35(c)	51
382.35(d)	51
382.35(e)	52
382.37 Seat assignments	
382.37(a)	23, 32, 56
382.37(b)	56
382.37(c)	34
382.38 Seating accommodations	
382.38	20, 21
382.38(a)(1)	58
382.38(b)(1)(i)(ii)(iii)	59
382.38(a)(2)(i)	58
382.38(a)(2)(ii)	58
382.38(a)(2)(iii)	58
382.38(a)(3)	37, 58
382.38(a)(4)	58
382.38(b)(2)(i)	60
382.38(b)(2)(ii)	61
382.38(b)(2)(iii)	61
382.38(c)	62
382.38(c)(1)(i)	63
382.38(c)(2)(i)	63
382.38(c)(2)(ii)	63
382.38(d)	64
382.38(e)	64
382.38(f)	65
382.38(g)	65
382.38(h)	65
382.38(i)	65
382.38(j)	32,65
382.39 Provision of services and equipment	
382.39(a)	42, 47, 66

382.39(a)(1)	23, 42, 47, 66
382.39(a)(2)	67, 69
382.39(a)(3)	48, 67
382.39(b)(1)	77
382.39(b)(2)	77
382.39(b)(3)	77
382.39(b)(4)	77
382.39(b)(5)	23, 77
382.39(c)	50
382.39(c)(1)	79
382.39(c)(2)	79
382.39(c)(3)	79
382.40 Boarding assistance for small aircraft	
382.40	67
382.40(a)	68
382.40(b)	68
382.40(c)(3)	68
382.40(c)(4)	68
382.40(c)(5)	67
382.40(d)	67
382.40a Boarding assistance for large aircraft	
382.40a	67
382.40a(a)	68
382.40a(b)	68
382.40a(c)(3)	68
382.40a(d)	67
382.41 Stowage of personal equipment	
382.41	70
382.41(b)	70, 71
382.41(c)	23, 70, 71
382.41(d)	71
382.41(e)	72
382.41(e)(1)	24, 72
382.41(e)(2)	24, 73
382.41(e)(3)	73
382.41(f)	73
382.41(f)(1)	72, 73
382.41(f)(2)	74
382.41(f)(3)	71, 74
382.41(g)	74
382.41(g)(1)	74
382.41(g)(2)	30, 75
382.41(g)(3)	30, 75
382.41(g)(4)	75

382.41(g)(5)	75
382.41(h)	32, 43, 75
382.43 Treatment of mobility aids and assistive devices	
382.43(a)	32, 76
382.43(b)	76
382.43(c)	32, 76
382.45 Passenger information	
382.45	32
382.45(b)(2)	79
382.45(b)(3)	80
382.45(b)(4)	80
382.45(c)	24, 48, 81
382.45(d)	24
382.47 Accommodations for persons with hearing impairments	
382.47	24
382.47(a)	37, 49
382.47(b)	37, 49, 80
382.47(b)(1)	80
382.47(b)(2)	80
382.47(b)(3)	80
382.49 Security screening of passengers	
382.49(a)	46
382.49(c)	47
382.51 Communicable diseases	
382.51(a)	38
382.51(b)(1)	38
382.51(b)(4)	39
382.53 Medical certificates	
382.53(a)	23, 39
382.53(b)	39
382.53(c)	39
382.53(c)(1)	40
382.53(c)(2)	40, 41, 42
382.55 Miscellaneous provisions	
382.55	13, 25
382.55(a)	33
382.55(a)(1)	34
382.55(a)(3)	37
382.55(b)	79
382.55(c)	46

382.57 Charges for accommodations prohibited	
382.57	25, 71, 75
382.61 Training	
382.61(a)	45
382.61(a)(1)	85
382.61(a)(2)	85
382.61(a)(7)	82
382.65 Compliance procedures	
382.65	10, 25
382.65(a)	82
382.65(a)(1)	82, 83
382.65(a)(2)	49
382.65(a)(3)	82
382.65(a)(4)	83
382.65(a)(5)(i)	83
382.65(a)(5)(ii)	83
382.65(a)(5)(iii)	84
382.65(a)(5)(iv)	83, 84
382.65(b)	84
382.65(b)(1)	84
382.65(b)(3)	84
382.65(b)(3)(i)	85
382.65(b)(3)(iii)	85
382.70 Disability–related complaints received by carriers	
382.70	3
382.70(b)	90
382.70(c)	90
382.70(d)	90

APPENDIX I

Tips for Air Travelers with Disabilities

Tips for Air Travelers with Disabilities

There are some commonly used accommodations, facilities, and services that carriers are required to make available to passengers with disabilities. Appendix I sets forth a list of tips or general guidelines for air travelers with disabilities to keep in mind that relate to these commonly used accommodations, facilities, and services. Therefore, the “you” referred to herein is an air traveler with a disability or air travelers with disabilities. Below are some specific tips.

Ask Questions and Provide Instructions

Know what to ask carrier personnel. You can ask for and carrier personnel must be able to provide information about aircraft accessibility, seating and movable armrests, lavatory accessibility, boarding options, and storage facilities on board, among other things.

Although advance notice is not generally required, understand that providing detailed information about the accommodations you need in advance of travel will assist carrier personnel in providing those accommodations in a correct and timely manner.

If you are transferring planes, you may want to investigate whether your trip involves more than one carrier. If so, contact each carrier to determine whether it is able to fully accommodate you. Keep in mind that carriers might provide such optional accommodations on their “mainline” flights only, not on the flights operated by their smaller code-share affiliates. For example, some carriers do not provide medical oxygen on board. Don’t assume that by communicating with the carrier for the first leg of your trip, other carriers handling the rest of the journey are fully briefed and able to accommodate you. Similarly, when booking

reservations online, you may want to consider contacting each carrier by telephone to determine the carrier's individual policies and to provide and receive specific information to ensure your needs are met for each leg of your journey.

If you are receiving assistance with transportation between gates by ground wheelchair, remember to instruct the personnel assisting you on your specific needs, *e.g.*, whether or not you would like the airline employee or contractor to push you and the ground wheelchair through the terminal. Although in most instances you are not obligated to self identify as a passenger with a disability, keep in mind that conveying certain information or providing some guidance will permit carrier personnel to assist you better.

Directing carrier personnel to remove footrests (if possible) and other removable parts of personal wheelchairs and stow them in the cabin may help to reduce the potential for damage to the wheelchair while it is stowed in the cabin or in the cargo hold.

Boarding Assistance

When communicating to carrier personnel about your need for boarding assistance, be as specific as possible about the type or level of boarding assistance you require. More specifically, if, for example, you are completely immobile, ask carrier personnel to provide a wheelchair to transport you to and from the gate, a lift (if necessary), and assistance transferring from an aisle chair to a seat. If, for example, you are able to walk short distances, but cannot ascend and descend steps, ask carrier personnel to provide a wheelchair for longer distances to and from the aircraft and a lift (if necessary). If, for example, you can ascend and descend stairs and can walk shorter distances but have difficulty walking longer distances, ask

carrier personnel to provide a wheelchair or electric cart for longer distances to and from the aircraft.

Carrier personnel are not permitted to physically hand-carry a passenger with a disability on or off a plane, except in the case of an emergency evacuation. Keep in mind that if none of the options for boarding a particular flight is acceptable to you, you may have to wait for another flight or alter your travel plans.

Carrying Assistive Devices and Keeping Them Near You

Carrying medicine or other assistive devices like syringes as a carry-on item that you may need in the case of a flight cancellation or a missed flight may be a good idea. At times, passengers get separated unexpectedly from checked baggage. If you do decide to carry medication or other assistive devices with you on board, the items cannot be counted towards your carry-on baggage limit.

You are entitled to keep your assistive device near you on board as long as it does not interfere with safety requirements.

Carry Information and Useful Documentation

Bringing photocopies of instructions about the assembly and disassembly of wheelchairs and other assistive devices when you access air transportation may be a good idea. You can provide that information to carrier personnel storing or checking your wheelchair or assistive device. Attaching a laminated set of brief instructions to a wheelchair itself may also be a good

idea in the event that your wheelchair is disassembled or reassembled in a secure area to which you do not have access.

Bringing photocopies of receipts, warranties, or other product information concerning a wheelchair or assistive device may be useful if the item is lost or damaged in transit. It might help with locating a repair option or processing a claim for liability against the carrier responsible for the loss or damage.

Complaints

Be aware that a Complaint Resolution Official (CRO) must be made available to you if you ask to speak with a manager or supervisor about a disability-related complaint. A CRO may be made available in person or by telephone. Passengers who are deaf or hard of hearing must be permitted to communicate with a CRO via a TTY on request.

If you make a written complaint, you should state whether a CRO was contacted when the matter arose and, if so, include the name of the CRO and the date of the contact, if available, and any written response received from the CRO.

Familiarize Yourself with the Law

Knowledge of the Air Carrier Access Act (ACAA) and its implementing regulations (14 CFR part 382) will permit you to be able to ask the right questions and share the most useful information with carriers. Some passengers with disabilities bring a copy of the regulations with them when they access air transportation in order to have the primary resource close at hand. Carriers must maintain a copy of the regulations at each airport they use. Therefore, if

you are at an airport and have a question about the regulations, you may ask to review them and the carrier must provide them.

Individual Safety Briefings

You may receive an individual safety briefing under certain circumstances. If so, you should be provided an accessible safety briefing and it must be performed in a discreet manner. Keep in mind that you may need to provide information to carrier personnel to ensure that the individual safety briefing is accessible to you.

Limitations on Accommodations

Carrier personnel are expressly prohibited from performing certain tasks. For example, carrier personnel cannot physically hand-carry you on or off an airplane except in an emergency evacuation. In addition, while on board, carrier personnel are not required to administer medication to you, feed you, or accompany you into the lavatory to assist you.

Pre-boarding as an Option

Although you are not required to pre-board, choosing to take advantage of a pre-boarding opportunity may assist you in securing a seating accommodation when a carrier does not provide advance seat assignments. In this situation, as a passenger with a disability, you may choose to pre-board before all other passengers. You can select a seat that best meets your needs if you have taken advantage of the opportunity to pre-board.

Pre-boarding may also permit you to secure the allotted stowage for your wheelchair or assistive device or it may permit easier access to overhead compartments if you are stowing your assistive device or parts of your wheelchair onboard.

Safety Always Considered

You should keep in mind that carriers are obligated to take the safety of *all* passengers into consideration when making decisions about accommodations for passengers with disabilities. At times, safety requires placing certain limitations on accommodations, *e.g.*, a service animal cannot block the aisle or an exit.

Seating Assignments

When requesting a particular seat assignment, it is useful to be as specific as possible about the type of seat that will meet your needs as a passenger with a disability. For example, instead of merely asking for an “accessible” seat, it is more helpful to provide some details about your specific needs, *e.g.*, ask for a bulkhead seat or an aisle seat with a movable armrest. This way, carrier personnel can determine the most appropriate seating accommodation for you.

Service Animals

It is not required under the law to provide advance notice if you are traveling with a service animal. However, in order to guarantee your seat assignment, you should be aware that, depending on whether the carrier provides advance seat assignments and the type of seating method it uses, it may have a policy requiring passengers with a disability (i) to request a particular seat assignment 24 hours in advance of the departure of the flight or (ii) to check in at least an hour before the departure of the flight. Carriers are obligated to make a good faith

effort to accommodate you and your service animal regardless of whether you comply with the carrier's advance seat assignment policy and/or advance check-in requirement. Keep in mind that requesting your seat assignment well in advance of the flight may permit you to secure the specific seat assignment you would like with the least amount of waiting, inconvenience, or hassle to you.

Resources for Air Travelers with Disabilities

DOT Web site

DOT posts useful information for all consumers, including air travelers with disabilities, on its web site at <http://airconsumer.ost.dot.gov>. Click on "Travel Tips and Publications." The following publications are useful for air travelers with disabilities: Plane Talk – Passengers with Disabilities, Fly Rights, and New Horizons: Information for the Air Traveler with a Disability.

Air travelers with disabilities can also access recent DOT enforcement orders to review DOT determinations involving the ACAA and part 382 by going to www.dot.gov and clicking on "Dockets and Regulations." See Appendix III for additional instructions for searching this data base of DOT enforcement orders and for a chart listing those enforcement orders related to the ACAA.

DOT Hotline

The toll free telephone hotline system that provides general information about the rights of air travelers with disabilities, responds to requests for information, and assists air travelers with time-sensitive disability-related issues. Members of the public may call 1-800-778-4838

(voice) or 1-800-455-9880 (TTY) from 7 a.m. to 11 p.m. Eastern time, seven days a week, to receive assistance regarding air travel by individuals with disabilities.

Carriers' Web Pages and Reservations Personnel

Always check these resources when seeking information about services and equipment when accessing air transportation.

APPENDIX II

Airline Management-Related Issues

Airline Management-Related Issues

Appendix II highlights provisions of the ACAA and the accompanying regulations outlining specific responsibilities of management of carriers, *i.e.*, requirements to be implemented by management employees as opposed to personnel who deal with the traveling public, including passengers with a disability. In places, these are overlapping responsibilities and cross-references will be made to specific sections of this manual.

Discrimination is Prohibited

Management of carriers are required to ensure that the carrier (either directly or indirectly through its contractual, licensing, or other arrangements for provision of air transportation) does not discriminate against qualified individuals with a disability by reason of such disability. [Sec. 382.7(a)(1)] In addition, management of carriers should be aware that they are responsible for compliance with the ACAA and part 382 not only by their *own* employees, but also by employees of any company or entity performing functions on behalf of the carrier.

More specifically, carriers cannot require a passenger with a disability to accept special services, *e.g.*, pre-boarding, not requested by the passenger. [Sec. 382.7(a)(2)] Carriers cannot exclude a qualified individual with a disability from or deny that individual the benefit of air transportation or related services that are available to other individuals, even if there are separate or different services available for passengers with a disability, except as provided by the ACAA and part 382. [Sec. 382.7(a)(3)] Carriers cannot take actions adverse to passengers with a disability if they assert their rights under the ACAA and part 382. [Sec. 382.7(a)(4)]

Carriers cannot limit the number of passengers with a disability on a given flight. [Sec. 382.31(c)] Carriers must modify policies, practices, and facilities as necessary to ensure nondiscrimination consistent with the standards of Section 504 of the Rehabilitation Act, as amended. Carriers are not required to make modifications that would constitute an undue burden or would fundamentally alter their program. [Sec. 382.7(c)]

Refusal of Transportation

Carriers cannot refuse transportation to a qualified individual with a disability solely because the person's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience others. [Sec. 382.31(b)] Carriers must not refuse to provide transportation to a passenger with a disability on the basis of his or her disability unless it is expressly permitted by the ACAA and part 382. [Sec. 382.31(a)]

Safety Considerations

The ACAA does not require air carriers to disregard applicable FAA safety regulations. [Sec. 382.3(d)]

Carriers may refuse to provide transportation to *any* passenger on the basis of safety and if carriage would violate FAA regulations. However, when carriers exercise this authority, they must not discriminate against a passenger with a disability on the basis of disability. [Sec. 382.31(d)]

Written Explanation for Refusal of Transportation

When a carrier refuses to provide transportation to a passenger on a basis relating to disability, the carrier must specify in writing to the passenger the basis for the determination within 10 days of the refusal of transportation. [Sec. 382.31(e)] In the situation where refusal of transportation is based on safety concerns, the written notice must include the carrier's reasonable and specific basis for its opinion that transporting the passenger would be inimical to the safety of the flight.

