

DEPARTMENT OF TRANSPORTATION**Office of the Secretary****14 CFR Part 382****[Docket No. OST-2005-20952]****Nondiscrimination on the Basis of Disability****AGENCY:** Office of the Secretary, Department of Transportation (DOT).**ACTION:** Technical Assistance Manual.

SUMMARY: This document responds to a Congressional mandate for the U.S. Department of Transportation to provide a technical assistance manual to air carriers and individuals with disabilities concerning their rights and responsibilities under the Air Carrier Access Act and DOT regulations.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21), which was enacted on April 5, 2000, required, among other things, that DOT provide a technical assistance manual to air carriers and individuals with disabilities concerning their rights and responsibilities under the Air Carrier Access Act (ACAA) and its implementing regulation in 14 CFR part 382 (part 382). See 49 U.S.C. 41705(c). Responding to this legislative mandate, on April 20, 2005, DOT published a draft Technical Assistance Manual (TAM) relating to air travel by passengers with disabilities and requested public comment. (70 FR 20640). DOT received comments from three trade associations for carriers [Air Transport Association of America (ATA), Regional Airline Association (RAA), and International Air Transport Association (IATA)], one U.S. carrier [Delta Air Lines (Delta)], one foreign carrier [Mexicana Airlines (Mexicana)] and two individuals for a total of seven comments on the draft TAM. The Department has revised the TAM based on the public comments received and to include several clarifications to make the TAM easier to read and understand.

Discussion of Public Comments*1. General Comments*

ATA, IATA, and RAA expressed concern that publication of the TAM at this time would be premature and suggested delaying its publication pending the conclusion of the rulemakings regarding part 382, *i.e.* the Notice of Proposed Rulemaking (NPRM) extending part 382 to foreign carriers (69 FR 64364), an NPRM still in preparation to accommodate passengers who are deaf, hard of hearing and deaf-blind, and an NPRM still in preparation concerning the needs of passengers who require in-flight medical oxygen. ATA and RAA argued that finalizing the TAM before completing the upcoming rulemakings involving part 382 would be counterproductive and contrary to congressional intent since these rulemakings would likely require significant revisions to the TAM. IATA further stated that it cannot comment on the TAM as it views it as a "work in progress" that will be subject to several changes in the future. On the other hand, Mexicana commented that, although the final rule modifying part 382 to cover foreign air carriers has not yet been issued, it believed that the TAM would be helpful in assisting and guiding foreign carriers in implementing programs and policies that fulfill the general obligations of non-discrimination on the basis of disability in air travel.

As a separate matter, IATA noted that it found the TAM to be too lengthy and complex to be easily understood by individuals whose native language is not English and suggested that DOT develop a plain language version.

DOT also received comments from members of the general public. One individual requested that DOT not allow the use of cellular telephones onboard aircraft in flight. Another commenter implied that DOT is making changes to its disability rules without public comment/consultation and appeared to be asking DOT to consult with members of the public before making any changes to its disability-related regulations. This commenter also seemed concerned about the risk to his health or safety if carriers permit an individual who has a communicable disease or infection to fly on an aircraft and asked that DOT require carriers to operate "a safe, healthful plane."

DOT Response: DOT appreciates the reason that several commenters recommended that the publication of the TAM be delayed until the upcoming rulemakings regarding part 382 have been completed. However, there has already been too lengthy a delay in the

publication of this TAM. Congress required DOT to provide a technical assistance manual to air carriers and individuals with disabilities in April 2000, and it is likely that the rulemakings regarding part 382 will not be finalized until at least 2006. Therefore, DOT opts not to delay completion of the TAM. The TAM will be revised, as needed, after the rulemakings are completed.

With regard to the comment that the TAM is too lengthy and the recommendation that DOT develop a plain language version for use by individuals whose native language is not English, DOT believes that the TAM, as written, is straightforward and written in plain English. DOT does recognize that the TAM is a lengthy document, which is primarily a result of our effort to ensure that each section of the TAM is a separate "stand alone document." Because the TAM follows the chronological path of an air traveler with a disability from making a reservation through the completion of the trip and each subject is discussed in the context of the particular stage of the trip, a particular topic may be raised in more than one section. DOT will revisit the issue of whether to restructure the TAM for greater clarity, including using additional "plain language" techniques (*e.g.*, question and answer format) to the extent feasible to improve the clarity of the TAM, at the time that the TAM is revised to reflect changes in part 382 that may result from the current and anticipated rulemakings.

With respect to the comments received from members of the public, they do not necessitate any changes to the TAM. Cellular telephone usage on aircraft is not addressed in the TAM and is outside the TAM's scope. As for the comment regarding consultation with members of the public prior to the issuance of a disability rule, DOT has always and will continue to provide public notice of any rulemaking in accordance with the Administrative Procedure Act (APA). DOT has even gone beyond APA requirements to provide notice to the public of guidance documents such as the publication of this TAM in the **Federal Register**. Finally, with regard to the comment that DOT mandate carriers to operate a safe and healthful aircraft, DOT believes that carriers already do provide such flights for their passengers. Further, the Federal Aviation Administration (FAA) and not OST is the agency that issues air carrier safety regulations.

2. Chapter 1: Understanding How To Use This Manual

One carrier and two carrier associations sought further assurances from DOT that the TAM's use would not be mandatory and that the TAM would not expand air carriers' legal obligations under part 382. To this end, there was a suggestion that DOT add language in the introduction of the TAM stating clearly that the TAM is a guidance document and that the TAM's language and examples provided are consistent with, and do not exceed, current law.