No Charge for Accommodating Passengers with a Disability

Carriers cannot impose charges for providing facilities, equipment, or services that are required by the ACAA and its accompanying regulations for passengers with a disability. [Sec. 382.57]

Indirect Air Carriers

If an indirect air carrier provides facilities or services for passengers that are covered for other carriers by sections 382.21 through 382.55, the indirect air carrier must do so in a manner consistent with those regulations. [Sec. 382.7(b)]

Contractors and Travel Agents

Carriers must receive assurances from their contractors who provide services, including travel agents (except non-U.S. citizens providing services outside the U.S.), that they will not discriminate on the basis of disability when providing such services and include a clause with that assurance in their contracts. [Sec. 382.9(a)] Similarly, their contracts must contain a

clause stating that contractor employees will comply with directives issued by CRO's. [Sec. 382.9(b)]

Accessibility of Airport Facilities

All terminal facilities and services owned, leased, or operated by a carrier at a commercial service airport, including parking and ground transportation, must comply with the Standards for Accessible Design under the Americans with Disabilities Act. [Sec. 382.23(e)] *See also* 49 CFR part 37, Appendix A. Carriers must ensure that these terminal facilities and services are accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.¹ [Sec. 382.23(b)] For example, carriers must ensure that there is an accessible path between the gate and the boarding area. [Sec. 382.23(c)]

Contracts or leases between carriers and airport operators concerning the use of airport facilities must set forth the respective responsibilities of the parties for the provision of accessible facilities and services to individuals with disabilities as required by law. [Sec. 382.23(f)]

Carriers must not (i) restrict the movements of individuals with disabilities in terminals; (ii) require them to remain in a holding area or other location in order to receive assistance; or (iii) mandate separate treatment for individuals with disabilities except as required or permitted under part 382. [Sec. 382.55(c)]

¹ Compliance with the requirements applying to places of public accommodation under Department of Justice (DOJ) regulations implementing Title III of the Americans with Disabilities Act (ADA) is sufficient for compliance under the ACAA and part 382 with respect to airport terminal facilities and services. [Sec. 382.23(b)]

Appendix II

Advance Notice and Reservation System

Carriers' reservation and other administrative systems must ensure that when advance notice is provided by a passenger with a disability as provided by the ACAA and its implementing regulations (*see* Ch. 3, Section A), the notice is recorded and properly transmitted to operating employees responsible for providing the accommodation about which notice was provided.

[Sec. 382.33(d)]

Service Animals

Regardless of your carrier's policies with respect to pets, carriers are required by law to permit passengers with a disability to be accompanied by service animals in the cabin. [Sec. 382.55]

See also Ch. 3, Section D and Appendix VI.

Aircraft Accessibility

When considering ordering, purchasing, or leasing aircraft, management of carriers should keep in mind that the following features are required for aircraft *ordered* by the carrier after April 5, 1990, or *delivered* to the carrier after April 5, 1992. In addition, different size airplanes must be equipped with different features according to the law. For example, aircraft with:

- 30 or more passenger seats must have movable aisle armrests on at least half of the aisle seats where it is feasible and it does not interfere with safety [Sec. 382.21(a)(i) and (ii)];
- 100 or more passenger seats must have priority storage space within the cabin to stow at least one passenger's folding wheelchair [Sec. 382.21(a)(2)] and DOT has interpreted that to mean a space at least 13 inches wide, 36 inches high, and 42 inches long;

- more than one aisle in which lavatories are provided must include at least one lavatory accessible to passengers with a disability accessing the lavatory with an on-board wheelchair [Sec. 382.21(a)(3)];
- more than 60 passenger seats having an accessible lavatory must be equipped with an on-board wheelchair [Sec. 382.21(a)(4)(i)]; and
- more than 60 passenger seats having an inaccessible lavatory must be equipped with an on-board wheelchair when a passenger with a disability informs the carrier (providing advance notice under Sec. 382.33(b)(8)) that he/she can use an inaccessible lavatory but cannot reach the lavatory from his or her seat without the use of an on-board wheelchair. [Sec. 382.21(a)(4)(ii)]

Requirements relating to retrofitting and replacing features to ensure accessibility as well as providing on-board wheelchairs are covered by other specific provisions. [Secs. 382.21(b) and (c)] However, any replacement or refurbishing of the aircraft cabin must not reduce existing accessibility to a level below that specified under the law. [Sec. 382.21(e)] Carriers must maintain aircraft accessibility features in proper working order. [Sec. 382.21(f)]

Seating Accommodations

Under certain circumstances, if a passenger self-identifies as a passenger with a disability, carriers must provide seating accommodations. [Sec. 382.38(a)] In order to provide these seating accommodations and other seat assignment requests from passengers with a disability, carriers may implement a reservation system to provide for advance seat assignments. If a carrier provides advance seat assignments, it may employ either the seat “blocking” method or the “priority” seating method. Each method requires some advance notice on the part of the

passenger with a disability in order to guarantee the seating accommodation. [Secs. 382.38(b) and (c)]

Management of carriers should select an adequate reservation system to meet its needs, ensure proper administration of the reservation system, and provide employee training with respect to the reservation system and the requirements under the law for providing seating accommodations for passengers with disabilities.

If carriers do not employ a system for advance seat assignments, if a passenger with a disability self-identifies, the passenger must be allowed to pre-board the aircraft and select a seat to accommodate a disability. [Sec. 382.38(d)]

Carriers are not required to provide more than one seat per ticket or a seat in a class of service other than the one the passenger has purchased to accommodate a passenger with a disability in need of a seat assignment to accommodate his or her disability. [Sec. 382.38(i)]

Carriers must comply with all FAA safety requirements in responding to requests from individuals for seat assignment accommodations. [Sec. 382.38(j)]

Services and Equipment

Boarding Assistance in General

If a passenger with a disability requests assistance getting on an airplane or carrier personnel offer assistance and the passenger consents, a carrier must provide such assistance with

boarding. [Sec. 382.39(a)] The type of assistance carriers must offer includes, as needed, services personnel and the use of wheelchairs, ramps, or mechanical lifts. [Sec. 382.39(a)(1)]

Carriers must provide access to the airplane for passengers with a disability by level-entry loading bridges or accessible passenger lounges where these means are available. [Sec. 382.39(a)(2)] Depending on the size of the aircraft, carriers have different obligations to provide boarding assistance to individuals with a disability using mechanical lifts, ramps, or other suitable devices that do not require lifting or carrying passengers up stairs. [Secs. 382.40 and 382.40a] *See also* Ch. 5, Section C.

Carriers must train to proficiency in the use of the boarding assistance equipment and procedures regarding the safety and dignity of passengers receiving boarding assistance. [Secs. 382.40(d) and 382.40a(d)]

Storing Wheelchairs and Other Assistive Devices in the Cabin

Carriers must allow passengers with a disability using personal ventilators/respirators to bring their equipment, including non-spillable batteries, on board the aircraft as long as FAA safety regulations are met. [Sec. 382.41(b)] Carriers must permit passengers to stow their canes and other assistive devices in the cabin and close to their seats, consistent with FAA safety regulations concerning carry-on items. [Sec. 382.41(c)]

Carriers must not count assistive devices toward the limit on carry-on items when a passenger with a disability brings an assistive device on board the aircraft. [Sec. 382.41(d)] Wheelchairs and other assistive devices that cannot be stowed in the cabin must be stowed in the baggage

compartment with priority over other cargo and baggage. [Sec. 382.41(f)(3)] In addition, because carriers cannot charge for facilities, equipment, or services required under the law to be provided to qualified individuals with a disability, no charge would be imposed if a wheelchair or assistive device exceeded the limit on checked baggage. [Sec. 382.57] Carriers must permit the in-cabin storage of wheelchairs or components of wheelchairs, including folding, collapsible, or breakdown battery-powered wheelchairs. [Sec. 382.41(e)] In addition, aircraft with 100 or more passenger seats (ordered after April 5, 1990, or delivered after April 5, 1992) must have a priority space in the cabin designated for stowage of at least one passenger's folding wheelchair. [Sec. 382.21(a)(2)]

On-Board Wheelchairs

When required, on-board wheelchairs must be equipped with specific features and be designed to be compatible with the maneuvering space, aisle width, and seat height of the aircraft on which they are to be used, and to easily be pushed, pulled, and turned in the cabin environment by carrier personnel. [Sec. 382.21(a)(4)(iii)]

Wheelchairs Unable to be Stowed in the Cabin as Carry-on

When a folding, collapsible, or break-down wheelchair cannot be stowed in the cabin as carry-on baggage, carriers must ensure the timely checking and return of the passenger's wheelchair or other assistive device as close as possible to the door of the aircraft. [Sec. 382.41(f)]

In order to ensure the timely return of a passenger's wheelchair or other assistive device, carriers must maintain a baggage storage system so that the wheelchair or other assistive device must be among the first items retrieved from the baggage compartment [Sec. 382.41(f)(2)] and

it must be stowed in the baggage compartment with priority over other items and baggage.

[Sec. 382.41(f)(3)]

Battery-powered Wheelchairs

Carriers must accept a passenger's battery-powered wheelchair, including the battery, as checked baggage unless baggage compartment size and aircraft airworthiness considerations prohibit it. [Sec. 382.41(g)]

Carriers may require that a passenger with a disability wishing to have a battery-powered wheelchair transported on a flight (including in the cabin) check in for the flight one hour before the scheduled departure time. [Sec. 382.41(g)(1)]

If (i) the battery on the passenger's wheelchair has been labeled by the manufacturer as *non-spillable* or (ii) the battery-powered wheelchair with a *spillable* battery can be loaded, stored, secured, and unloaded in an upright position, carriers must *not require* the battery to be removed and separately packaged. Carrier personnel may remove and package separately any battery that appears to be damaged or leaking. [Sec. 382.41(g)(2)]

When it is necessary to detach a battery from a wheelchair, carriers must provide packaging for the battery and package the battery consistent with appropriate hazardous materials regulations.

[Sec. 382.41(g)(3)]

Liability for Loss or Damage

On domestic flights, the baggage liability limits do not apply for liability for loss, damage, or delay concerning wheelchairs or other assistive devices. Instead, the criterion for calculating the compensation for lost, damaged, or destroyed wheelchairs or other assistive devices must be the original price of the device. [Sec. 382.43(b)] Carrier personnel must not require a passenger with a disability to sign a waiver of liability for damage to or loss of a wheelchair or other assistive device. [Sec. 382.43(c)] Carrier personnel may make notes about preexisting damage or conditions of wheelchairs or other assistive devices.

Individual Safety Briefings and Timely and Complete Access to Information

Carriers must ensure that, upon request, passengers with a disability, including those who are blind or visually impaired or deaf, hard of hearing, or deaf-blind, have timely access to information being provided to other passengers, including but not limited to, safety briefings [Secs. 382.45 and 382.47] and information concerning ticketing, flight delays, schedule changes, connections, flight check-in, gate assignments, the checking and claiming of luggage, and aircraft changes that will affect the travel of passengers with a disability. [Sec. 382.45(c)] *See also* Ch. 5, Section F. If the safety briefing is presented to passengers on video screens, carriers must ensure that the video presentation is accessible to passengers who are deaf or hard of hearing. [Sec. 382.47(b)]

Complaint Procedures

Carriers providing scheduled service must establish and implement a complaint resolution mechanism including designation of one or more complaints resolution officials (CRO's).

[Sec. 382.65(a)] The carrier must make the CRO available during *all times* the carrier is operating at the airport. [Sec. 382.65(a)(1)] *See also* Ch. 6.

Certificated U.S. carriers and foreign carriers¹ operating to, from, and in the United States using at least one aircraft with more than 60 passenger seats, must record, categorize, and report written disability-related complaints received by carriers to DOT on an annual basis. [Secs. 382.70(b) and (c)] The first annual report for calendar year 2004 was required to be submitted to DOT by January 25, 2005. [Sec. 382.70(d)] In addition, carriers must use the form specified in Appendix A to part 382 when making the annual report to DOT. Carriers must develop a system for recording and collecting data regarding specific categories of written disability-related complaints that they receive according to the type of disability and the nature of the complaint. [Sec. 382.70(c)]

Employee Training

Management of carriers should be aware that proper training of carrier personnel is critical to compliance with the ACAA and part 382.

Carriers operating aircraft with more than 19 passenger seats must provide training for all personnel who deal with the traveling public, as appropriate to the duties and responsibilities of each employee. [Sec. 382.61(a)]

¹ Foreign carriers are covered by this section only with respect to disability-related complaints associated with any flight segment originating or terminating in the United States. [Sec. 382.70(b)]

Carriers must provide training to proficiency in the requirements of the ACAA and its implementing regulations and other DOT and FAA regulations affecting the provision of air transportation to passengers with a disability, including the proper and safe operation of any equipment used to accommodate passengers with a disability. [Sec. 382.61(a)(1)(i) and (ii)]

Carriers must also train employees who deal with the traveling public regarding awareness and appropriate responses to individuals with a disability, including individuals with physical, sensory, mental, and emotional disabilities, including how to distinguish among the differing abilities of individuals with a disability. [Sec. 382.61(a)(2)]

Carriers must consult with organizations representing persons with disabilities in developing their training programs and policies concerning which carrier personnel receive training. [Sec. 382.61(a)(3)]

Carriers must provide or require their contractors to provide training to contractors' employees who deal with the traveling public regarding providing air transportation to passengers with a disability.

Carrier Programs

Carriers operating aircraft with more than 19 passenger seats must establish and implement a written program for carrying out the requirements of the law. [Sec. 382.63(a)] The program must include: (i) a training schedule for training carrier personnel on compliance; and (ii) the carrier's policies and procedures for accommodating individuals with a disability consistent

with the requirements under the law. [Sec. 382.63(b)] DOT has the authority to request and review such programs as appropriate. [Secs. 382.63(c) and (d)]

Security Screenings

Carriers must undertake any security screening of a passenger with a disability in the same manner as any other passenger. *See* Ch. 4, Section B. In the wake of the events of September 11, 2001, however, in most cases, TSA has taken over for carriers in the area of providing security screenings of passengers. Should carriers resume this responsibility or in cases where carriers still retain some involvement in the security screening process, this section would be applicable to carriers and contractors of carriers performing this function.

APPENDIX III

Frequently Asked Questions

Frequently Asked Questions

QUESTION: What's the difference between the Air Carrier Access Act (ACAA) and the Americans with Disabilities Act (ADA)?

ANSWER: The ACAA, signed into law by then-President Reagan in 1986, prohibits discrimination by *airlines* against individuals with disabilities in commercial air transportation. The ADA, signed into law after the ACAA in 1990 by then-President Bush, prohibits discrimination against individuals with disabilities in employment, public accommodations, commercial facilities, telecommunications, and *transportation other than by commercial airlines* (e.g., subway and bus systems). [Sec. 382.1]

QUESTION: Do the ACAA and its implementing regulations (14 CFR part 382 or part 382) apply to both U.S. and foreign carriers?

ANSWER: When initially passed in 1986, the ACAA and part 382 (subsequently issued in March 1990) applied only to U.S. carriers. However, on April 5, 2000, Congress extended the applicability of the ACAA to cover foreign carriers. At approximately the same time, DOT issued a notice to foreign carriers advising them that the Department intended to use the provisions of part 382, which by its terms does not impose requirements on foreign air carriers, as guidance in investigating any complaints it receives alleging noncompliance with the ACAA by foreign carriers. The only provision of part 382 that currently applies to foreign air carriers is Section 382.70(b), which expressly requires foreign carriers to record, categorize, and report written disability-related complaints associated with any flight segment originating or

terminating in the U.S. to DOT on an annual basis. DOT will soon be issuing a revised part 382 that will apply to both U.S. and foreign carriers. [Sec. 382.3]

QUESTION: Recently, I broke my leg and I'll be in a cast and walking with crutches for several weeks. Am I covered by the ACAA?

ANSWER: Yes. The ACAA and part 382 apply to individuals who have a physical or mental impairment that, on a permanent or *temporary* basis, substantially limits a major life activity. Since your temporary impairment limits the major life activity of walking, you are considered a qualified individual with a disability. Therefore, you are covered by the ACAA and Part 382. [Sec. 382.5]

QUESTION: Am I entitled to the services and accommodations required by part 382 if I'm a qualified individual with a disability but I'm *not* a passenger, but rather I am just going to the airport to meet a friend who is traveling?

ANSWER: Yes. Carriers are required, under appropriate circumstances, to provide the services and accommodations mandated by part 382, on request, to all qualified individuals with disabilities, whether or not such individuals are passengers or simply using the airport facility for other reasons (*e.g.*, meeting a friend, purchasing a ticket for a future flight, etc.)

QUESTION: I understand that part 382 requires airlines to provide wheelchair enplaning assistance, on request. I need wheelchair assistance getting from the curb, at the entrance to

the airport, to the airplane. Are carriers required to provide wheelchair service from the curb to the airplane or only from the ticket counter to the airplane?

ANSWER: Part 382 requires carriers to provide wheelchair enplaning help, on request, from the curb to the airplane on departure, and from the airplane back out to the curb upon arrival. However, carriers are not required to station employees at the curb to await the arrival of passengers with disabilities. Therefore, it is advisable to ask a friend or a cab driver to help in getting the attention of carrier personnel in the terminal to obtain the required assistance if the carrier does not have curb-side attendants. If requested, after your flight arrives at your destination, the carrier must also assist you in claiming your checked luggage before assisting you in a wheelchair to the curb. [Sec. 382.39]

QUESTION: Are airlines allowed to charge for providing services to passengers with disabilities?