DOT Response: DOT restates its position that the TAM does not impose additional legal obligations on carriers. Further, as requested, DOT has added language in the introduction of the TAM to explain that the TAM does not expand air carriers' legal obligations or establish new requirements under the law. DOT also clarifies that it is not mandating the use of the TAM but rather encouraging its use to ensure the proper implementation of part 382.

3. Chapter 2: Learning the Basics About the Law Protecting Air Travelers With Disabilities

ATA expressed concern that DOT is creating an impression that a violation of the ACAA and part 382 occurs in circumstances where an air carrier chooses to provide ground transportation and overnight accommodations to passengers because of a flight cancellation but is unable to provide accessible ground transportation and overnight accommodations to a passenger with a disability. It further remarked that air carriers will make every reasonable effort to locate and provide accessible ground transportation and accommodations but such accommodations may not always be available. The carrier association also disputes DOT's interpretation that section 382.39(a)(1) requires an air carrier to provide personnel to assist passengers with disabilities in carrying baggage through the airport terminal.

DOT Response: A violation of the ACAA and part 382 does occur in circumstances where an air carrier chooses to provide ground transportation and overnight accommodations to passengers because of a flight cancellation but is unable to provide accessible ground transportation and overnight accommodations to a passenger with a disability. Section 382.7(a)(3) prohibits a carrier from excluding a passenger with a disability from or denying the person the benefit of any air transportation or related services that

are available to other persons except when specifically permitted by another section of part 382. Further, ground transportation companies and hotels are required to comply with the Americans with Disabilities Act. As a result, carriers should not have difficulty in locating accessible ground transportation and overnight accommodations for a passenger with a disability. Of course, DOT recognizes that there may be unusual circumstances under which carriers may not be able to provide accessible ground transportation and hotel accommodation to a passenger with a disability but such a failure would still be a violation of the ACAA and part 382. In such situations, DOT's Aviation Enforcement Office may choose to use its discretionary power and not pursue enforcement action if the carrier can demonstrate that it made every reasonable effort to locate and provide accessible ground transportation and accommodations but they simply were not available.

With respect to ATA's assertion that section 382.39(a)(1) does not require carriers to assist passengers with disabilities in carrying their baggage through the airport terminal, DOT disagrees. DOT believes that implicit in the requirement to provide enplaning, deplaning and connecting assistance is the obligation of carriers to assist passengers with disabilities with carry-on or gate-checked luggage as they go between connecting flights or between a terminal entrance and a gate.

4. Chapter 3: Assisting Air Travelers With Disabilities Planning a Trip

ATA contends that the example DOT provided of a passenger with a disability who does not meet the advance notice requirement to check-in his battery-powered wheelchair and spillable battery is misleading and misstates the requirement in section 382.33(c) because it implies that the late-arriving passenger and not the air carrier makes the determination as to whether the service or accommodation can be provided without delaying the flight. ATA also strongly disagrees with the DOT's interpretation that section 382.35 requires an air carrier to provide free transportation to a person who volunteers to be an attendant for a disabled passenger that the carrier insists needs an attendant over the passenger's objection.

Delta expressed serious concerns that the draft TAM states that the carrier should be able to provide information to a passenger regarding seats unavailable for use by an individual with a disability (e.g., exit row seat) and the

location of seats with a movable armrest. Delta explained that it would not be able to provide information about the seats on its aircraft if a passenger makes a flight reservation more than a few days in advance of his/her flight because the specific location of seats is determined by ship number and the carrier assigns an aircraft to a specific flight by ship number only two or three days in advance of the flight. The carrier also asked that the language in the service animal section be clarified so it is clear that current regulations require that another seat be offered if a service animal cannot be accommodated at the passenger's assigned seat only when a seat exists in the same class of service.

Mexicana objected to language in the draft TAM indicating that carrier personnel would be required to make a determination as to whether a communicable disease poses a direct threat to the health or safety of others by an assessment based on reasonable judgment relying on "current medical knowledge" or the "best available objective evidence." The carrier expressed concern that this requirement would be an undue burden and create extensive legal liabilities for the carrier.

DOT Response: It was not DOT's intention to imply that a late-arriving passenger who wants to check-in his or her battery-powered wheelchair would make the determination as to whether the service can be provided without delaying the flight. Under section 382.33(c), if a passenger does not meet advance notice or check-in requirements, the carrier must nonetheless provide the service requested if it can do so by making a reasonable effort. The advance notice provision allows carriers sufficient time to prepare to make whatever special arrangements may be needed to provide certain requested accommodations. However, if advance notice is not provided, it has always been DOT's intention that the carrier would make the determination as to whether it can provide the requested accommodation by making a reasonable effort. The advance notice example involving Mr. Thomas provided in the TAM discusses Mr. Thomas' perception that it is feasible to provide the requested accommodation without delaying the flight but properly states that the carrier must accommodate Mr. Thomas, his battery-powered wheelchair and the spillable battery even though Mr. Thomas did not provide advance notice "[i]f this is the case," i.e., if it is feasible to provide the requested accommodation without delaying the flight. In other words, the requirement for a carrier to provide the requested

accommodation applies even if advance notice has not been provided if it can be accomplished through reasonable efforts and this determination is for the carrier, not a passenger, to make.

DOT has modified the language in the TAM regarding service animals to clarify that if a service animal cannot be accommodated at the passenger's assigned seat then a carrier is required to offer that passenger another seat in the same class of service. The carrier is not obligated to offer a seat in a better class of service (e.g., first class seat instead of coach seat) to accommodate the disability.