ANSWER: Airlines are not allowed to charge passengers for providing services or accommodations *required* by part 382, but may charge for *optional* services or accommodations. Examples of required services for which carriers may *not* charge are assistance with enplaning, deplaning, and making flight connections, and the carriage of assistive devices (including the provision of hazardous materials packaging for wheelchair batteries, when appropriate). Examples of optional services for which carriers may charge are the provision of in-flight medical oxygen and stretcher service. [Sec. 382.57]

QUESTION: I was flying a U.S. carrier from New York to California and they damaged my expensive battery-powered wheelchair. I purchased this wheelchair last year for \$10,000. The repair cost was \$3,000. Can the carrier limit the amount of money they pay me for this claim to \$2,800, as they currently may for domestic baggage claims?

ANSWER: No. On claims involving damage to assistive devices on domestic flights, carriers may not invoke the liability limit applicable to baggage claims. The criterion for calculating the compensation for lost or damaged wheelchairs and other assistive devices is the original purchase price of the device. In this instance, the carrier should pay you or the repair company \$3,000 provided that you can document the initial purchase price of the wheelchair and the cost of the repair. You may also be entitled to reimbursement for the cost of a loaner or rental wheelchair while yours is being repaired. [Sec. 382.43]

QUESTION: I'm flying from Cleveland to Chicago on ABC Airlines and then connecting on XYZ Airlines on a flight from Chicago to Seattle. I need wheelchair assistance to reach my connecting gate. Which carrier is responsible for providing this wheelchair assistance to the connecting gate?

ANSWER: As the delivering carrier, ABC Airlines is required to provide you with the requested wheelchair assistance in reaching your connecting gate, at which point XYZ Airlines is then responsible for providing you with assistance in enplaning onto your connecting flight. The delivering carrier must assist you in reaching your connecting gate even if you are traveling on two separate tickets and the connecting flight is departing from a different terminal

within the same airport. However, you should make the need for such assistance clear to ABC Airlines before the flight, if possible. [Sec. 382.39]

QUESTION: On aircraft that must have a priority stowage space in the cabin for my personal folding wheelchair, do I still get priority stowage for my folding wheelchair if the pilot happens to have his personal belongings in that space when I pre-board?

ANSWER: Yes. Your personal folding wheelchair takes priority over the personal carry-on items of the pilot and crew. [Sec. 382.41(e)(2)]

QUESTION: I fly with my service animal and normally ask for a bulkhead seat, as it provides a little bit more room for my service dog. On a recent flight, the carrier would not allow me to sit in the bulkhead row with my service animal because the bulkhead row was also an emergency exit row. Was the carrier correct in asking me to take a seat other than a bulkhead seat in the emergency exit row?

ANSWER: Yes. The carrier was within its rights to refuse to permit you to sit in the bulkhead seat with your service animal, because the service animal may have blocked access to the emergency exit. Carriers must comply with all applicable FAA safety rules, even when attempting to accommodate the needs of passengers with disabilities. In such instances, the carrier should permit you and your service animal to move to another seat within the cabin that is not located in an emergency exit row that best accommodates your needs. [Sec. 382.37]

QUESTION: Is obesity considered a disability under the ACAA and, if so, is an obese passenger entitled to two seats for the price of one if he or she needs more than one seat?

ANSWER: Obesity in and of itself is not *necessarily* a qualifying disability. However, obesity could be a qualifying disability if, for example, it substantially limits a major life activity, such as walking. If an obese passenger – whether the passenger is a qualified individual with a disability or not – occupies more than one seat, airlines may charge that passenger for the number of seats the passenger occupies. Also, there may be certain obese persons who are too heavy to be safely accommodated on certain aircraft, *e.g.*, because of safety limitations on seatbelts. [Secs. 382.5 and 382.38(i)]

QUESTION: I require medical oxygen when I travel by air. Are airlines required to provide in-flight medical oxygen and, if so, may they charge passengers for providing medical oxygen?

ANSWER: Although many of the major U.S. carriers currently provide in-flight medical oxygen for a fee, part 382 does not require them to do so. Those carriers that choose to provide in-flight medical oxygen may charge passengers for this service, just as they may for other optional services, such as stretcher service. [Sec. 382.33]

QUESTION: I'm a paraplegic and travel with my personal manual wheelchair. May airlines require me to travel with an attendant?

ANSWER: Airlines may not require a passenger with a mobility impairment to travel with an attendant if that passenger can physically *assist* in his or her evacuation. Since, in most

instances, paraplegics have use of their arms and upper bodies, they can usually physically assist in their evacuation and generally should not be required to travel with an attendant. To the contrary, quadriplegics with no use of their arms or legs can be required to fly with an attendant. [Sec. 382.35]

QUESTION: I'm deaf and want to make sure that I receive important information such as schedule changes, gate changes, etc. Do the airlines have to provide me with such information?

ANSWER: Yes. Part 382 requires carriers to provide passengers who are deaf or hard of hearing or who have vision impairments with timely access to the same information that they provide to other passengers in the airport terminal or on the aircraft. Persons who are unable to obtain this information from the audio or visual systems used by carriers may have to advise the carrier about the nature of their disability, at which point the carrier must ensure that such individuals receive the necessary information in an accessible manner. [Sec. 382.45]

QUESTION: Can things other than wheelchairs or canes be assistive devices? What exactly does part 382 mean when it refers to assistive devices?

ANSWER: Assistive devices under Part 382 are not limited to mobility devices such as wheelchairs, walkers, and canes. An assistive device can be any piece of equipment that assists passengers with a disability in carrying out a major life activity. Such devices are those devices or equipment used to assist a passenger with a disability in caring for himself or herself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning,

working, or performing other functions of daily life. Assistive devices may include medical devices and medications.

QUESTION: How can I find out information on the number and types of disability-related complaints filed with DOT against specific airlines?

ANSWER: DOT's Aviation Consumer Protection Division publishes a monthly Air Travel Consumer Report (ATCR) which provides information on the number of disability-related complaints received each month *by DOT*. The ATCR can be accessed at <http://airconsumer.ost.dot.gov> In addition, an amendment to DOT's disability rule (part 382) that came into effect on August 7, 2003, requires U.S. and foreign airlines operating passenger-carrying flights to and from the United States with aircraft having a designed seating capacity of more than 60 seats to report annually to DOT on the number and type of written disability-related complaints that *they* receive. These individual carrier reports will contain summary information on the number of such complaints, the type of disability, and the nature of the complaint. The first such report, which covers written complaints received by the airlines during calendar year 2004, was due by January 25, 2005. DOT intends to provide a summary report to Congress, which will be available to the public. [Section 382.70]

QUESTION: I travel with a service animal and ask for a bulkhead seat if one is available, as I find such a seat to be more comfortable for my service dog. How come some passengers with service animals avoid the bulkhead row?

ANSWER: It is DOT's understanding that some service animals are trained to curl up underneath a non-bulkhead row airline seat, whereas other service animals are more comfortable in the area between a bulkhead seat and the bulkhead wall itself. For this reason, when DOT amended part 382 to require seating accommodations for passengers traveling with service animals, it required carriers to provide either a seat in a bulkhead row or a seat other than a bulkhead seat, depending on the individual passenger's preference.

QUESTION: Are airlines allowed to require all passengers who are both deaf and blind to travel with an attendant?

ANSWER: No. Airlines may not have a policy that requires *all* passengers who are both deaf and blind to travel with an attendant. However, if an individual passenger has both a hearing and vision impairment so severe that the individual cannot establish some means of communicating with airline personnel sufficiently to receive the preflight safety briefing (*e.g.*, using the "printing on palm" method of "writing" with your fingertip on the palm of the passenger's hand, or using a "raised alphabet" card to communicate), an airline could require that individual to travel with an attendant. DOT recognizes that in many situations carrier personnel may have difficulty communicating with a passenger who is deaf and blind. Such determinations must be made on a case-by-case basis using an individualized assessment of the passenger's specific capabilities.

APPENDIX IV

Recent Department of Transportation Enforcement Orders Related to the Air Carrier Access Act

Recent Department of Transportation Enforcement Orders Related to the Air Carrier Access Act

The following list of orders pertains to administrative enforcement actions conducted by or filed with the Aviation Enforcement and Proceedings (AEP) Office of the Department of Transportation (DOT). These administrative determinations by and large pertain to decisions resulting from enforcement actions against air carriers pursuant to the Air Carrier Access Act (ACAA), 49 U.S.C. 41705, and its implementing regulations, 14 CFR part 382, which prohibit discrimination by U.S. air carriers against qualified individuals with disabilities. These orders may be informative in assisting the reader to understand how the ACAA and its implementing regulation have been interpreted by DOT and applied in enforcement actions against air carriers.

The AEP Office's statutory jurisdiction spans a broad range of regulatory legal issues including civil rights and consumer protection, among others. The AEP issues many and varied types of orders within the scope of its authority. The orders listed in this appendix address only the most recent civil rights enforcement actions under the ACAA, going back to March, 2000 and are not meant to be a complete listing of all ACAA orders issued by the DOT through its AEP Office.

To access these orders, go to www.dot.gov. Click on "Dockets and Regulations," then "Docket Management System," and then on "Simple Search." Type in the last five digits of the docket number pertaining to the order that you are interested in. Using the date the order was issued and/or the order number, scroll through the docket index to identify the order you wish to review and click on the appropriate format in which you wish to retrieve the document.

ISSUES	DATE OF ISSUE	ORDER #	DOCKET #
Failure to provide prompt and proper enplaning, connecting, and deplaning assistance primarily to passengers who have mobility impairments	8/18/04	2004-8-19	OST- 2004-16943
“Medically-prescribed marijuana”	5/27/04	2004-5-25	OST- 2003-14808
Failure to provide a priority space to stow at least one passenger’s folding wheelchair in the cabin	4/30/04	2004-4-22	OST- 2004-16943
Failure to provide a priority space to stow at least one passenger’s folding wheelchair in the cabin	3/9/04	2004-3-4	OST-2004-16493
Failure to provide prompt and proper enplaning, connecting, and deplaning assistance primarily to passengers who have mobility impairments	12/5/03	2003-12-6	OST-2003-14194
Failure to provide a priority space to stow at least one passenger’s folding wheelchair in the cabin	11/13/03	2003-11-5	OST- 2003-14194
Failure to provide prompt and proper enplaning, connecting, and deplaning assistance primarily to passengers who have mobility impairments	11/10/03	2003-11-4	OST- 2003-16507

Issues	Date of Issue	Order #	Docket #
Failure to provide a priority space to stow at least one passenger's folding wheelchair in the cabin	10/8/03	2003-10-11	OST- 2003-14194
Failure to provide adequate transport, enplaning, and deplaning assistance, wheelchair stowage and damage	9/8/03	2003-9-4	OST-2003-14194
Failure to provide a priority space to stow at least one passenger's folding wheelchair in the cabin	8/28/03	2003-8-30	OST- 2003-14194
Failure to provide a priority space to stow at least one passenger's folding wheelchair in the cabin	8/28/03	2003-8-29	OST- 2003-14194
Failure to provide a priority space to stow at least one passenger's folding wheelchair in the cabin	8/28/03	2003-8-28	OST- 2003-14194
Prompt and proper enplaning and deplaning assistance	7/11/03	2003-7-12	OST- 2003-14194
Prompt and proper enplaning and deplaning assistance	6/2/03	2003-6-3	OST- 2001-10598
Prompt and proper enplaning and deplaning assistance	3/26/03	2003-3-19	OST- 2003-14194
Prompt and proper enplaning and deplaning assistance	3/4/03	2003-3-1	OST- 2003-14194
Special seating accommodations for tall people	3/19/02	2002-7-36	OST - 2001-8991
Adequate wheelchair assistance and other	2/11/02	2002-3-15	OST-2002-10598

Issues	Date of Issue	Order #	Docket #
required assistance			
Refusal to transport a person with a disability	8/2/01	2001-8-17	OST- 2001-19598
Sensitivity to tobacco smoke	3/12/01	2001-3-9	OST- 2000-7891
In-cabin wheelchair stowage	2/7/2001	2001-2-6	OST-2000-7591
Refusal to transport a person with a disability	8/22/00	2000-8-18	OST- 2000 – 19597
Prompt and proper enplaning and deplaning assistance; wheelchair stowage	3/27/00	2000-3-24	OST- 99-6111

APPENDIX V

14 CFR Part 382 Nondiscrimination on the basis of Disability in Air Travel

U.S. Department of Transportation



14 CFR Part 382

Nondiscrimination on the Basis of Disability in Air Travel

Includes amendments issued through July 2003 (e.g., includes the amendment on reporting of disability-related consumer complaints)

TITLE 14 -- AERONAUTICS AND SPACE
CHAPTER II -- OFFICE OF THE SECRETARY
DEPARTMENT OF TRANSPORTATION

PART 382

NONDISCRIMINATION ON THE BASIS OF DISABILITY IN AIR TRAVEL

Subpart A—General Provisions

- 382.1 Purpose.
- 383.3 Applicability.
- 382.5 Definitions.
- 382.7 General prohibition of discrimination.
- 382.9 Assurances from contractors.

Subpart B—Requirements Concerning Facilities

- 382.21 Aircraft accessibility.
- 382.23 Airport facilities.

Subpart C—Requirements for Services

- 382.31 Refusal of transportation.
- 382.33 Advance notice requirements.
- 382.35 Attendants.
- 382.37 Seat assignments.
- 382.38 Seating accommodations.
- 382.39 Provision of services and equipment.
- 382.40 Boarding assistance for small aircraft.
- 382.40a Boarding assistance for large aircraft
- 382.41 Stowage of personal equipment.
- 382.43 Treatment of mobility aids and assistive devices.
- 382.45 Passenger information.
- 382.47 Accommodations for persons with hearing impairments.
- 382.49 Security screening of passengers.
- 382.51 Communicable diseases.
- 382.53 Medical certificates.
- 382.55 Miscellaneous provisions.
- 382.57 Charges for accommodations prohibited.

Subpart D—Administrative Provisions

- 382.61 Training.
- 382.63 Carrier programs. AUTHORITY: 49 U.S.C. 41702, 47105, and 41712.
- 382.65 Compliance procedures. SOURCE: 55 FR 8046, Mar. 6, 1990 and amendments.
- 382.70 Disability-related complaints received by carriers.

SUBPART A -- GENERAL PROVISIONS

§ 382.1 Purpose.

The purpose of this part is to implement the Air Carrier Access Act of 1986 (49 U.S.C. 41705), which provides that no air carrier may discriminate against any otherwise qualified individual with a disability, by reason of such disability, in the provision of air transportation.

§ 382.3 Applicability.

(a) Except as provided in this section, this part applies to all air carriers providing air transportation.

(b) Sections 382.21-382.63 do not apply to indirect air carriers.

(c) Except for § 382.70, this part does not apply to foreign air carriers or to airport facilities outside the United States, its territories, possessions, and commonwealths.

(d) Nothing in this part shall authorize or require a carrier to fail to comply with any applicable FAA safety regulation.

(e) The compliance date for the following provisions of this part is June 4, 1990:

- § 382.7 (b)
- § 382.21(c)
- § 382.31(e)
- § 382.33(f)
- § 382.35 (d), (e)
- § 382.37 (b), (c)
- § 382.39 (a) (second sentence of introductory language); (a)(1) and (a)(2), with respect to acquisition of equipment; (a)(3); (b)(3); (b)(4)
- § 382.41 (d), (e)(2), (f)
- § 382.45 (a), (c)
- § 382.47(a)
- § 382.49 (b), (c)
- § 382.65 (a), (b)(2).

(f) The compliance date for the following provisions of this part is August 5, 1990:

- § 382.9
- § 382.23(e)
- § 382.33(d)
- § 382.51
- § 382.53(c).

(g) The compliance date for the following provisions for this part is October 5, 1990:

- § 382.35 (b)(2), (b)(3)
- § 382.41(g), with respect to the acceptance and stowage of batteries requiring hazardous materials packaging, for carriers which, as of March 6, 1990, had a policy of carrying no hazardous materials.

§ 382.5 Definitions.

As used in this Part --

Air Carrier or carrier means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage in air transportation.