DOT declines to modify language in the TAM pertaining to information carriers should provide passengers with a disability regarding seats unavailable for their use (e.g., exit row seat) and the location of seats with a movable armrest. The TAM accurately discusses the requirement in section 382.45(a)(1). It states that accessibility information pertaining to the specific aircraft scheduled for a specific flight is required when *feasible* (emphasis added). In addition, the non-mandatory word "should" rather than "must" is used to describe the carriers' obligation to provide information about aircraft accessibility for passengers with a disability which leaves open the possibility that there may be times when carriers would not be violating 382.45(a)(1) by not providing the requested information because it was not feasible to do so.

With respect to the comment concerning communicable diseases, DOT cannot change the TAM provision that carriers make a determination as to whether a communicable disease poses a direct threat to the health or safety of others. This requirement is set forth in section 382.51(b)(3) and it would not be appropriate for DOT to change or modify an existing requirement set forth in part 382 through the TAM. The TAM is the appropriate vehicle to clarify or explain the requirements in part 382 to ensure their proper implementation but is not the appropriate place to add, reduce, or change carriers' obligations. Requests for change to carriers' current obligations regarding communicable diseases would be more appropriate for consideration in a rulemaking process.

With regard to the attendant issue, DOT disagrees with the commenter and interprets section 382.35 to require a carrier to cover the cost of transportation for a safety attendant who is required by a carrier over the objection of a passenger with a disability. Carriers are required not to charge for the transportation of a safety assistant (including providing a refund

to a ticketed passenger who serves as a safety assistant) where a carrier's assessment that such assistance is needed is contrary to a disabled individual's self-assessment. According to the rule, the attitude of the safety assistant (i.e., willingness to volunteer for free) does not matter. The free-transportation provision for safety attendants is not new and has been required of carriers since 1990. Of course, the carrier may select the most cost-effective manner to comply with the requirement whether that means selecting its own personnel or a non-revenue passenger to serve as a safety attendant or soliciting volunteer passengers in exchange for a free one-way ticket.

5. Chapter 5: Assisting Air Travelers With Disabilities Boarding, Deplaning, and During the Flight

Delta recommended that, in the section that addresses the stowage and treatment of personal equipment used by passengers with a disability, DOT include specific citations to the applicable FAA safety regulations and DOT hazardous materials regulations that govern items that can and cannot be brought aboard aircraft, e.g., ventilators/respirators, non-spillable batteries.

Mexicana believes that the language in the TAM regarding assisting passengers with the use of on-board wheelchairs inaccurately states that the carrier has the responsibility to transfer a disabled passenger from his or her seat to the aisle chair to enable him/her to move to and from the lavatory. Mexicana requested that DOT include language in the TAM that states that lifting and carrying a passenger with a mobility impairment from his/her seat to an aisle chair is not required to comply with section 382.39(b)(3). The carrier argued that requiring the lifting or carrying of a passenger to the aisle chair from his/her seat could lead to serious injury to carrier personnel and/or the passenger.

DOT Response: DOT is not convinced that it would be useful to provide specific citations to FAA safety and DOT hazardous materials regulations with respect to items that can and cannot be brought aboard aircraft because the TAM would need to be amended each time that there is a change in the FAA safety or DOT hazardous materials regulations. Also, carriers may unduly rely on the citations provided in the TAM and not keep up to date on changes in the FAA safety or DOT hazardous materials regulations that may occur over time.

DOT declines to make changes to the language in the TAM regarding assisting

passengers with the use of on-board wheelchairs as it accurately describes the requirement in section 382.39(b)(3). Although section 382.39(b)(3) does not explicitly state that assisting a passenger with the use of an on-board wheelchair includes transferring the passenger from his/her seat to the aisle chair, the preamble of the originally issued part 382, dated March 6, 1990, does make this point clearly. 55 FR 8008. The preamble to the 1990 rule contains a detailed discussion on required carrier personnel assistance to persons using on-board chairs. It addresses comments from air carrier associations, similar to the one made by the commenter on the TAM, that carrier personnel should not be required to assist with the use of an on-board wheelchair because of risks of injury. DOT decided, in 1990, that an on-board chair is not a device in which an individual with a disability can be independently mobile and carrier personnel must assist a disabled passenger not only by pushing him/her in an on-board chair but also by lifting the passenger onto the on board aisle chair when necessary.

6. Appendix III: Frequently Asked Questions

ATA commented that the draft TAM is inaccurate and misleading when it states that section 382.39 requires carriers (i) 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; and (ii) to assist a disabled passenger in claiming his or her checked luggage before assisting him/her in a wheelchair to the curb if requested. ATA noted that these details are not addressed in the current part 382 and are the subject of the November 4, 2004, NPRM proposing to revise part 382 to update, reorganize and clarify the rule and to implement a statutory requirement to cover foreign air carriers under the ACAA.

DOT Response: DOT disagrees with the commenter and views section 382.39 as requiring enplaning assistance from the curb at the entrance to the terminal to the aircraft and deplaning assistance from the aircraft to the curb at the exit of the terminal when requested by a disabled passenger. This is not a new DOT interpretation. Also, DOT believes that implicit in the requirement to provide enplaning, deplaning and connecting assistance is the obligation of carriers to assist passengers with disabilities with carry-on or gate-checked luggage as they go between connecting flights or between a terminal entrance and a gate. DOT acknowledges that these details are

covered in the November 4, 2004, NPRM as ATA pointed out; however, the NPRM is making a clarification of an existing requirement and not proposing to establish a new rule. Indeed, the 2004 NPRM explains that it is stating the obligation explicitly to avoid any misunderstanding.

Discussion of Changes to TAM Unrelated to Public Comments Received

DOT has made several clarifying changes to the technical assistance manual proposed on April 20, 2005, that are not based on public comment. The changes consist primarily of the following: (1) Clarifying in the example provided in Chapter 2 regarding Adam (a passenger who has had severe epileptic seizures in the past) that airline personnel must reasonably believe that there is a real safety risk to him or a *direct threat* to other passengers to lawfully deny transport to him; (2) explaining in the example provided in Chapter 3 under communicable diseases of a passenger who appears to have chicken pox that airline personnel should make a determination as to whether the passenger poses a direct threat to the health or safety of others based on the seriousness of the health risk and the ease of disease transmittal; and (3) suggesting in Chapter 6 that whenever a passenger raises a disability-related concern that carrier personnel should advise the passenger of the existence of the Department's aviation consumer disability hotline for resolving issues related to disability accommodations. DOT believes that these changes to the TAM will make it a more useful document.

Issued this 8th day of July, 2005, at Washington DC.

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What Airline Employees, Airline Contractors, and Air Travelers With Disabilities Need To Know About Access to Air Travel for Persons With Disabilities

A Guide to the Air Carrier Access Act (ACAA) and Its Implementing Regulations, 14 CFR Part 382 (Part 382)

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Chapter 1: Understanding How To Use This Manual

- A. Introduction
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A. Introduction

Purpose of the Manual

This manual is a guide to the Air Carrier Access Act (ACAA) and its implementing regulations, 14 CFR part 382 (part 382). It is designed to serve as a brief but authoritative source of information about the services, facilities, and accommodations required by the ACAA and the provisions of part 382. The manual does not expand air carriers' legal obligations or establish new requirements under the law. It contains suggested practices and procedures for carriers to use on a voluntary basis to implement part 382.

The primary purpose of the manual is to help you, employees/contractors of air carriers and employees/contractors of indirect air carriers that provide services or facilities to passengers with disabilities, to assist those passengers in accordance with the law. Knowing your legal responsibilities will help ensure consistent compliance with the law and protect the civil rights of air travelers with disabilities when providing services, facilities, and accommodations to them.

Throughout the manual, rather than talking about air carriers' or indirect air carriers' employees/contractors such as yourself in the third person, the word "you" is used. In most instances, the word "you" refers to personnel who deal directly with the traveling public. Moreover, the obligations and responsibilities under the law as set forth in the manual must be read within the context of each specific employee's duties on the job.

A second purpose of this manual is to offer air travelers with disabilities information about their rights under the ACAA and the provisions of part 382. Accordingly, in addition to the other useful information in this manual, Appendix I contains a list of "Tips for Air Travelers with Disabilities" to help ensure a smooth and comfortable trip. In addition, Appendix III provides a list of "Frequently Asked Questions" and answers and Appendix IV contains a list of "Recent DOT Enforcement Orders Related to the ACAA." These DOT enforcement orders are useful because they provide examples in which DOT has interpreted some of the provisions of the ACAA and part 382 under particular circumstances.

B. Background

U.S. Air Carriers

In 1986, Congress passed the ACAA, which prohibits discrimination by U.S. air carriers against qualified individuals with disabilities. 49 U.S.C. 41705. In

1990, the Department of Transportation (DOT) issued part 382, the regulations defining the rights of passengers with disabilities and the obligations of U.S. air carriers under the ACAA. Since then, these regulations have been amended a number of times. DOT has also issued guidance to air carriers on the ACAA and part 382 in a variety of ways: preambles to regulatory amendments, industry letters, correspondence with individual carriers or complainants, enforcement actions, Web site postings, and informal conversations with the public and air carriers.

Foreign Air Carriers

On April 5, 2000, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century ("AIR-21"; Pub. L. 106-181) amended the ACAA to cover foreign air carriers. Although a final rule modifying part 382 to cover foreign air carriers has not yet been issued, in May 2000 DOT's Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (Enforcement Office) issued a notice informing the public of its intent to use the provisions of part 382 as guidance in investigating any complaints of non-compliance with the ACAA by foreign carriers. In addition, in July 2003 DOT amended part 382 by adding a new section, 382.70, that requires both U.S. carriers and foreign carriers to record and report to DOT on written disability-related complaints that they receive. At the present time, section 382.70 is the only provision of part 382 that specifically states that it applies to foreign carriers. Finally, a notice of proposed rulemaking (NPRM) proposing to extend the other provisions of part 382 to foreign carriers was published on November 4, 2004. Therefore, while the majority of this manual does not expressly apply to foreign carriers, they should look to this document and part 382 in satisfying their general nondiscrimination obligations under AIR-21 and DOT's May 2000 guidance.

Development of Technical Assistance Manual

In 2000, Congress required DOT to create a technical assistance manual to provide guidance to individuals and entities with rights or responsibilities under the ACAA. This manual responds to that mandate. In creating this manual, DOT held meetings with representatives from the disability community, air carriers, and organizations that contract with air carriers to provide disability-related services. Those who attended the meetings made suggestions for this manual. All of these suggestions have

been thoroughly considered by DOT and incorporated where appropriate.

ACCESS

A step-by-step process for resolving issues involving passengers with disabilities appears later in this manual. Whether the issue is a matter of law, customer service, or both, the ACCESS checklist will be useful in identifying the needs of passengers with disabilities and determining what accommodations the air carriers are required to provide as a matter of law. See Chapter 6, section B.

How To Use This Manual

This manual is structured in the same sequence as the steps a passenger would encounter on a trip, *i.e.*, requirements concerning

- Planning a flight,
- The airport experience,
- Enplaning, deplaning, and making connections,
- Services during a flight, and
- Responding to disability-related complaints.

This manual contains the following tools to assist you in quickly and easily finding the answer to your questions:

- A Table of Contents at the beginning of the manual;
- An Alphabetical Index at the back of the manual; and
- A part 382 Index listing the citations to part 382 at the back of the manual.