Air carrier airport means a public, commercial service airport which enplanes annually 2,500 or more passengers and receives scheduled air service.

Air transportation means interstate, overseas, or foreign air transportation, or the transportation of mail by aircraft, as defined in the Federal Aviation Act.

Department or DOT means the United States Department of Transportation.

FAA means the Federal Aviation Administration, an operating administration of the Department.

Facility means all or any portion of aircraft, buildings, structures, equipment, roads, walks, parking lots, and any other real or personal property, normally used by passengers or prospective passengers visiting or using the airport, to the extent the carrier exercises control over the selection, design, construction, or alteration of the property.

Individual with a disability means any individual 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. As used in this definition, the phrase:

(a) *Physical or mental impairment* means:

(1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or

(2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The term *physical or mental impairment* includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction, and alcoholism.

(b) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(c) *Has a record of such impairment* means has a history of, or has been classified, or misclassified, as having a mental or

physical impairment that substantially limits one or more major life activities.

(d) *Is regarded as having an impairment* means:

(1) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by an air carrier as constituting such a limitation;

(2) Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others toward such an impairment; or

(3) Has none of the impairments set forth in this definition but is treated by an air carrier as having such an impairment.

Indirect air carrier means a person not directly involved in the operation of an aircraft who sells air transportation services to the general public other than as an authorized agent of an air carrier.

Qualified individual with a disability means an individual with a disability who --

(a) With respect to accompanying or meeting a traveler, use of ground transportation, using terminal facilities, or obtaining information about schedules, fares or policies, takes those actions necessary to avail himself or herself of facilities or services offered by an air carrier to the general public, with reasonable accommodations, as needed, provided by the carrier;

(b) With respect to obtaining a ticket for air transportation on an air carrier, offers, or makes a good faith attempt to offer, to purchase or otherwise validly to obtain such a ticket;

(c) With respect to obtaining air transportation, or other services or accommodations required by this part:

(1) Purchases or possesses a valid ticket for air transportation on an air carrier and presents himself or herself at the airport for the purpose of traveling on the flight for which the ticket has been purchased or obtained; and

(2) Meets reasonable, nondiscriminatory contract of carriage requirements applicable to all passengers;

Scheduled air service means any flight scheduled in the current edition of the Official Airline Guide, the carrier's published schedule, or the computer reservation system used by the carrier.

§ 382.7 General prohibition of discrimination.

(a) A carrier shall not, directly or through contractual, licensing, or other arrangements:

(1) Discriminate against any otherwise qualified individual with a disability, by reason of such disability, in the provision of air transportation;

(2) Require a person with a disability to accept special services (including, but not

limited to, preboarding) not requested by the passenger;

(3) Exclude a qualified individual with a disability from or deny the person the benefit of any air transportation or related services that are available to other persons, even if there are separate or different services available for persons with a disability except when specifically permitted by another section of this part; or,

(4) Take any action adverse to an individual because of the individual's assertion, on his or her own behalf or through or behalf of others, of rights protected by this part or the Air Carrier Access Act.

(b) If an indirect air carrier provides facilities or services for passengers that are covered for other carriers by sections 382.21-382.55, the indirect air carrier shall do so in a manner consistent with those sections.

(c) Carriers shall, in addition to meeting the other requirements of this part, modify policies, practices, or facilities as needed to ensure nondiscrimination, consistent with the standards of section 504 of the Rehabilitation Act, as amended. Carriers are not required to make modifications that would constitute an undue burden or would fundamentally alter their program.

§ 382.9 Assurances from contractors.

Carriers' contracts with contractors who provide services to passengers, including carriers' agreements of appointment with travel agents (excluding travel agents who are not U.S. citizens who provide services to air carriers outside the United States, its territories and commonwealths), shall include a clause assuring:

(a) Nondiscrimination on the basis of disability, consistent with this part, by such contractors in activities performed on behalf of the carriers; and

(b) That contractor employers will comply with directives issued by carrier complaints resolution officials (CROs) under § 382.65.

§§ 382.11--382.19 [Reserved]

SUBPART B -- REQUIREMENTS CONCERNING FACILITIES

§ 382.21 Aircraft accessibility.

(a) The following requirements apply to new aircraft operated under 14 CFR part 121 and ordered by the carrier after April 5, 1990 or delivered to the carrier after April 5, 1992:

(1)(i) Aircraft with 30 or more passenger seats on which passenger aisle seats have armrests shall have movable aisle armrests on at least one-half of passenger aisle seats.

(ii) Such armrests are not required to be provided on aisle seats on which a movable armrest is not feasible or aisle seats which a passenger with a mobility impairment is precluded from using by an FAA safety rule.

(iii) For aircraft equipped with movable aisle armrests as required by this paragraph, carriers shall configure cabins, or establish administrative systems, to ensure that individuals with mobility impairments or other persons with disabilities can readily obtain seating in rows with movable aisle armrests.

(2) Aircraft with 100 or more passenger seats shall have a priority space in the cabin designated for stowage of at least one folding wheelchair;

(3) Aircraft with more than one aisle in which lavatories are provided shall include at least one accessible lavatory. This lavatory shall permit a qualified individual with a disability to enter, maneuver within as necessary to use all lavatory facilities, and leave, by means of the aircraft's on-board wheelchair. The accessible lavatory shall afford privacy to persons using the on-board wheelchair equivalent to that afforded ambulatory users. The lavatory shall provide door locks, accessible call buttons, grab bars, faucets and other controls, and dispensers usable by qualified individuals with a disability, including wheelchair users and persons with manual impairments;

(4)(i) Aircraft with more than 60 passenger seats having an accessible lavatory, whether or not required to have such a lavatory by paragraph (a)(3) of this section, shall be equipped with an operable on-board wheelchair for the use of passengers.

(ii) The carrier shall ensure that an operable on-board wheelchair is provided for a flight using an aircraft with more than 60 passenger seats on the request (with advance notice as provided in § 382.33(b)(8)) of a qualified individual with a disability who represents to the carrier that he or she is able to use an inaccessible lavatory but is unable to reach the lavatory from a seat without the use of an on-board wheelchair.²

(iii) On-board wheelchairs shall include footrests, armrests which are movable or removable, adequate occupant restraint systems, a backrest height that permits assistance to passengers in transferring, structurally sound handles for maneuvering the occupied chair, and wheel locks or another adequate means to prevent chair

² The Aerospatiale/Aeritalia ATR-72 and the British Aerospace Advanced Turboprop (ATP), in configurations having between 60 and 70 passenger seats, are exempt from this requirement. See 57 FR 12872, April 14, 1992.

movement during transfer or turbulence. The chair shall be designed to be compatible with the maneuvering space, aisle width, and seat height of the aircraft on which it is to be used, and to be easily pushed, pulled, and turned in the cabin environment by carrier personnel.

(b)(1) Except as provided in paragraph (b)(2) of this section, aircraft in service on the effective date of this part (April 5, 1990) shall not be required to be retrofitted for the sole purpose of enhancing accessibility.

(2) No later than April 5, 1992, each carrier shall comply with the provisions of paragraph (a)(4) of this section with respect to all aircraft with more than 60 passenger seats operated under 14 CFR part 121.

(c) Whenever an aircraft operated under 14 CFR part 121 which does not have the accessibility features set forth in paragraph (a) of this section undergoes replacement of cabin interior elements or lavatories, or the replacement of existing seats with newly manufactured seats, the carrier shall meet the requirements of paragraph (a) of this section with respect to the affected feature(s) of the aircraft.

(d) Aircraft operated under 14 CFR part 121 with fewer than 30 passenger seats (with respect to the requirements of paragraph (a)(1) of this section), fewer than 100 passenger seats (with respect to the requirements of paragraph (a)(2) of this section) or 60 or fewer passenger seats (with respect to the requirements of paragraph (a)(4) of this section), and aircraft operated under 14 CFR part 135, shall comply with the requirements of this section to the extent not inconsistent with structural, weight and balance, operational and interior configuration limitations.

(e) Any replacement or refurbishing of the aircraft cabin shall not reduce existing accessibility to a level below that specified in this part.

(f) Carriers shall maintain aircraft accessibility features in proper working order.

§ 382.23 Airport facilities.

(a) This section applies to all terminal facilities and services owned, leased, or operated on any basis by an air carrier at a commercial service airport, including parking and ground transportation facilities.

(b) Air carriers shall ensure that the terminal facilities and services subject to this section shall be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Air carriers shall be deemed to comply with this Air Carrier Access Act obligation if they meet requirements applying to places of public accommodation under Department of

Justice (DOJ) regulations implementing Title III of the Americans with Disabilities Act (ADA).

(c) The carrier shall ensure that there is an accessible path between the gate and the area from which aircraft are boarded.

(d) Systems of inter-terminal transportation, including, but not limited to, shuttle vehicles and people movers, shall comply with applicable requirements of the Department of Transportation's ADA rule.

(e) The Americans with Disabilities Act Accessibility Guidelines (ADAAGs), including section 10.4 concerning airport facilities, shall be the standard for accessibility under this section.

(f) Contracts or leases between carriers and airport operators concerning the use of airport facilities shall set forth the respective responsibilities of the parties for the provision of accessible facilities and services to individuals with disabilities as required by this part for carriers and applicable section 504 and ADA rules of the Department of Transportation and Department of Justice for airport operators.

[Amdt. 6, 61 FR 56423, Nov. 1, 1996]

§§ 382.25--382.29 [Reserved]

SUBPART C -- REQUIREMENTS CONCERNING SERVICES

§ 382.31 Refusal of transportation.

(a) Unless specifically permitted by a provision of this part, a carrier shall not refuse to provide transportation to a qualified individual with a disability on the basis of his or her disability.

(b) A carrier shall not refuse to provide transportation to a qualified individual with a disability solely because the person's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience crewmembers or other passengers.

(c) A carrier shall not refuse to provide transportation to qualified individuals with a disability by limiting the number of such persons who are permitted to travel on a given flight.

(d) Carrier personnel, as authorized by 49 U.S.C. 44902, 14 CFR 91.8, or 14 CFR 121.533, may refuse to provide transportation to any passenger on the basis of safety, and may refuse to provide transportation to any passenger whose carriage would violate the Federal Aviation Regulations. In exercising this authority, carrier personnel shall not discriminate against any qualified individual with a disability on the basis of disability and their actions shall not be inconsistent with the

provisions of this Part. In the event that such action is inconsistent with the provisions of this Part, the carrier shall be subject to remedies provided under § 382.65.

(e) When a carrier refuses to provide transportation to any person on a basis relating to the individual's disability, the carrier shall specify in writing to the person the basis for the refusal, including, where applicable, the reasonable and specific basis for the carrier's opinion that transporting the person would or might be inimical to the safety of the flight. This written explanation shall be provided within 10 calendar days of the refusal of transportation.

§ 382.33 Advance notice requirements.

(a) Except as provided in paragraph (b) of this section, a carrier shall not require a qualified individual with a disability to provide advance notice of his or her intention to travel or of his or her disability as a condition of receiving transportation or of receiving services or accommodations required by this part.

(b) A carrier may require up to 48 hours advance notice and one-hour advance check-in concerning a qualified individual with a disability who wishes to receive any of the following services, types of equipment, or accommodations:

(1) Medical oxygen for use on board the aircraft, if this service is available on the flight;

(2) Carriage of an incubator, if this service is available on the flight;

(3) Hook-up for a respirator to the aircraft electrical power supply, if this service is available on the flight;

(4) Accommodation for a passenger who must travel in a stretcher, if this service is available on the flight;

(5) Transportation for an electric wheelchair on a flight scheduled to be made with an aircraft with fewer than 60 seats;

(6) Provision by the carrier of hazardous materials packaging for a battery for a wheelchair or other assistive device;

(7) Accommodation for a group of ten or more qualified individuals with a disability, who make reservations and travel as a group; and

(8) Provision of an on-board wheelchair on an aircraft that does not have an accessible lavatory.

(c) If a passenger does not meet advance notice or check-in requirements established by a carrier consistent with this section, the carrier shall nonetheless provide the service, equipment, or accommodation if it can do so

by making a reasonable effort, without delaying the flight.

(d) Carriers' reservation and other administrative systems shall ensure that when advance notice is provided by qualified individuals with a disability as provided by this section, the notice is recorded and properly transmitted to operating employees responsible for providing the accommodation concerning which notice was provided.

(e) If the qualified individual with a disability provides the notice required by the carrier for a service under paragraph (b) of this section, the carrier shall ensure that the requested service is provided.

(f) If a qualified individual with a disability provides advance notice to a carrier, and the individual is forced to change to the flight of a different carrier because of the cancellation of the original flight or the substitution of inaccessible equipment, the first carrier shall, to the maximum extent feasible, provide assistance to the second carrier in providing the accommodation requested by the individual from the first carrier.

§ 382.35 Attendants.

(a) Except as provided in this section, a carrier shall not require that a qualified individual with a disability travel with an attendant as a condition of being provided air transportation. A concern on the part of carrier personnel that a individual with a disability may need to use inaccessible lavatory facilities or may otherwise need extensive special assistance for personal needs which carrier personnel are not obligated to provide is not a basis on which the carrier may require an attendant.

(b) A carrier may require that a qualified individual with a disability meeting any of the following criteria travel with an attendant as a condition of being provided air transportation, if the carrier determines that an attendant is essential for safety:

(1) A person traveling in a stretcher or incubator. The attendant for such a person must be capable of attending to the passenger's in-flight medical needs;

(2) A person who, because of a mental disability, is unable to comprehend or respond appropriately to safety instructions from carrier personnel, including the safety briefing required by 14 CFR 121.571 (a) (3) and (a)(4) or 14 CFR 135.117(b);

(3) A person with a mobility impairment so severe that the person is unable to assist in his or her own evacuation of the aircraft;

(4) A person who has both severe hearing and severe vision impairments, if the person cannot establish some means of communication with carrier personnel,

adequate to permit transmission of the safety briefing required by 14 CFR 121.571(a)(3) and (a)(4) or 14 CFR 135.117(b).

(c) If the carrier determines that a person meeting the criteria of paragraph (b)(2), (b)(3) or (b)(4) of this section must travel with an attendant, contrary to the individual's self-assessment that he or she is capable of traveling independently, the carrier shall not charge for the transportation of the attendant.

(d) If, because there is not a seat available on a flight for an attendant whom the carrier has determined to be necessary, a person with a disability who has a confirmed reservation is unable to travel on the flight, the person with a disability shall be eligible for denied boarding compensation under 14 CFR part 250.

(e) For purposes of determining whether a seat is available for an attendant, the attendant shall be deemed to have checked in at the same time as the person with a disability.

§ 382.37 Seat assignments.

(a) Carriers shall not exclude any qualified individual with a disability from any seat in an exit row or other location or require that a qualified individual with a disability sit in any particular seat, on the basis of disability, except in order to comply with the requirements of an FAA safety regulation or as provided in this section.

(b) If a person's disability results in involuntary active behavior that would result in the person properly being refused transportation under § 382.31, and the safety problem could be mitigated to a degree that would permit the person to be transported consistent with safety if the person is seated in a particular location, the carrier shall offer the person that particular seat location as an alternative to being refused transportation.

(c) If a service animal cannot be accommodated at the seat location of the qualified individual with a disability whom the animal is accompanying (see § 382.55(a)(2)), the carrier shall offer the passenger the opportunity to move with the animal to a seat location, if present on the aircraft, where the animal can be accommodated, as an alternative to requiring that the animal travel with checked baggage.

§ 382.38 Seating accommodations.

(a) On request of an individual who self-identifies to a carrier as having a disability specified in this paragraph, the carrier shall provide the following seating accommodations, subject to the provisions of this section:

(1) For a passenger who uses an aisle chair to access the aircraft and who cannot readily transfer over a fixed aisle armrest, the carrier

shall provide a seat in a row with a movable aisle armrest.

(2) The carrier shall provide a seat next to a passenger traveling with a disability for a person assisting the individual in the following circumstances:

(i) When an individual with a disability is traveling with a personal care attendant who will be performing a function for the individual during the flight that airline personnel are not required to perform (e.g., assistance with eating);

(ii) When an individual with a vision impairment is traveling with a reader/assistant who will be performing functions for the individual during the flight; or

(iii) When an individual with a hearing impairment is traveling with an interpreter who will be performing functions for the individual during the flight.

(3) For an individual traveling with a service animal, the carrier shall provide, as the individual requests, either a bulkhead seat or a seat other than a bulkhead seat.