Also, the following appendices appear at the end of the manual:

- *Appendix I*: "Tips for Air Travelers with Disabilities" as they relate to the most commonly-used accommodations, facilities, and services that carriers are required to make available to such passengers;
- *Appendix II*: A list of concerns applicable mainly to air carrier management, as opposed to frontline customer service personnel;
- *Appendix III*: A list of "Frequently Asked Questions" and answers;
- *Appendix IV*: A list of "Recent DOT Enforcement Orders Related to the ACAA";
- *Appendix V*: The full text of part 382; and
- *Appendix VI*: The DOT document "Guidance Concerning Service Animals in Air Transportation."

Themes of This Manual

Legal Requirements and Customer Service

This manual highlights the difference between actions you must take according to the law as stated in part 382 and actions that you may choose to

take in an effort to provide superior customer service to passengers with disabilities. Legal requirements are generally designated by the words, "must" or "shall" in the manual. Words such as "should" or "may" indicate accommodations that part 382 does not require but that DOT recommends and that you may decide to provide as a matter of good customer service.

Safety

Where applicable, this manual discusses how to properly and lawfully consider aircraft and passenger safety when providing transportation to passengers with disabilities. Part 382 does not require or authorize you to disregard FAA safety regulations. Where different treatment of passengers with disabilities or other restrictions are mandated by an FAA safety regulation, part 382 allows you to comply with the FAA safety regulation. For example, if an FAA safety rule provides that only persons who can perform certain functions can sit in an exit row, then you can request that an individual unable to perform those functions (regardless of whether that individual has a disability) sit in another row. If the passenger refuses, you can properly deny transportation to such passengers.

However, where an optional carrier action that is not required by FAA rules would result in different treatment of passengers with disabilities, or in other restrictions, then the ACAA and the provisions of part 382 prohibit you from implementing the optional carrier action even if it might ensure safety. For instance, suppose ABC Airways required only passengers with disabilities—not all passengers—to provide correct answers to a quiz about the content of a safety briefing and a passenger with a disability either refused to respond or failed such a quiz. It would *not* be appropriate to deny transportation to a passenger with a disability on such grounds unless the carrier's policies and procedures consistently treated all passengers in a similar manner.

In short, part 382 is consistent with FAA safety requirements as it allows you to follow FAA safety rules and to ensure that the safe completion of the flight or the health and safety of other passengers are not jeopardized. Determinations about whether an FAA rule requires different treatment of a passenger with a disability for safety reasons often depend on the circumstances you encounter. Therefore, it is important that you seek information from passengers with disabilities and their traveling companions and make a reasonable

judgment considering all available information.

The FAA safety mandates can be found in the Code of Federal Regulations (14 CFR parts 60 through 139), FAA guidance interpreting these regulations, and Airworthiness Directives (see <http://www.faa.gov>, click on "Aircraft Guidance" and then click on "Airworthiness Directives").

Security

This manual addresses security procedures, particularly those enacted after the terrorist hijackings and tragic events of September 11, 2001, which affect or may affect the types of accommodations and services provided to passengers with disabilities. Similar to the situation involving FAA safety requirements, part 382 is consistent with security requirements mandated by the Transportation Security Administration (TSA). For example, TSA has strict rules as to which persons can go beyond the screener checkpoints, but these TSA rules are consistent with part 382 and do not invalidate your obligation to provide enplaning and deplaning assistance requested by passengers with disabilities, including assistance beyond screener checkpoints. You do have discretion in how that assistance is provided. You can provide (i) a "pass" allowing an individual who needs to assist a passenger with a disability to go through the screener checkpoint without a ticket; (ii) assistance directly to the passenger; or (iii) both.

Contractors

This manual recognizes the important role that contractors play in providing services, equipment, and other accommodations to passengers with disabilities. A contractor is an entity that has a business arrangement with an air carrier to perform functions that the ACAA and part 382 would otherwise require the air carrier to perform with its own employees. Contractors provide a variety of services on behalf of air carriers in furnishing assistance to persons with disabilities. For example, contractors often provide wheelchair service, assist passengers with disabilities on and off aircraft, transport passengers with disabilities between departure gates, and work as baggage handlers who handle passengers' wheelchairs and other assistive devices. Contractors must provide the same services, equipment, and other accommodations required of an air carrier and its employees by the ACAA and part 382. As an employee of a contractor, you are therefore required to follow the mandates of the ACAA and

part 382 when providing services, equipment, and other accommodations to passengers with disabilities. If you do not follow the mandates of the ACAA and part 382, the air carrier is subject to enforcement action by DOT for your failure.

C. Keyword Definitions

Following is a list of key words whose definitions will help you fully understand this manual.

Air Carrier: Any United States company that provides air transportation, either directly or indirectly or by a lease or any other arrangement. [Sec. 382.5]

Air Carrier Airport: A public, commercial service airport which enplanes annually 2,500 or more passengers and receives scheduled air service. [Sec. 382.5]

Air Transportation: Interstate, overseas, or foreign air transportation, or the transportation of mail by aircraft, as defined in the Federal Aviation Act (recodified as 49 U.S.C. 40101 *et seq.*). [Sec. 382.5]

Assistive Device: Any piece of equipment that assists a passenger with a disability in carrying out a major life activity. Assistive 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, medications, and bags or cases used to carry them.