(4) For a person with a fused or immobilized leg, the carrier shall provide a bulkhead seat or other seat that provides greater legroom than other seats, on the side of an aisle that better accommodates the individual's disability.

(b) A carrier that provides advance seat assignments shall comply with the requirements of paragraph (a) of this section by any of the following methods:

(1) The carrier may "block" an adequate number of the seats used to provide the seating accommodations required by this section.

(i) The carrier shall not assign these seats to passengers not needing seating accommodations provided under this paragraph until 24 hours before the scheduled departure of the flight.

(ii) At any time up until 24 hours before the scheduled departure of the flight, the carrier shall assign a seat meeting the requirements of this section to an individual who requests it.

(iii) If an individual with a disability does not make a request at least 24 hours before the scheduled departure of the flight, the carrier shall meet the individual's request to the extent practicable, but is not required to reassign a seat assigned to another passenger in order to do so.

(2) The carrier may designate an adequate number of the seats used to provide seating accommodations required by this section as

"priority seats" for individuals with disabilities.

(i) The carrier shall provide notice that all passengers assigned these seats (other than passengers with disabilities listed in paragraph (a) of this section) are subject to being reassigned to another seat if necessary to provide a seating accommodation required by this section. The carrier may provide this notice through its computer reservation system, verbal information provided by reservation personnel, ticket notices, gate announcements, counter signs, seat cards or notices, frequent-flier literature, or other appropriate means.

(ii) The carrier shall assign a seat meeting the requirements of this section to an individual who requests the accommodation and checks in at least one hour before the scheduled departure of the flight. If all designated priority seats that would accommodate the individual have been assigned to other passengers, the carrier shall reassign the seats of the other passengers as needed to provide the requested accommodation.

(iii) If the individual with a disability does not check in at least an hour before the scheduled departure of the flight, the carrier shall meet the individual's request to the extent practicable, but is not required to reassign a seat assigned to another passenger in order to do so.

(c) On request of an individual who self-identifies to a carrier as having a disability other than one in the four categories listed in paragraph (a) of this section and as needing a seat assignment accommodation in order to readily access and use the carrier's air transportation services, a carrier that assigns seats in advance shall provide such an accommodation, as described in this paragraph.

(1) A carrier that complies with paragraph (a) of this section through the "seat-blocking" mechanism of paragraph (b)(1) of this section shall implement the requirements of this paragraph as follows:

(i) When the passenger with a disability not described in paragraph (a) of this section makes a reservation more than 24 hours before the scheduled departure time of the flight, the carrier is not required to offer the passenger one of the seats blocked for the use of passengers with disabilities listed under paragraph (a) of this section.

(ii) However, the carrier shall assign to the passenger any seat, not already assigned to another passenger, that accommodates the passenger's needs, even if that seat is not available for assignment to the general passenger population at the time of the request.

(2) A carrier that complies with this section through the “designated priority seats” mechanism of paragraph (b)(2) of this section shall implement the requirements of this paragraph as follows:

(i) When a passenger with a disability not described in paragraph (a) of this section makes a reservation, the carrier shall assign to the passenger any seat, not already assigned to another passenger, that accommodates the passenger’s needs, even if that seat is not available for assignment to the general passenger population at the time of the request.

(ii) If such a passenger is assigned to a designated priority seat, he or she is subject to being reassigned to another seat as provided in paragraph (b)(2) of this section.

(d) A carrier that does not provide advance seat assignments shall provide seating accommodations for persons described in paragraphs (a) and (c) of this section by allowing them to board the aircraft before other passengers, including other “pre-boarded” passengers, so that the individuals needing seating accommodations can select seats that best meet their needs if they have taken advantage of the opportunity to pre-board.

(e) A carrier may comply with the requirements of this section through an alternative method not specified in paragraphs (b) through (d) of this section. A carrier wishing to do so shall obtain the written concurrence of the Department of Transportation (Office of the Secretary) before implementing the alternative method.

(f) The carrier shall assign a seat providing an accommodation requested by an individual with a disability, as specified in this section, even if the seat is not otherwise available for assignment to the general passenger population at the time of the individual’s request.

(g) If the carrier has already provided a seat to an individual with a disability to furnish an accommodation required by paragraph (a) or (c) of this section, the carrier shall not reassign that individual to another seat in response to a subsequent request from another individual with a disability, without the first individual’s consent.

(h) In no case shall any individual be denied transportation on a flight in order to provide accommodations required by this section.

(i) 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 has purchased.

(j) In responding to requests from individuals for accommodations required by this section, carriers shall comply with FAA

safety rules, including those pertaining to exit seating (see 14 CFR 121.585 and 135.129).

(k) Carriers are required to comply with this section beginning September 30, 1998.

§ 382.39 Provision of services and equipment.

Carriers shall ensure that qualified individuals with a disability are provided the following services and equipment:

(a) Carriers shall provide assistance requested by or on behalf of qualified individuals with a disability, or offered by air carrier personnel and accepted by qualified individuals with a disability, in enplaning and deplaning. The delivering carrier shall be responsible for assistance in making flight connections and transportation between gates.

(1) This assistance shall include, as needed, the services personnel and the use of ground wheelchairs, boarding wheelchairs, on-board wheelchairs where provided in accordance with this part, and ramps or mechanical lifts.

(2) Boarding shall be by level-entry loading bridges or accessible passenger lounges, where these means are available. Where these means are unavailable, assistance in boarding aircraft with 30 or fewer passenger seats shall be provided as set forth in Sec. 382.40, and assistance in boarding aircraft with 31 or more seats shall be provided as set forth in Sec. 382.40a. In no case shall carrier personnel hand-carry a passenger in order to provide boarding or deplaning assistance (i.e., directly pick up the passenger’s body in the arms of one or more carrier personnel to effect a change of level that the passenger needs to enter or leave the aircraft). Hand-carrying of passengers is permitted only for emergency evacuations.

(3) Carriers shall not leave a passenger with a disability unattended in a ground wheelchair, boarding wheelchair, or other device, in which the passenger is not independently mobile, for more than 30 minutes.

(b) Carriers shall provide services within the aircraft cabin as requested by or on behalf of individuals with a disability, or when offered by air carrier personnel and accepted by individuals with a disability as follows:

(1) Assistance in moving to and from seats, as part of the enplaning and deplaning processes;

(2) Assistance in preparation for eating, such as opening packages and identifying food;

(3) If there is an on-board wheelchair on the aircraft, assistance with the use of the on-

board wheelchair to enable the person to move to and from a lavatory;

(4) Assistance to a semiambulatory person in moving to and from the lavatory, not involving lifting or carrying the person; or

(5) Assistance in loading and retrieving carry-on items, including mobility aids and other assistive devices stowed on board in accordance with § 382.41.

(c) Carriers are not required to provide extensive special assistance to qualified individuals with a disability. For purposes of this section, extensive special assistance includes the following activities:

(1) Assistance in actual eating;

(2) Assistance within the restroom or assistance at the passenger’s seat with elimination functions;

(3) Provision of medical services.

§ 382.40 Boarding assistance for small aircraft.

(a) Paragraphs (b) and (c) of this section apply to air carriers conducting passenger operations with aircraft having 19-30 seat capacity at airports with 10,000 or more annual enplanements.

(b) Carriers shall, in cooperation with the airports they serve, provide boarding assistance to individuals with disabilities using mechanical lifts, ramps, or other suitable devices that do not require employees to lift or carry passengers up stairs.

(c) (1) Each carrier shall negotiate in good faith with the airport operator at each airport concerning the acquisition and use of boarding assistance devices. The carrier(s) and the airport operator shall, by no later than September 2, 1997, sign a written agreement allocating responsibility for meeting the boarding assistance requirements of this section between or among the parties. The agreement shall be made available, on request, to representatives of the Department of Transportation.

(2) The agreement shall provide that all actions necessary to ensure accessible boarding for passengers with disabilities are completed as soon as practicable, but no later than December 2, 1998 at large and medium commercial service hub airports (those with 1,200,000 or more annual enplanements); December 2, 1999 for small commercial service hub airports (those with between 250,000 and 1,199,999 annual enplanements); or December 4, 2000 for non-hub commercial service primary airports (those with between 10,000 and 249,999 annual enplanements). All air carriers and airport operators involved are jointly

responsible for the timely and complete implementation of the agreement.

(3) Under the agreement, carriers may require that passengers wishing to receive boarding assistance requiring the use of a lift for a flight using a 19-30 seat aircraft check in for the flight one hour before the scheduled departure time for the flight. If the passenger checks in after this time, the carrier shall nonetheless provide the boarding assistance by lift if it can do so by making a reasonable effort, without delaying the flight.

(4) Boarding assistance under the agreement is not required in the following situations:

(i) Access to aircraft with a capacity of fewer than 19 or more than 30 seats;

(ii) Access to float planes;

(iii) Access to the following 19-seat capacity aircraft models: the Fairchild Metro, the Jetstream 31, and the Beech 1900 (C and D models);

(iv) Access to any other 19-seat aircraft model determined by the Department of Transportation to be unsuitable for boarding assistance by lift on the basis of a significant risk of serious damage to the aircraft or the presence of internal barriers that preclude passengers who use a boarding or aisle chair to reach a non-exit row seat.

(5) When boarding assistance is not required to be provided under paragraph (c)(4) of this section, or cannot be provided as required by paragraphs (b) and (c) of this section for reasons beyond the control of the parties to the agreement (e.g., because of mechanical problems with a lift), boarding assistance shall be provided by any available means to which the passenger consents, except hand-carrying as defined in § 382.39(a)(2) of this part.

(6) The agreement shall ensure that all lifts and other accessibility equipment are maintained in proper working condition.

(d)(1) The training of carrier personnel required by § 382.61 shall include, for those personnel involved in providing boarding assistance, training to proficiency in the use of the boarding assistance equipment used by the carrier and appropriate boarding assistance procedures that safeguard the safety and dignity of passengers.

(2) Carriers who do not operate aircraft with more than a 19-seat capacity shall ensure that those personnel involved in providing boarding assistance are trained to proficiency in the use of the boarding assistance equipment used by the carrier and appropriate boarding assistance procedures that safeguard the safety and dignity of passengers.

[Amdt. 6, 61 FR 56423, Nov. 1, 1996]

§ 382.40a Boarding assistance for large aircraft.

(a) Paragraphs (b) and (c) of this section apply to air carriers conducting passenger operations with aircraft having a seating capacity of 31 or more passengers at airports with 10,000 or more annual enplanements, in any situation where passengers are not boarded by level-entry loading bridges or accessible passenger lounges.

(b) Carriers shall, in cooperation with the airports they serve, provide boarding assistance to individuals with disabilities using mechanical lifts, ramps, or other suitable devices that do not require employees to lift or carry passengers up stairs.

(c) (1) Each carrier that does not provide passenger boarding by level-entry loading bridges or accessible passenger lounges shall negotiate in good faith with the airport operator at each airport concerning the acquisition and use of boarding assistance devices. The carrier(s) and the airport operator shall, by no later than March 4, 2002, sign a written agreement allocating responsibility for meeting the boarding assistance requirements of this section between or among the parties. The agreement shall be made available, on request, to representatives of the Department of Transportation.

(2) The agreement shall provide that all actions necessary to ensure accessible boarding for passengers with disabilities are completed as soon as practicable, but no later than December 4, 2002. All air carriers and airport operators involved are jointly responsible for the timely and complete implementation of the agreement.

(3) Under the agreement, carriers may require that passengers wishing to receive boarding assistance requiring the use of a lift for a flight check in for the flight one hour before the scheduled departure time for the flight. If the passenger checks in after this time, the carrier shall nonetheless provide the boarding assistance by lift if it can do so by making a reasonable effort, without delaying the flight.

(4) Level-entry boarding assistance under the agreement is not required with respect to float planes or with respect to any widebody aircraft determined by the Department of Transportation to be unsuitable for boarding assistance by lift, ramp, or other device on the basis that no existing boarding assistance device on the market will accommodate the aircraft without a significant risk of serious damage to the aircraft or injury to passengers or employees.

(5) When level-entry boarding assistance is not required to be provided under paragraph

(c)(4) of this section, or cannot be provided as required by paragraphs (b) and (c) of this section (e.g., because of mechanical problems with a lift), boarding assistance shall be provided by any available means to which the passenger consents, except hand-carrying as defined in Sec. 382.39 (a)(2).

(6) The agreement shall ensure that all lifts and other accessibility equipment are maintained in proper working condition.

(d) The training of carrier personnel required by Sec. 382.61 shall include, for those personnel involved in providing boarding assistance, training to proficiency in the use of the boarding assistance equipment used by the carrier and appropriate boarding assistance procedures that safeguard the safety and dignity of passengers.

§ 382.41 Stowage of personal equipment.

(a) All stowage of qualified individuals with a disability wheelchairs and other equipment covered by this Part in aircraft cabins shall be in accordance with 14 CFR 121.589 and 14 CFR 121.285(c) or 14 CFR 135.87, as applicable.

(b) Carriers shall permit qualified individuals with a disability using personal ventilators/respirators to bring their equipment, including non-spillable batteries that meet the requirements of 49 CFR 173.159(d) and any applicable FAA safety regulations, on board the aircraft and use it.

(c) Carriers shall permit qualified individuals with a disability to stow canes and other assistive devices on board the aircraft in close proximity to their seats, consistent with the requirements of FAA safety regulations for carry-on items.

(d) Carriers shall not, in implementing their carry-on baggage policies, count toward a limit on carry-on items any assistive device brought into the cabin by a qualified individual with a disability.

(e) Carriers shall provide for on-board stowage of passengers' wheelchairs (including collapsible or break-down battery-powered wheelchairs, subject to the provisions of paragraph (g)(5) of this section) as carry-on baggage as follows:

(1) Carriers shall permit the stowage of wheelchairs or components of wheelchairs in overhead compartments and under seats, consistent with the requirements of FAA safety regulations for carry-on items.

(2) In an aircraft in which a closet or other approved stowage area is provided in the cabin for passengers' carry-on items, of a size that will accommodate a folding, collapsible, or break-down wheelchair, the carrier shall designate priority stowage space, as described below, for at least one folding, collapsible, or break-down wheelchair in that

area. A individual with a disability who takes advantage of a carrier offer of the opportunity to pre-board the aircraft may stow his or her wheelchair in this area, with priority over the carry-on items brought onto the aircraft by other passengers enplaning at the same airport. A individual with a disability who does not take advantage of a carrier offer of the opportunity to preboard may use the area to stow his or her wheelchair on a first-come, first-served basis along with all other passengers seeking to stow carry-on items in the area.

(3) If an approved stowage area in the cabin is not available for a folding, collapsible, or break-down wheelchair, the wheelchair shall be stowed in the cargo compartment.

(f) When a folding, collapsible, or break-down wheelchair cannot be stowed in the passenger cabin as carry-on baggage, carriers shall provide for the checking and timely return of passengers' wheelchairs and other assistive devices as close as possible to the door of the aircraft, so that passengers may use their own equipment to the extent possible, except where this practice would be inconsistent with DOT regulations governing the transportation of hazardous materials.

(1) At the request of the passenger, the carrier may return wheelchairs or other assistive devices to the passenger at the baggage claim area instead of at the door of the aircraft.

(2) In order to achieve the timely return of wheelchairs, passengers' wheelchairs and other assistive devices shall be among the first items retrieved from the baggage compartment.

(3) Wheelchairs and other assistive devices shall be stowed in the baggage compartment with priority over other cargo and baggage. Where this priority results in passengers' baggage being unable to be carried on the flight, the carrier shall make its best efforts to ensure that the other baggage reaches the passengers' destination within four hours of the scheduled arrival time of the flight.

(g) Whenever baggage compartment size and aircraft airworthiness considerations do not prohibit doing so, carriers shall accept a passenger's battery-powered wheelchair, including the battery, as checked baggage, consistent with the requirements of 49 CFR 175.10(a)(19) and (20) and the provisions of paragraph (f) of this section.

(1) Carriers may require that qualified individuals with a disability wishing to have battery-powered wheelchairs transported on a flight (including in the cabin) check in one hour before the scheduled departure time of the flight. If such an individual checks in after this time, the carrier shall nonetheless carry the wheelchair if it can do so by making a reasonable effort, without delaying the flight.

(2) If the battery on the individual's wheelchair has been labeled by the manufacturer as non-spillable as provided in 49 CFR 173.159(d)(2), or if a battery-powered wheelchair with a spillable battery is loaded, stored, secured and unloaded in an upright position, the carrier shall not require the battery to be removed and separately packaged. Notwithstanding this requirement, carriers may remove and package separately any battery that appears to be damaged or leaking.³

(3) When it is necessary to detach the battery from the wheelchair, carriers shall, upon request, provide packaging for the battery meeting the requirements of 49 CFR 175.10(a)(19) and (20) and package the battery. Carriers may refuse to use packaging materials or devices other than those they normally use for this purpose.

(4) Carriers shall not drain batteries.

(5) At the request of a passenger, a carrier shall stow a folding, break-down or collapsible battery-powered wheelchair in the passenger cabin stowage area as provided in paragraph (e) of this section. If the wheelchair can be stowed in the cabin without removing the battery, the carrier shall not remove the battery. If the wheelchair cannot be stowed in the cabin without removing the battery, the carrier shall remove the battery and stow it in the baggage compartment as provided in paragraph (g)(3) of this section. In this case, the carrier shall permit the wheelchair, with battery removed, to be stowed in the cabin.

(h) Individuals with disabilities shall be permitted to provide written directions concerning the disassembly and reassembly of their wheelchairs.

§ 382.43 Treatment of mobility aids and assistive devices.

(a) When wheelchairs or other assistive devices are disassembled by the carrier for stowage, the carrier shall reassemble them and ensure their prompt return to the individual with a disability. Wheelchairs and other assistive devices shall be returned to the passenger in the condition received by the carrier.

(b) With respect to domestic transportation, the baggage liability limits of 14 CFR part 254 do not apply to liability for loss, damage, or delay concerning wheelchairs or other assistive devices. The criterion for calculating the compensation for a lost, damaged, or destroyed wheelchair or other assistive device shall be the original purchase price of the device.

(c) Carriers shall not require qualified individuals with a disability to sign waivers

³ EDITORIAL NOTE: As stated in the preamble discussion of this provision (63 FR 10534), carriers may deny transportation for the battery if the potential safety hazard is serious enough.

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

§ 382.45 Passenger information.

(a) A carrier shall make available, on request, the following information concerning facilities and services related to the provision of air transportation to qualified individuals with a disability. This information shall pertain to the type of aircraft and, where feasible, the specific aircraft scheduled for a specific flight:

(1) The location of seats, if any, with movable armrests and any seats which the carrier, consistent with this part, does not make available to qualified individuals with a disability;

(2) Any limitations on the ability of the aircraft to accommodate qualified individuals with disabilities, including limitations on the availability of boarding assistance to the aircraft, with respect to the departure and destination points and any intermediate stops. The carrier shall provide this information to any passenger who states that he or she uses a wheelchair for boarding, even if the passenger does not explicitly request the information.

(3) Any limitations on the availability of storage facilities, in the cabin or in the cargo bay, for mobility aids or other equipment commonly used by persons with a disability;

(4) Whether the aircraft has an accessible lavatory.

(b) The following provisions govern the provision of individual safety briefings to qualified individuals with a disability:

(1) Individual safety briefings shall be conducted for any passenger where required by 14 CFR 121.571 (a)(3) and (a)(4) or 14 CFR 135.117(b);

(2) Carrier personnel may offer an individual briefing to any other passenger;

(3) Individual safety briefings for qualified individuals with a disability shall be conducted as inconspicuously and discreetly as possible;

(4) Carrier personnel shall not require any qualified individual with a disability to demonstrate that he or she has listened to, read, or understood the information presented, except to the extent that carrier personnel impose such a requirement on all passengers with respect to the general safety briefing, and shall not take any action adverse to a qualified individual with a disability on the basis that the person has not "accepted" the briefing.

(c) Each carrier shall ensure that qualified individuals with a disability, including those with vision or hearing impairments, have

timely access to information the carrier provides to other passengers in the terminal or on the aircraft (to the extent that it does not interfere with crewmembers' safety duties as set forth in FAA regulations) including, but not limited to, information concerning ticketing, flight delays, schedule changes, connections, flight check-in, gate assignments, and the checking and claiming of luggage; Provided, That persons who are unable to obtain such information from the audio or visual systems used by carriers in airports or on aircraft shall request the information from carrier personnel. Carriers shall also provide information on aircraft changes that will affect the travel of persons with a disability.

(d) Carriers shall have, at each airport they use, a copy of this part and shall make it available for review by persons with a disability on request.

[Amdt. 6, 61 FR 56423, Nov. 1, 1996]

§ 382.47 Accommodations for persons with hearing impairments.

(a) Each carrier providing scheduled air service, or charter service under section 401 of the Federal Aviation Act, and which makes available telephone reservation and information service available to the public shall make available a telecommunications device for the deaf (TDD) service to enable persons with hearing impairments to make reservations and obtain information. The TDD service shall be available during the same hours as the telephone service for the general public and the response time for answering calls shall be equivalent. Users of the TDD service shall not be subject to charges for a call that exceed those applicable to other users of the telephone information and reservation service.

(b) In aircraft in which safety briefings are presented to passengers on video screens, the carrier shall ensure that the video presentation is accessible to persons with hearing impairments.

(1) Except as provided in paragraph (b)(2) of this section, the carrier shall implement this requirement by using open captioning or an inset for a sign language interpreter as part of the video presentation.

(2) A carrier may use an equivalent non-video alternative to this requirement only if neither open captioning nor a sign language interpreter inset could be placed in the video presentation without so interfering with it as to render it ineffective or would be large enough to be readable.

(3) Carriers shall implement the requirements of this section by substituting captioned video materials for uncaptioned video materials as the uncaptioned materials are replaced in the normal course of the carrier's operations.

§ 382.49 Security screening of passengers.

(a) Qualified individuals with a disability shall undergo security screening in the same manner, and be subject to the same security requirements, as other passengers. Possession by a qualified individual with a disability of an aid used for independent travel shall not subject the person or the aid to special screening procedures if the person using the aid clears the security system without activating it. Provided, That this paragraph shall not prohibit security personnel from examining a mobility aid or assistive device which, in their judgment, may conceal a weapon or other prohibited item. Security searches of qualified individuals with a disability whose aids activate the security system shall be conducted in the same manner as for other passengers. Private security screenings shall not be required for qualified individuals with a disability to a greater extent, or for any different reason, than for other passengers.

(b) Except as provided in paragraph (c) of this section, if a qualified individual with a disability requests a private screening in a timely manner, the carrier shall provide it in time for the passenger to enplane.

(c) If a carrier employs technology that can conduct an appropriate screening of a passenger with a disability without necessitating a physical search of the person, the carrier is not required to provide a private screening.

§ 382.51 Communicable diseases.

(a) Except as provided in paragraph (b) of this section, a carrier shall not take any of the following actions, with respect to a person who is otherwise a qualified individual with a disability, on the basis that the individual has a communicable disease or infection:

(1) Refuse to provide transportation to the person;

(2) Require the person to provide a medical certificate; or

(3) Impose on the person any condition, restriction, or requirement not imposed on other passengers.

(b)(1) The carrier may take the actions listed in paragraph (a) of this section with respect to an individual who has a communicable disease or infection only if the individual's condition poses a direct threat to the health or safety of others.

(2) For purposes of this section, a direct threat means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.

(3) In determining whether an individual poses a direct threat to the health or safety of others, a carrier must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; that the potential harm to the health and safety of others will actually occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the risk.

(4) In taking actions authorized under this paragraph, carriers shall select the alternative, consistent with the safety and health of other persons, that least restrictive from the point of view of the passenger with the communicable disease. For example, the carrier should not refuse to provide transportation to an individual if provision of a medical certificate or reasonable modifications to practices, policies, or procedures will mitigate the risk of communication of the disease to others to extent that would permit the individual to travel.

(5) If an action authorized under this paragraph results in the postponement of a passenger's travel, the carrier shall permit the passenger to travel at a later time (up to 90 days from the date of the postponed travel) at the fare that would have applied to the passenger's originally scheduled trip without penalty or at the passenger's discretion, provide a refund for any unused flights, including return flights.

(6) Upon the passenger's request, the carrier shall provide to the passenger a written explanation of any action taken under this paragraph within 10 days of the request.

(c) If a qualified individual with a disability with a communicable disease or infection of the kind described in paragraph (b) of this section presents a medical certificate to the carrier, as provided in § 382.53(c)(2), the carrier shall provide transportation to the individual, unless it is not feasible for the carrier to implement the conditions set forth in the medical certificate as necessary to prevent the transmission of the disease or infection to other persons in the normal course of a flight.

[Amdt. 6, 61 FR 56423, Nov. 1, 1996]

§ 382.53 Medical certificates.

(a) Except as provided in this section, a carrier shall not require a person who is otherwise a qualified person with a disability to have a medical certificate as a condition for being provided transportation.

(b)(1) A carrier may require a medical certificate for a qualified individual with a disability --

(i) Who is traveling in a stretcher or incubator;

(ii) Who needs medical oxygen during a flight, as provided in 14 CFR 121.574; or

(iii) Whose medical condition is such that there is reasonable doubt that the individual can complete the flight safely, without requiring extraordinary medical assistance during the flight.

(2) For purposes of this paragraph, a medical certificate is a written statement from the passenger's physician saying that the passenger is capable of completing a flight safely, without requiring extraordinary medical assistance during the flight.

(c)(1) If a qualified individual with a disability has a communicable disease or infection of the kind described in § 382.51(b), a carrier may require a medical certificate.

(2) For purposes of this paragraph, a medical certificate is a written statement from the passenger's physician saying that the disease or infection would not, under the present conditions in the particular passenger's case, be communicable to other persons during the normal course of a flight. The medical certificate shall state any conditions or precautions that would have to be observed to prevent the transmission of the disease or infection to other persons in the normal course of a flight. It shall be dated within ten days of the date of the flight for which it is presented.

§ 382.55 Miscellaneous provisions.

(a) Carriers shall permit dogs and other service animals used by persons with a disability to accompany the persons on a flight.

(1) Carriers shall accept as evidence that an animal is a service animal identification cards, other written documentation, presence of harnesses or markings on harnesses, tags, or the credible verbal assurances of the qualified individual with a disability using the animal.

(2) Carriers shall permit a service animal to accompany a qualified individual with a disability in any seat in which the person sits, unless the animal obstructs an aisle or other area that must remain unobstructed in order to facilitate an emergency evacuation.

(3) In the event that special information concerning the transportation of animals outside the continental United States is either required to be or is provided by the carrier, the information shall be provided to all passengers traveling with animals outside the continental United States with the carrier, including those traveling with service animals.

(b) Carriers shall not require qualified individuals with a disability to sit on blankets.

(c) Carriers shall not restrict the movements of persons with a disability in terminals or require them to remain in a holding area or other location in order to be provided transportation, to receive assistance, or for other purposes, or otherwise mandate separate treatment for persons with a disability, except as permitted or required in this part.

§ 382.57 Charges for accommodations prohibited.

Carriers shall not impose charges for providing facilities, equipment, or services that are required by this part to be provided to qualified individuals with a disability.

§§ 382.59 [Reserved]

SUBPART D -- ADMINISTRATIVE PROVISIONS

§ 382.61 Training.

(a) Each carrier which operates aircraft with more than 19 passenger seats shall provide training, meeting the requirements of this paragraph, for all its personnel who deal with the traveling public, as appropriate to the duties of each employee.

(1) The carrier shall ensure training to proficiency concerning:

(i) The requirements of this part and other DOT or FAA regulations affecting the provision of air travel to persons with a disability; and

(ii) The carrier's procedures, consistent with this part, concerning the provision of air travel to persons with a disability, including the proper and safe operation of any equipment used to accommodate passengers with a disability.

(2) The carrier shall also train such employees with respect to awareness and appropriate responses to persons with a disability, including persons with physical, sensory, mental, and emotional disabilities, including how to distinguish among the differing abilities of individuals with a disability.

(3) The carrier shall consult with organizations representing persons with disabilities in developing its training program and the policies and procedures concerning which carrier personnel are trained.

(4) The carrier shall ensure that personnel required to receive training shall complete the training by the following times:

(i) For crewmembers subject to training required under 14 CFR part 121 or 135, who are employed on the date the carrier's program is established under § 382.63, as part of their next scheduled recurrent training;

(ii) For other personnel employed on the date the carrier's program is established under § 382.63, within 180 days of that date;

(iii) For crewmembers subject to training requirements under 14 CFR part 121 or 135 whose employment in any given position commences after the date the carrier's program is established under § 382.63, before they assume their duties; and

(iv) For other personnel whose employment in any given position commences after the date the carrier's program is established under § 382.63, within 60 days of the date on which they assume their duties.

(5) Each carrier shall ensure that all personnel required to receive training receive refresher training on the matters covered by this section, as appropriate to the duties of each employee, as needed to maintain proficiency.

(6) Each carrier shall provide, or require its contractors to provide, training to the contractors' employees concerning travel by persons with a disability. This training is required only for those contractor employees who deal directly with the traveling public at airports, and it shall be tailored to the employees' functions. Training for contractor employees shall meet the requirements of paragraphs (a)(1) through (a)(5) of this section.

(7) Current employees of each carrier designated as complaints resolution officials, for purposes of § 382.65 of this part, shall receive training concerning the requirements of this part and the duties of a complaints resolution official within 60 days of the effective date of this part (i.e., by June 4, 1990). Employees subsequently designated as complaints resolution officers shall receive this training before assuming their duties under § 382.65. All employees performing the complaints resolution official function shall receive annual refresher training concerning their duties and the provisions of this regulation.

(b) Each carrier operating only aircraft with 19 or fewer passenger seats shall provide training for flight crewmembers and appropriate personnel to ensure that they are familiar with the matters listed in paragraphs (a)(1) and (a)(2) of this section and comply with the requirements of this part.

§ 382.63 Carrier programs.

(a)(1) Each carrier that operates aircraft with more than 19 passenger seats shall

establish and implement, within 180 days of the effective date of this part (i.e., by October 2, 1990), a written program for carrying out the requirements of this part.

(2) Carriers are not excused from compliance with the provisions of this part during the 180 days before carrier programs are required to be established.

(b) The program shall include the following elements:

(1) The carrier's schedule for training its personnel in compliance with § 382.61;

(2) The carrier's policies and procedures for accommodating passengers with a disability consistent with the requirements of this part.

(c)(1) Major and National carriers (as defined in the DOT publication Air Carrier Traffic Statistics), and every U.S. carrier that shares the designator code of a Major or National carrier (as described in 14 CFR 399.88), shall submit their program to the Department for review within 180 days of the effective date of this part (i.e., by October 2, 1990).

(2) The Department shall review each carrier's program, which the carrier shall implement without further DOT action at the time it is submitted to the Department.

(3) If the Department determines that any portion of a carrier's plan must be amended, or provisions added or deleted, in order for the carrier to comply with this part, DOT will direct the carrier to make appropriate changes. The carrier shall incorporate these changes into its program and implement them.

(d) Other carriers shall maintain their programs on file, and shall make them available for review by the Department on the Department's request. If, upon such review, the Department determines that any portion of a carrier's plan must be amended, or provisions added or deleted, in order for the carrier to comply with this part, DOT will direct the carrier to make appropriate changes. The carrier shall incorporate these changes into its program and implement them.

§ 382.65 Compliance procedures.

(a) Each carrier providing scheduled service shall establish and implement a complaint resolution mechanism, including designating one or more complaints resolution official(s) (CRO) to be available at each airport which the carrier serves.

(1) The carrier shall make a CRO available to any person who complains of alleged violations of this part during all times the carrier is operating at the airport.

(2) The carrier may make the CRO available via telephone, at no cost to the passenger, if the CRO is not present in person at the airport at the time of the complaint. If a telephone link to the CRO is used, TDD service shall be available so that persons with hearing impairments may readily communicate with the CRO.

(3) Each CRO shall be thoroughly familiar with the requirements of this part and the carrier's procedures with respect to passengers with a disability.

(4) Each CRO shall have the authority to make dispositive resolution of complaints on behalf of the carrier.

(5) When a complaint is made to a CRO, the CRO shall promptly take dispositive action as follows:

(i) If the complaint is made to a CRO before the action or proposed action of carrier personnel has resulted in a violation of a provision of this part, the CRO shall take or direct other carrier personnel to take action, as necessary, to ensure compliance with this part. Provided, That the CRO is not required to be given authority to countermand a decision of the pilot-in-command of an aircraft based on safety.