Complaints Resolution Official (CRO): One or more individuals designated by each air carrier who must be thoroughly familiar with the requirements of part 382 and the air carrier's policies and procedures addressing part 382 and the provision of services, facilities, and accommodations to passengers with disabilities. A CRO must have the authority to resolve disability-related complaints on behalf of an air carrier. A CRO must be available to address disability-related complaints presented by passengers or other individuals. A CRO must be available [1] in person at the airport; or [2] via telephone or TTY at all times an air carrier is operating. [Sec. 382.65]

Contractor: A contractor is an entity that has a business arrangement with an air carrier to perform functions that the air carrier would otherwise be required to perform with its own employees under the ACAA and part 382. For example, carriers often have business arrangements with companies to provide wheelchair service to

passengers with disabilities or to handle baggage. [Sec. 382.7]

Contractor Employee: An individual that works for an organization that has a business arrangement with one or more air carriers to provide services, facilities, and other accommodations to passengers with disabilities. [Sec. 382.7]

Department or DOT or U.S.

Department of Transportation: The Federal agency that works to ensure a fast, safe, efficient, accessible, and convenient transportation system that meets the Nation's vital national interests and enhances the quality of life of the American people. DOT has nine operating administrations, in addition to the Office of the Secretary of Transportation (OST): Bureau of Transportation Statistics, Federal Aviation Administration (FAA), Federal Highways Administration, Federal Railroad Administration, Federal Transit Administration, Maritime Administration, National Highway Transportation Safety Administration, Research and Special Programs Administration, and the St. Lawrence Seaway Development Corporation. [Sec. 382.5] The responsibility for implementing the ACAA resides in OST.

DOT Disability Hotline or 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.

FAA: The Federal administration that oversees the safety of our Nation's civil aviation system. Safety is the first and foremost mission of the FAA and includes the issuance and enforcement of regulations and standards related to the manufacture, operation, certification, and maintenance of aircraft. [Sec. 382.5]

Facility: 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 that the carrier exercises control over the selection, design, construction, or alteration of the property. [Sec. 382.5]

Indirect Air Carrier: A company not directly involved in the operation of an aircraft that sells air transportation services to the general public, such as tour and charter operators. [Sec. 382.5]

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. [Sec. 382.5]

Qualified Individual with a Disability: An individual with a disability who:

- Accompanies or meets a traveler using airport facilities;
- Seeks information about schedules, fares, or policies;
- Attempts to use facilities or services offered to the general public by an air carrier;
- Has a ticket, or makes a good faith attempt to buy a valid ticket for a flight;
- Arrives with a valid ticket for the flight; and
- Meets reasonable,

nondiscriminatory requirements applicable to all passengers. [Sec. 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. With respect to emotional support animals, although carriers may require documentation to verify that an animal is an emotional support animal, such documentation is not required under the law.

Dogs, cats, and monkeys are among those that have been individually trained and act as service animals. Service animals may assist people with disabilities by, for example:

- Guiding persons with vision impairments;
- Alerting persons with deafness to specific sounds;
- Alerting persons with epilepsy of imminent seizure onset;
- Pulling a wheelchair;
- Assisting persons with mobility impairments with balance; and
- Providing emotional support for persons with disabilities. [Sec. 382.55]

Text Telephones (TTY) or Telecommunications Devices for the Deaf (TDD): TTYs, also called TDDs, are devices that allow individuals who are unable to use a regular telephone to make or receive telephone calls by enabling them to type their conversations. The TTY benefits people who are deaf, hard of hearing, or speech impaired and individuals seeking to communicate with them. The conversation is typed back and forth and is displayed on a lighted display screen, a paper print-out in the TTY/

TDD device, or a computer screen using specialized TTY software. A TTY may also be used to place a relay call to a party with a regular telephone. *See* Chapter 4, Section D.

Transportation Security Administration (TSA): An administration within the Department of Homeland Security that is charged with protecting the security of the Nation's transportation systems to ensure freedom of movement for people and commerce. The Aviation and Transportation Security Act, signed into law on November 19, 2001, brought airport security (including the responsibility to hire, train, manage, and discipline security screeners) under the direct authority of the TSA.

Chapter 2: Learning the Basics About the Law Protecting Air Travelers With Disabilities

• *What does the Air Carrier Access Act (ACAA) say?* The ACAA prohibits U.S. and foreign air carriers from discriminating against an air traveler with a disability on the basis of such disability (49 U.S.C. 41705).

• *What is 14 CFR Part 382 (part 382)?* Part 382 is a detailed set of rules that define air carriers' responsibilities under the ACAA and ensures that individuals with disabilities will be treated without discrimination consistent with the safe carriage of all passengers.

• *Who has to follow part 382?* The following organizations and individuals must comply with part 382: (1) Air carriers and their employees (e.g., ticket and gate agents, flight attendants, baggage handlers, pilots, etc.); (2) authorized agents of an air carrier (e.g., travel agents); (3) organizations and their employees that have business arrangements with air carriers to provide disability-related services (e.g., wheelchair service, baggage handling, etc.); and (4) indirect air carriers and their employees (e.g., tour operators) that provide facilities, services, or other accommodations to passengers with disabilities.

• *Who is protected by part 382?* Part 382 protects three categories of individuals with disabilities: (1) Individuals who have a physical or mental impairment that, on a permanent or temporary basis, substantially limits one or more major life activities; (2) individuals who have a record of such impairment; and (3) individuals who are regarded as having such an impairment, whether they have the impairment or not.

• *What is a physical or mental impairment?*

Physical impairments include (1) physiological disorders or conditions; (2) cosmetic disfigurements; or (3) 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.

Examples of physical impairments include orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, HIV disease, drug addition, and alcoholism.

Mental impairments include mental or psychological disorders, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Physical characteristics such as the color of one's eyes, hair, or skin, baldness, and left-handedness do not constitute physical impairments. Similarly, neither age nor obesity alone constitutes a physical impairment. Disadvantages due to cultural or economic factors are not covered by part 382. Moreover, the definition of "physical or mental impairment" does not include personality traits such as poor judgment or a quick temper, where these are not symptoms of a mental or psychological disorder.