(ii) If an alleged violation of a provision of this part has already occurred, and the CRO agrees that a violation has occurred, the CRO shall provide to the complainant a written statement setting forth a summary of the facts and what steps, if any, the carrier proposes to take in response to the violation.

(iii) If the CRO determines that the carrier's action does not violate a provision of this part, the CRO shall provide to the complainant a written statement including a summary of the facts and the reasons, under this part, for the determination.

(iv) The statements required to be provided in paragraph (a)(5) of this section shall inform the complainant of his or her right to pursue DOT enforcement action under this section. This statement shall be provided in person to the complainant at the airport if possible; otherwise, it shall be forwarded to the complainant within 10 calendar days of the complaint.

(b) Each carrier shall establish a procedure for resolving written complaints alleging violation of the provisions of this part.

(1) A carrier is not required to respond to a complaint postmarked more than 45 days after the date of the alleged violation.

(2) A written complaint shall state whether the complainant has contacted a CRO in the matter, the name of the CRO and the date of the contact, if available, and include any written response received from the CRO.

(3) The carrier shall make a dispositive written response to a written complaint alleging a violation of a provision of this part within 30 days of its receipt.

(i) If the carrier agrees that a violation has occurred, the carrier shall provide to the complainant a written statement setting forth a summary of the facts and what steps, if any, the carrier proposes to take in response to the violation.

(ii) If the carrier denies that a violation has occurred, the response shall include a summary of the facts and the carrier's reasons, under this part, for the determination.

(iii) The statements required to be provided in paragraph (b)(3) of this section shall inform the complainant of his or her right to pursue DOT enforcement action under this section.

(c) Any person believing that a carrier has violated any provision of this part may contact the following office for assistance: Department of Transportation, Aviation Consumer Protection Division, 400 7th Street, SW., Washington, DC 20590, (202) 366-2220.

(d) Any person believing that a carrier has violated any provision of this part may file a formal complaint under the applicable procedures of 14 CFR part 302.

§ 382.70 Disability-related complaints received by carriers.

(a) For the purposes of this section, a disability-related complaint means a specific written expression of dissatisfaction received from, or submitted on behalf, of an individual with a disability concerning a difficulty associated with the person's disability, which the person experienced when using or attempting to use an air carrier's or foreign air carrier's services.

(b) This section applies to certificated U.S. carriers and foreign air carriers operating to, from, and in the United States, conducting passenger operations with at least one aircraft having a designed seating capacity of more than 60 passengers. Foreign air carriers are covered by this section only with respect to disability-related complaints associated with any flight segment originating or terminating in the United States.

(c) Carriers shall categorize disability-related complaints that they receive according to the type of disability and nature of complaint. Data concerning a passenger's disability must be recorded separately in the following areas: vision impaired, hearing impaired, vision and hearing impaired, mentally impaired, communicable disease, allergies (e.g., food allergies, chemical sensitivity), paraplegic, quadriplegic, other

wheelchair, oxygen, stretcher, other assistive device (cane, respirator, etc.), and other disability. Data concerning the alleged discrimination or service problem related to the disability must be separately recorded in the following areas: refusal to board, refusal to board without an attendant, security issues concerning disability, aircraft not accessible, airport not accessible, advance notice dispute, seating accommodation, failure to provide adequate or timely assistance, damage to assistive device, storage and delay of assistive device, service animal problem, unsatisfactory information, and other.

(d) Carriers shall submit an annual report summarizing the disability-related complaints that they received during the prior calendar year using the form specified in Appendix A to this Part. The first report shall cover complaints received during calendar year 2004 and shall be submitted to the Department of Transportation by January 25, 2005. Carriers shall submit all subsequent reports on the last Monday in January of that year for the prior calendar year. All submissions must be made through the World Wide Web except for situations where the carrier can demonstrate that it would suffer undue hardship if it were not permitted to submit the data via paper copies, disks, or email, and DOT has approved an exception. All fields in the form must be completed; carriers are to enter "0" where there were no complaints in a given category. Each annual report must contain the following certification signed by an authorized representative of the carrier: "I, the undersigned, do certify that this report has been prepared under my direction in accordance with the regulations in 14 CFR Part 382. I affirm that, to the best of my knowledge and belief, this is a true, correct, and complete report." Electronic signatures will be accepted.

(e) Carriers shall retain correspondence and record of action taken on all disability-related complaints for three years after receipt of the complaint or creation of the record of action taken. Carriers must make these records available to Department of Transportation officials at their request.

(f)(1) In a code-share situation, each carrier shall comply with paragraphs (c) through (e) of this section for—

(i) Disability-related complaints it receives from or on behalf of passengers with respect to difficulties encountered in connection with service it provides;

(ii) Disability-related complaints it receives from or on behalf of passengers when it is unable to reach agreement with its code-share partner as to whether the complaint involves service it provides or service its code-share partner provides; and

(iii) Disability-related complaints forwarded by another carrier or governmental

agency with respect to difficulties encountered in connection with service it provides.

(2) Each carrier shall also forward to its code-share partner disability-related complaints the carrier receives from or on behalf of passengers with respect to difficulties encountered in connection with service provided by its code-sharing partner.

(g) Each carrier, except for carriers in code-share situations, shall comply with paragraphs (c) through (e) of this section for disability-related complaints it receives from or on behalf of passengers as well as disability-related complaints forwarded by another carrier or governmental agency with respect to difficulties encountered in connection with service it provides.

(h) Carriers that do not submit their data via the Web shall use the disability-related complaint data form specified in appendix A to this part when filing their annual report summarizing the disability-related complaints they received. The report shall be mailed, by the dates specified in paragraph (d) of this section, to the following address: U.S. Department of Transportation, Aviation Consumer Protection Division, 400 7th Street, SW., Room 4107, C-75, Washington, DC 20590.

[Source: 68 FR 40488, July 8, 2003]

Appendix A – Disability Complaint Reporting Form

Name of Carrier: _____ Submission Date: _____

Contact Person: _____ Period of Data Collection: _____

Name: _____

Telephone # (include country code if outside the U.S.): _____

Email address: _____

Mailing address: _____

Total number of complaints (i.e., incidents): _____

REPORT OF DISABILITY-RELATED COMPLAINT DATA

	Vision Impaired	Hearing Impaired	Vision & Hearing Impaired	Paraplegic	Quadriplegic	Other wheelchair	Oxygen	Stretcher	Other Disability	Other Assistive Device	Mentally Impaired	Communicable Disease	Allergies
Refusal To Board Passenger													
Refusal to Board w/o Attendant													
Security Issues Regarding Disability													
Aircraft Not Accessible													
Airport Not Accessible													
Advance Notice Dispute													
Seating Accommodation													
Failure to Provide Assistance													
Damage to Assistive Device													
Storage and Delay of Assistive Device													
Service Animal Problem													
Unsatisfactory Info													

Other													
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Certification Statement: I, the undersigned, do certify that this report has been prepared under my direction in accordance with the regulations in 14 CFR Part 382. I affirm that, to the best of my knowledge and belief, this is a true, correct, and complete report

Signature: _____

APPENDIX VI

DOT Guidance Concerning Service Animals in Air Transportation

68 FR 24875, May 9, 2003

DEPARTMENT OF TRANSPORTATION

Office of the Secretary
14 CFR Part 382
Docket No. OST-2003-15072

Guidance Concerning Service Animals in Air Transportation

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Guidance Concerning Service Animals in Air Transportation.

SUMMARY: This notice publishes a revision to the Department of Transportation's Guidance Concerning Service Animals in Air Transportation, originally published in the Federal Register on November 1, 1996 (61 FR 56409, 56420). It is the result of the Department's review of a September 19, 2002, submission of suggested improvements to the existing guidance from representatives of the disability community and the airline industry.

ADDRESSES: This guidance document is available on the Department's Web site at <http://airconsumer.ost.dot.gov/> and future updates or revisions will be posted there. Questions regarding this notice may be addressed to the Office of Aviation Enforcement and Proceedings, C-70, 400 7th Street, SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Damon P. Whitehead, Office of the General Counsel, Office of Aviation Enforcement and Proceedings, 400 Seventh Street, SW, Washington, DC 20590; (202) 366-1743; fax: (202) 366-7152; E-mail: damon.whitehead@ost.dot.gov.

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC

POLICY GUIDANCE CONCERNING SERVICE ANIMALS IN AIR
TRANSPORTATION

In 1990, the U.S. Department of Transportation (DOT) promulgated the official regulations implementing the Air Carrier Access Act (ACAA). Those rules are entitled Nondiscrimination on the Basis of Disability in Air Travel (14 CFR Part 382). Since then the number of people with disabilities traveling by air has grown steadily. This growth has increased the demand for air transportation accessible to all people with disabilities and the importance of understanding DOT's regulations and how to apply them. This document expands on an earlier DOT guidance document published in 1996⁴, which was based on an earlier Americans with Disabilities Act (ADA) service animal guide issued by the Department of Justice (DOJ) in July 1996. The purpose of this document is to aid airline employees and people with disabilities in understanding and applying the ACAA and the provisions of Part 382 with respect to service animals in determining:

- (1) whether an animal is a service animal and its user a qualified individual with a disability;
- (2) how to accommodate a qualified person with a disability with a service animal in the aircraft cabin; and
- (3) when a service animal legally can be refused carriage in the cabin.

⁴ 61 FR 56409, 56420 (Nov. 1, 1996).

Background

The 1996 DOT guidance document defines a service animal as “any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability. If the animal meets this definition, it is considered a service animal regardless of whether it has been licensed or certified by a state or local government.” This document refines DOT’s previous definition of service animal⁵ by making it clear that animals that assist persons with disabilities by providing emotional support qualify as service animals and ensuring that, in situations concerning emotional support animals, the authority of airline personnel to require documentation of the individual’s disability and the medical necessity of the passenger traveling with the animal is understood.

Today, both the general public and people with disabilities use many different terms to identify animals that can meet the legal definition of “service animal.” These range from umbrella terms such as “assistance animal” to specific labels such as “hearing,” “signal,” “seizure alert,” “psychiatric service,” “emotional support” animal, etc. that describe how the animal assists a person with a disability.

When Part 382 was promulgated, most service animals were guide or hearing dogs. Since then, a wider variety of animals (e.g., cats, monkeys, etc.) have been individually trained to assist people with disabilities. Service animals also perform a much wider variety of functions than ever before (e.g., alerting a person with epilepsy of imminent seizure onset, pulling a wheelchair, assisting persons with mobility impairments with balance). These developments can make it difficult for airline employees to distinguish service animals from pets, especially when a passenger does not appear to be disabled, or the animal has no obvious indicators that it is a service animal. Passengers may claim that their animals are service animals at times to get around airline policies that restrict the carriage of pets. Clear guidelines are needed to assist airline personnel and people with disabilities in knowing what to expect and what to do when these assessments are made.

Since airlines also are obliged to provide all accommodations in accordance with FAA safety regulations (see section 382.3(d)), educated consumers help assure that airlines provide accommodations consistent with the carriers’ safety duties and responsibilities. Educated consumers also assist the airline in providing them the services they want, including accommodations, as quickly and efficiently as possible.

General Requirements of Part 382

In a nutshell, the main requirements of Part 382 regarding service animals are:

- Carriers shall permit dogs and other service animals used by persons with disabilities to accompany the persons on a flight. See section 382.55(a)(1-2).
 - Carriers shall accept as evidence that an animal is a service animal identifiers such as identification cards, other written documentation, presence of harnesses, tags or the credible verbal assurances of a qualified individual with a disability using the animal.
 - Carriers shall permit a service animal to accompany a qualified individual with a disability in any seat in which the person sits, unless the animal obstructs an aisle or other area that must remain unobstructed in order to facilitate an emergency evacuation or to comply with FAA regulations.

⁵ See Glossary for definition of this and other terms.

- If a service animal cannot be accommodated at the seat location of the qualified individual with a disability whom the animal is accompanying, the carrier shall offer the passenger the opportunity to move with the animal to a seat location in the same class of service, if present on the aircraft, where the animal can be accommodated, as an alternative to requiring that the animal travel in the cargo hold (see section 382.37(c)).
- Carriers shall not impose charges for providing facilities, equipment, or services that are required by this part to be provided to qualified individuals with a disability (see section 382.57).

Two Steps for Airline Personnel

To determine whether an animal is a service animal and should be allowed to accompany its user in the cabin, airline personnel should:

1. Establish whether the animal is a pet or a service animal, and whether the passenger is a qualified individual with a disability; and then
2. Determine if the service animal presents either
 - a “direct threat to the health or safety of others,” or
 - a significant threat of disruption to the airline service in the cabin (i.e. a “fundamental alteration” to passenger service). See 382.7(c).

Service Animals

How do I know it’s a service animal and not a pet?

Remember: In most situations the key is TRAINING. Generally, a service animal is individually trained to perform functions to assist the passenger who is a qualified individual with a disability. In a few extremely limited situations, an animal such as a seizure alert animal may be capable of performing functions to assist a qualified person with a disability without individualized training. Also, an animal used for emotional support need not have specific training for that function. Similar to an animal that has been individually trained, the definition of a service animal includes:

- an animal that has been shown to have the innate ability to assist a person with a disability; or
- an emotional support animal.

These five steps can help one determine whether an animal is a service animal or a pet:

1. Obtain credible verbal assurances: Ask the passenger: ***“Is this your pet?”*** If the passenger responds that the animal is a service animal and not a pet, but uncertainty remains about the animal, appropriate follow-up questions would include:
 - ***“What tasks or functions does your animal perform for you?”*** or
 - ***“What has it been trained to do for you?”***
 - ***“Would you describe how the animal performs this task (or function) for you?”***
 - As noted earlier, functions include, but are not limited to:
 - A. helping blind or visually impaired people to safely negotiate their surroundings;
 - B. alerting deaf and hard-of-hearing persons to sounds;

- C. helping people with mobility impairments to open and close doors, retrieve objects, transfer from one seat to another, maintain balance; or
 - D. alert or respond to a disability-related need or emergency (e.g., seizure, extreme social anxiety or panic attack).
- Note that to be a service animal that can properly travel in the cabin, the animal need not necessarily perform a function for the passenger during the flight. For example, some dogs are trained to help pull a passenger’s wheelchair or carry items that the passenger cannot readily carry while using his or her wheelchair. It would not be appropriate to deny transportation in the cabin to such a dog.
 - If a passenger cannot provide credible assurances that an animal has been individually trained or is able to perform some task or function to assist the passenger with his or her disability, the animal might not be a service animal. In this case, the airline personnel may require documentation (see Documentation below).
 - There may be cases in which a passenger with a disability has personally trained an animal to perform a specific function (e.g., seizure alert). Such an animal may not have been trained through a formal training program (e.g., a “school” for service animals). If the passenger can provide a reasonable explanation of how the animal was trained or how it performs the function for which it is being used, this can constitute a “credible verbal assurance” that the animal has been trained to perform a function for the passenger.
2. Look for physical indicators on the animal: Some service animals wear harnesses, vests, capes or backpacks. Markings on these items or on the animal’s tags may identify it as a service animal. It should be noted, however, that the absence of such equipment does not necessarily mean the animal is not a service animal.
 3. Request documentation for service animals other than emotional support animals: The law allows airline personnel to ask for documentation as a means of verifying that the animal is a service animal, but DOT urges carriers not to require documentation as a condition for permitting an individual to travel with his or her service animal in the cabin unless a passenger’s verbal assurance is not credible. In that case, the airline may require documentation as a condition for allowing the animal to travel in the cabin. The purpose of documentation is to substantiate the passenger’s disability-related need for the animal’s accompaniment, which the airline may require as a condition to permit the animal to travel in the cabin. Examples of documentation include a letter from a licensed professional treating the passenger’s condition (e.g., physician, mental health professional, vocational case manager, etc.)
 4. Require documentation for emotional support animals: With respect to an animal used for emotional support (which need not have specific training for that function), airline personnel may require current documentation (i.e., not more than one year old) on letterhead from a mental health professional stating (1) that the passenger has a mental health-related disability; (2) that having the animal accompany the passenger is necessary to the passenger’s mental health or treatment or to assist the passenger (with his or her disability); and (3) that the individual providing the assessment of the

- passenger is a licensed mental health professional and the passenger is under his or her professional care. Airline personnel may require this documentation as a condition of permitting the animal to accompany the passenger in the cabin. The purpose of this provision is to prevent abuse by passengers that do not have a medical need for an emotional support animal and to ensure that passengers who have a legitimate need for emotional support animals are permitted to travel with their service animals on the aircraft. Airlines are not permitted to require the documentation to specify the type of mental health disability, e.g., panic attacks.
5. Observe behavior of animals: Service animals are trained to behave properly in public settings. For example, a properly trained guide dog will remain at its owner's feet. It does not run freely around an aircraft or an airport gate area, bark or growl repeatedly at other persons on the aircraft, bite or jump on people, or urinate or defecate in the cabin or gate area. An animal that engages in such disruptive behavior shows that it has not been successfully trained to function as a service animal in public settings. Therefore, airlines are not required to treat it as a service animal, even if the animal performs an assistive function for a passenger with a disability or is necessary for a passenger's emotional well-being.