• *What is a substantial limitation on major life activities?* To qualify as a "disability" under part 382 a condition or disease must substantially limit a major life activity. Major life activities include, but are not limited to, activities such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

• *When does an impairment "substantially limit" a major life activity?* There is no absolute standard for determining when an impairment is a substantial limitation. Some impairments obviously limit the ability of an individual to engage in a major life activity.

Example 1: A person who is deaf is substantially limited in the major life activity of hearing.

Example 2: A person with traumatic brain injury may be substantially limited in the major life activities of: (a) caring for himself or herself; and (b) working, because of memory deficiency, confusion, contextual difficulties, and the inability to reason appropriately.

Example 3: An individual who is paraplegic may be substantially limited in the major life activity of walking.

• *Are temporary mental or physical impairments covered by part 382?* Yes.

Example: While on a skiing trip, Jane breaks her leg and is placed in a cast that keeps her from bending her leg and walking without the use of crutches. Jane will eventually recover the full use of her leg, but in the meantime she is substantially limited in the major life activity of walking. Because Jane's broken leg will substantially limit a major life activity for a time, Jane would be considered to have a disability covered by part 382 during that time. You would be required to provide her certain services and equipment under part 382 if requested (e.g., enplaning and deplaning assistance, connecting wheelchair assistance, seating with additional leg room in the same class of service to the extent required by part 382, safe stowage of her crutches in the aircraft cabin in close proximity to the passenger).

• *Who is a person with a "record of" a disability under part 382?* Part 382 protects individuals from discrimination who have a "record of" (history of) a physical or mental impairment that substantially limits a major life activity or who have been classified, or misclassified, as having such an impairment. Therefore, individuals who do not have an actual current impairment that substantially limits a major life activity would still be protected under part 382 based upon a past diagnosis (or a misdiagnosis) of an impairment that substantially limits a major life activity. Individuals with a history of cancer or epilepsy are examples of people with a record of impairment.

Example: Adam, a passenger who has had severe epileptic seizures in the past that rendered him unable to work, is denied transportation by airline personnel because of their concern that he may have a seizure on board the aircraft. This denial of transportation would be unlawful if based solely on the fact that Adam has had seizures in the past, because epilepsy may be controlled by medication. Airline personnel can lawfully deny transport to Adam only if they reasonably believe, based on the information available, that his seizure disorder poses a real safety risk to him or direct threat to other passengers.

• *When is a person "regarded as" having a disability?* Part 382 also protects an individual who is "regarded as" having a physical or mental impairment that substantially limits a major life activity, whether or not that person actually has an impairment. People can be "regarded as" disabled if: (1) Their non-limiting or slightly limiting impairments are viewed by others as substantially limiting; (2) they have no impairments but are viewed by others as having a substantially limiting impairment; or (3) their impairments become substantially limiting because of the attitudes of other people.

Example 1: John, an individual with a mild heart condition controlled by medication, is denied transportation because airline personnel believe that flying will cause John to have heart problems necessitating diversion of the aircraft during flight. John is not substantially limited in any major life activity by his condition. John has informed the air carrier personnel that his heart condition is controlled by medication and that for the past five years he has flown on a near weekly basis without incident. Even though John does not actually have an impairment that substantially limits a major life activity, he is protected by the provisions of part 382 because he is treated as though he does. The airline personnel's refusal to provide transportation to John must be reasonable under the facts and circumstances presented. Arguably, excluding John from the flight was unreasonable because John had informed the airline employee that he was taking medication and that he had flown frequently in the recent past without incident. The reasonableness of the decision depends on John's credibility and any additional information provided. Regardless of the reasonableness of the decision, the airline employee is legally required under section 382.31(e) to provide a written explanation to John within 10 calendar days setting forth the specific safety or other reason(s) for excluding John from the flight.

Example 2: Karen, an individual born with a prominent facial disfigurement, has been refused transportation on the grounds that her presence has upset several passengers who have complained to gate agents about her appearance. Karen's physical disfigurement becomes substantially limiting only as a result of the attitudes of others and she is protected by the provisions of part 382. Refusing to provide transportation to Karen would violate section 382.31 because you must not refuse to provide transportation to a qualified individual with a disability, such as Karen, solely because her appearance may offend or annoy other passengers. As in the example above, and regardless whether the decision to refuse transportation was correct, you must provide Karen with a written explanation of the specific basis for the refusal within 10 calendar days of the incident.

• *How do I determine whether a person is an individual with a disability?* Provide an opportunity for the passenger to self-identify by asking how you can best assist him or her.

• *How do I assist a passenger with a disability?* Ask the passenger how you can best assist him or her. A passenger with a disability has the most information about his or her abilities, limitations, level of familiarity with the airport and airline, and needs in connection with traveling by air.

• *May I ask an individual what his or her disability is?* Only to determine if a passenger is entitled to a particular seating accommodation pursuant to section 382.38. Generally, you may not make inquiries about an individual's disability or the nature or severity of the

disability. However, you may ask questions about an individual's ability to perform specific air travel-related functions, such as enplaning, deplaning, walking through the airport, etc.

Example 1: You may not ask a person, "What is your disability?" You may not ask, "Do you have diabetes?"

Example 2: You may ask, "Can you walk from the gate area to your aircraft seat?" You may ask, "Are you able to transfer from the aisle chair over a fixed aisle seat armrest?" You may ask, "Can you walk from this gate to your connecting gate?" You may ask (by writing a note if necessary), "Do you need me to notify you if I make any announcements over the public address speaker?"