What about service animals in training?

Part 382 requires airlines to allow service animals to accompany their handlers⁶ in the cabin of the aircraft, but airlines are not required otherwise to carry animals of any kind either in the cabin or in the cargo hold. Airlines are free to adopt any policy they choose regarding the carriage of pets and other animals provided that they comply with other applicable requirements (e.g., the Animal Welfare Act). Although "service animals in training" are not pets, the ACAA does not include them, because "in training" status indicates that they do not yet meet the legal definition of service animal. However, like pet policies, airline policies regarding service animals in training vary. Some airlines permit qualified trainers to bring service animals in training aboard an aircraft for training purposes. Trainers of service animals should consult with airlines, and become familiar with their policies.

⁶ Service animal users typically refer to the person who accompanies the animal as the "handler."

What about a service animal that is not accompanying a qualified individual with a disability?
When a service animal is not accompanying a passenger with a disability, the airline's general policies on the carriage of animals usually apply. Airline personnel should know their company's policies on pets, service animals in training, and the carriage of animals generally. Individuals planning to travel with a service animal other than their own should inquire about the applicable policies in advance.

Qualified Individuals with Disabilities⁷

How do I know if a passenger is a qualified individual with a disability who is entitled to bring a service animal in the cabin of the aircraft if the disability is not readily apparent?

- Ask the passenger about his or her disability as it relates to the need for a service animal. Once the passenger identifies the animal as a service animal, you may ask, "***How does your animal assist you with your disability?***" Avoid the question "What is your disability?" as this implies you are asking for a medical label or the cause of the disability, which is intrusive and inconsistent with the intent of the ACAA. Remember, Part 382 is intended to facilitate travel by people with disabilities by requiring airlines to accommodate them on an individual basis.
- Ask the passenger whether he or she has documentation as a means of verifying the medical necessity of the passenger traveling with the animal. Keep in mind that you can ask but cannot require documentation as proof of service animal status UNLESS (1) a passenger's verbal assurance is not credible and the airline personnel cannot in good faith determine whether the animal is a service animal without documentation, or (2) a passenger indicates that the animal is to be used as an emotional support animal.
- Using the questions and other factors above, you must decide whether it is reasonable to believe that the passenger is a qualified individual with a disability, and the animal is a service animal.

Denying a Service Animal Carriage in the Cabin

What do I do if I believe that carriage of the animal in the cabin of the aircraft would inconvenience non-disabled passengers?

Part 382 requires airlines to permit qualified individuals with a disability to be accompanied by their service animals in the cabin, as long as the animals do not 1) pose a direct threat to the health or safety of others (e.g., animal displays threatening behaviors by growling, snarling, lunging at, or attempting to bite other persons on the aircraft) or 2) cause a significant disruption in cabin service (i.e. a "fundamental alteration" to passenger service). Inconvenience of other passengers is not sufficient grounds to deny a service animal carriage in the cabin; as indicated later in this document, however, airlines are not required to ask other passengers to relinquish space that they would normally use in order to accommodate a service animal (e.g., space under the seat in front of the non-disabled passenger).

What do I do if I believe that a passenger's assertions about having a disability or a service animal are not credible?

⁷ See Glossary.

- Ask if the passenger has documentation that satisfies the requirements for determining that the animal is a service animal (see discussion of “Documentation” above).
- If the passenger has no documents, then explain to the passenger that the animal cannot be carried in the cabin, because it does not meet the criteria for service animals. Explain your airline’s policy on pets (i.e., will or will not accept for carriage in the cabin or cargo hold), and what procedures to follow.
- If the passenger does not accept your explanation, avoid getting into an argument. Ask the passenger to wait while you contact your airline’s **complaint resolution official (CRO)**. Part 382 requires all airlines to have a CRO available at each airport they serve during all hours of operation. The CRO may be made available by telephone. The CRO is a resource for resolving difficulties related to disability accommodation.
- Consult with the CRO immediately, if possible. The CRO normally has the authority to make the final decision regarding carriage of service animals. In the rare instance that a service animal would raise a concern regarding flight safety, the CRO may consult with the pilot-in-command. If the pilot-in-command makes a decision to restrict the animal from the cabin or the flight for safety reasons, the CRO cannot countermand the pilot’s decision. This does not preclude the Department from taking subsequent enforcement action, however, if it is determined that the pilot’s decision was inconsistent with Part 382.
- If a passenger makes a complaint to a CRO about a past decision not to accept an animal as a service animal, then the CRO must provide a written statement to the passenger within 10 days explaining the reason(s) for that determination. If carrier personnel other than the CRO make the final decision, a written explanation is not required; however, because denying carriage of a legitimate service animal is a potential civil rights violation, it is recommended that carrier personnel explain to the passenger the reason the animal will not be accepted as a service animal. A recommended practice may include sending passengers whose animals are not accepted as service animals a letter within ten business days explaining the basis for such a decision.

In considering whether a service animal should be excluded from the cabin, keep these things in mind:

- Certain unusual service animals pose unavoidable safety and/or public health concerns and airlines are not required to transport them. Snakes, other reptiles, ferrets, rodents, and spiders certainly fall within this category of animals.
- In all other circumstances, each situation must be considered individually. Do not make assumptions about how a particular unusual animal is likely to behave based on past experience with other animals. You may inquire, however, about whether a particular animal has been trained to behave properly in a public setting.
- Before deciding to exclude the animal, you should consider and try available means of mitigating the problem (e.g., muzzling a dog that barks frequently, allowing the passenger a reasonable amount of time under the circumstances to correct the disruptive behavior, offering the passenger a different seat where the animal won't block the aisle.)

If it is determined that the animal should not accompany the disabled passenger in the cabin at this time, offer the passenger alternative accommodations in accordance with Part 382 and company policy (e.g., accept the animal for carriage in the cargo hold).

What about unusual service animals?

- As indicated above, certain unusual service animals, pose unavoidable safety and/or public health concerns and airlines are not required to transport them. Snakes, other reptiles, ferrets, rodents, and spiders certainly fall within this category of animals. The release of such an animal in the aircraft cabin could result in a direct threat to the health or safety of passengers and crewmembers. For these reasons, airlines are not required to transport these types of service animals in the cabin, and carriage in the cargo hold will be in accordance with company policies on the carriage of animals generally.
- Other unusual animals such as miniature horses, pigs and monkeys should be evaluated on a case-by-case basis. Factors to consider are the animal's size, weight, state and foreign country restrictions, and whether or not the animal would pose a direct threat to the health or safety of others, or cause a fundamental alteration (significant disruption) in the cabin service. If none of these factors apply, the animal may accompany the passenger in the cabin. In most other situations, the animal should be carried in the cargo hold in accordance with company policy.

Miscellaneous Questions

What about the passenger who has two or more service animals?

- A single passenger legitimately may have two or more service animals. In these circumstances, you should make every reasonable effort to accommodate them in the cabin in accordance with Part 382 and company policies on seating. This might include permitting the passenger to purchase a second seat so that the animals can be accommodated in accordance with FAA safety regulations. You may offer the passenger a seat on a later flight if the passenger and animals cannot be accommodated together at a single passenger seat. Airlines may not charge passengers for accommodations that are required by Part 382, including transporting service animals in the cargo compartment. If carriage in the cargo compartment is unavoidable, notify the destination station to return

the service animal(s) to the passenger at the gate as soon as possible, or to assist the passenger as necessary to retrieve them in the appropriate location.

What if the service animal is too large to fit under the seat in front of the customer?

- If the service animal does not fit in the assigned location, you should relocate the passenger and the service animal to some other place in the cabin in the same class of service where the animal will fit under the seat in front of the passenger and not create an obstruction, such as the bulkhead. If no single seat in the cabin will accommodate the animal and passenger without causing an obstruction, you may offer the option of purchasing a second seat, traveling on a later flight or having the service animal travel in the cargo hold. As indicated above, airlines may not charge passengers with disabilities for services required by Part 382, including transporting their oversized service animals in the cargo compartment.

Should passengers provide advance notice to the airline concerning multiple or large service animals?

In most cases, airlines may not insist on advance notice or health certificates for service animals under the ACAA regulations. However, it is very useful for passengers to contact the airline well in advance if one or more of their service animals may need to be transported in the cargo compartment. The passenger will need to understand airline policies and should find out what type of documents the carrier would need to ensure the safe passage of the service animal in the cargo compartment and any restrictions for cargo travel that might apply (e.g., temperature conditions that limit live animal transport).

What if an airline employee or another passenger on board is allergic or has an adverse reaction to a passenger's service animal?

Passengers who state they have allergies or other animal aversions should be located as far away from the service animal as practicable. Whether or not an individual's allergies or animal aversions are disabilities (an issue this Guidance does not address), each individual's needs should be addressed to the fullest extent possible under the circumstances and in accordance with the requirements of Part 382 and company policy.

Accommodating Passengers With Service Animals in the Cabin

How can airline personnel help ensure that passengers with service animals are assigned and obtain appropriate seats on the aircraft?

- Let passengers know the airline's policy about seat assignments for people with disabilities. For instance: (1) should the passenger request pre-boarding at the gate? or (2) should the passenger request an advance seat assignment (a priority seat such as a bulkhead seat or aisle seat) up to 24 hours before departure? or (3) should the passenger request an advance seat assignment at the gate on the day of departure? When assigning priority seats, ask the passenger what location best fits his/her needs.
- Passengers generally know what kinds of seats best suit their service animals. In certain circumstances, passengers with service animals must either be provided their pre-requested priority seats, or if their requested seat location cannot be made available, they must be assigned to other available priority seats of their choice in the same cabin class. Part

382.38 requires airlines to provide a bulkhead seat or a seat other than a bulkhead seat at the request of an individual traveling with a service animal.

- Passengers should comply with airline recommendations or requirements regarding when they should arrive at the gate before a flight. This may vary from airport to airport and airline to airline. Not all airlines announce pre-boarding for passengers with special needs, although it may be available. If you wish to request pre-boarding, tell the agent at the gate.
- Unless pre-boarding is not part of your carrier's business operation, a timely request for pre-boarding by a passenger with a disability should be honored (382.38 (d)).
- Part 382 does not require carriers to make modifications that would constitute an undue burden or would fundamentally alter their programs (382.7 (c)). Therefore, the following are not required in providing accommodations for users of service animals and are examples of what might realistically be viewed as creating an undue burden:
 - Asking another passenger to give up the space in front of his or her seat to accommodate a service animal;
 - Denying transportation to any individual on a flight in order to provide an accommodation to a passenger with a service animal;
 - Furnishing more than one seat per ticket; and
 - Providing a seat in a class of service other than the one the passenger has purchased.

Are airline personnel responsible for the care and feeding of service animals?

Airline personnel are not required to provide care, food, or special facilities for service animals. The care and supervision of a service animal is solely the responsibility of the passenger with a disability whom the animal is accompanying.

May an air carrier charge a maintenance or cleaning fee to passengers who travel with service animals?

Part 382 prohibits air carriers from imposing special charges for accommodations required by the regulation, such as carriage of a service animal. However, an air carrier may charge passengers with a disability if a service animal causes damage, as long as it is its regular practice to charge non-disabled passengers for similar kinds of damage. For example, it could charge a passenger with a disability for the cost of repairing or cleaning a seat damaged by a service animal, assuming that it is its policy to charge when a non-disabled passenger or his or her pet causes similar damage.

Advice for Passengers with Service Animals

- Ask about the airline's policy on advance seat assignments for people with disabilities. For instance: (1) should a passenger request pre-boarding at the gate? or (2) should a passenger request an advance seat assignment (a priority seat such as a (bulkhead seat or aisle seat)) up to 24 hours before departure? or (3) should a passenger request an advance seat assignment at the gate on the day of departure?
- Although airlines are not permitted to automatically require documentation for service animals other than emotional support animals, if you think it would help you explain the need for a service animal, you may want to carry documentation from your physician or other licensed professional confirming your need for the service animal. Passengers with unusual service animals also may want to carry documentation confirming that their animal has been trained to perform a function or task for them.

- If you need a specific seat assignment for yourself and your service animal, make your reservation as far in advance as you can, and identify your need at that time.
- You may have to be flexible if your assigned seat unexpectedly turns out to be in an emergency exit row. When an aircraft is changed at the last minute, seating may be reassigned automatically. Automatic systems generally do not recognize special needs, and may make inappropriate seat assignments. In that case, you may be required by FAA regulations to move to another seat.
- Arrive at the gate when instructed by the airline, typically at least one hour before departure, and ask the gate agent for pre-boarding -- if that is your desire.
- Remember that your assigned seat may be reassigned if you fail to check in on time; airlines typically release seat assignments not claimed 30 minutes before scheduled departure. In addition, if you fail to check in on time you may not be able to take advantage of the airline's pre-board offer.
- If you have a very large service animal or multiple animals that might need to be transported in the cargo compartment, contact the airline well in advance of your travel date. In most cases, airlines cannot insist on advance notice or health certificates for service animals under the ACAA regulations. However, it is very useful for passengers to contact the airline well in advance if one or more of their service animals may need to be transported in the cargo compartment. The passenger will need to understand airline policies and should find out what type of documents the carrier would need to ensure the safe passage of the service animal in the cargo compartment and any restrictions for cargo travel that might apply (e.g., temperature conditions that limit live animal transport).
- If you are having difficulty receiving an appropriate accommodation, ask the airline employee to contact the airline's **complaint resolution official (CRO)**. Part 382 requires all airlines to have a CRO available during all hours of operation. The CRO is a resource for resolving difficulties related to disability accommodations.
- Another resource for resolving issues related to disability accommodations is the U.S. Department of Transportation's aviation consumer disability hotline. The toll-free number is 1-800-778-4838 (voice) and 1-800-455-9880 (TTY).

Glossary

Direct Threat to the Health or Safety of Others

A significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.

Fundamental Alteration

A modification that substantially alters the basic nature or purpose of a program, service, product or activity.

Individual with a Disability

“Any individual 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.” (Section 382.5).

Qualified Individual with a Disability

Any individual with a disability who:

- (1) “takes those actions necessary to avail himself or herself of facilities or services offered by an air carrier to the general public with respect to accompanying or meeting a traveler, use of ground transportation, using terminal facilities, or obtaining information about schedules, fares or policies”;
- (2) “offers, or makes a good faith attempt to offer, to purchase or otherwise validly to obtain . . . a ticket” “for air transportation on an air carrier”; or
- (3) “purchases or possesses a valid ticket for air transportation on an air carrier and presents himself or herself at the airport for the purpose of traveling on the flight for which the ticket has been purchased or obtained; and meets reasonable, nondiscriminatory contract of carriage requirements applicable to all passengers.” (Section 382.5).

Service Animal

Any animal that is individually trained or able to provide assistance to a qualified person with a disability; or any animal shown by documentation to be necessary for the emotional well being of a passenger.

Sources

See: 14 CFR 382.5, 14 CFR 382.37(a) and (c), 14 CFR 382.38 (a)(3), (b), (d) & (h)-(j), 14 CFR 382.55(a)(1)-(3), 14 CFR 382.57, “Guidance Concerning Service Animals in Air Transportation,” (61 FR 56420-56422, (November 1, 1996)), “Commonly Asked Questions About Service Animals in Places of Business” (Department of Justice, July, 1996), and “ADA Business Brief: Service Animals” (Department of Justice, April 2002).

Questions regarding this notice may be addressed to the Office of Aviation Enforcement and Proceedings, C-70, 400 7th Street, SW, Washington, D.C. 20590. A copy of this notice will be published in the Federal Register.

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<http://airconsumer.ost.dot.gov>

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