Example 3: Susan asks for a bulkhead seat because the condition of her leg necessitates her need for greater legroom. You may ask, "Are you unable to bend your leg or is your leg fused or immobilized?" [Sec. 382.38]

• *What are some of the requirements of part 382 that you should be aware of?* Following are some of the principal requirements of part 382. It is important to note that the requirements of part 382 listed below are not meant to be exhaustive. Rather, it is a list of requirements governing situations that you are likely to encounter on a regular basis.

• You must not discriminate against qualified individuals with a disability. [Sec. 382.7(a)(1)] You must not *require* a passenger with a disability to accept special services (including, but not limited to, pre-boarding) not requested by the passenger. [Sec. 382.7(a)(2)] Instead, you may *ask* a passenger with a disability if he or she would like a particular service, facility, or other accommodation. In addition, you must not exclude a qualified individual with a disability from or deny the individual the benefit of any air transportation or related services that are available to other passengers. [Sec. 382.7(a)(3)] For example, if you choose to provide ground transportation and overnight accommodations to passengers because of a flight cancellation, you must ensure that the ground transportation to the hotel, and the hotel itself, are accessible to a passenger with a disability.

• You must not refuse transportation to a passenger solely on the basis of a disability. [Sec. 382.31(a)]

• You must provide transportation to an individual with a disability who has an impairment that affects his or her appearance or results in involuntary behavior except under limited circumstances specified below. You must provide transportation to such individuals with disabilities even if the disability may offend, annoy, or inconvenience crewmembers or other passengers. [Sec. 382.31(b)] However, if the person's disability results in

involuntary behavior that would or might be inimical to the safety of the flight, then the person may properly be refused transportation. [Sec. 382.31(d)]

- You shall not limit the number of individuals with disabilities on a particular flight. [Sec. 382.31(c)]

- If transportation of a passenger with a disability would endanger the safety of the aircraft or the health or safety of its passengers or violate an FAA safety regulation, you may refuse transportation to the individual with a disability. [Sec. 382.31(d)]

- You shall not require a passenger with a disability to travel with an attendant or to present a medical certificate, *except* in very limited circumstances. [Secs. 382.35(a) and 382.53(a)]

- You shall not exclude a passenger with a disability from any seat in an exit or other row solely on the basis of his or her disability except to comply with FAA safety rules. FAA safety rules establish criteria that must be met in order for a passenger to occupy a seat in the emergency exit rows. [14 CFR 121.585] If a passenger with a disability meets these FAA criteria, he or she must be allowed to sit in an emergency exit row. As with any other passenger, you must look at the individual passenger with a disability and reasonably assess whether he or she meets FAA criteria for exit-row seating. [Sec. 382.37(a)]

- You must provide timely enplaning, deplaning, and connecting assistance to passengers with disabilities requesting such assistance. As part of this duty, you must provide equipment (e.g., wheelchairs, electric carts, and aisle chairs) and personnel (e.g., individuals to propel wheelchairs and aisle chairs and individuals to assist passengers with disabilities in carrying and stowing their baggage). [Secs. 382.39(a)(1) and 382.39(b)(5)]

- You must allow a passenger with a disability to stow his or her cane or other assistive device inside the cabin of the aircraft close to his or her seat if it fits, consistent with FAA safety rules on carry-on items. [Sec. 382.41(c)]

- You must allow passengers to safely stow their wheelchairs or parts of wheelchairs (e.g., wheels, seats, etc.) in the overhead bin or under seats. [Sec. 382.41(e)(1)]

- You must ensure that there is space for at least one passenger with a disability to stow a folding wheelchair in the cabin of the aircraft if the aircraft has a designed seating capacity of 100 or more seats and the aircraft was ordered after April 5, 1990, or delivered after April 5, 1992. [Sec. 382.21(a)(2)]

- If there is a closet or other approved stowage area for passengers' carry-on

items of sufficient size to accommodate a folding, collapsible, or break-down wheelchair, the carrier must designate priority stowage space for at least one wheelchair in that area. A passenger with a disability who takes advantage of the offer of the opportunity to pre-board may stow his or her wheelchair in this area with priority over other carry-on items brought onto the aircraft by other passengers and flight crew enplaning at the same airport. A passenger with a disability who does not pre-board may use this space to stow his or her wheelchair on a first-come, first-served basis along with other passengers stowing their carry-on items. [Sec. 382.41(e)(2)]

- You must have a copy of Part 382 available at every airport you serve. Upon request by a passenger at the airport, you must make a copy available for review. [Sec. 382.45(d)]

- You must provide blind or visually-impaired passengers and passengers who are deaf, hard of hearing, or deaf-blind, timely access to the same information given to other passengers at the airport or on the airplane. This includes, but is not limited to, information concerning gate assignments, delayed flights, and safety. [Secs. 382.45(c) and 382.47]

- You must allow service animals to accompany passengers with disabilities in the cabin consistent with FAA safety requirements. You must allow the service animal to sit in close proximity to its user, as long as the service animal does not block the aisle or other emergency evacuation route in violation of FAA safety regulations. Often this will mean that the service animal will sit under the seat in front of the disabled passenger to avoid obstructing an aisle or other space. Some service animals are held by their users in their arms as an adult would hold a human infant (limited to infants under two years of age) of roughly the same size. [Sec. 382.55]

- You must make available a Complaints Resolution Official (CRO) at the airport—in person or by telephone or TTY—to address disability-related complaints that arise during the travel process at all times when your flights are operating at that airport. You must provide a CRO to a passenger even if the passenger does not use the term "Complaints Resolution Official" or "CRO." When a passenger with a disability uses words such as "supervisor," "manager," "boss," or "disability expert" in connection with resolving a disability-related issue, you must provide a CRO. [Sec. 382.65]

- You must not charge for services that are required by part 382. This

means, for example, you must not ask for a tip when providing wheelchair service to a passenger. You may, however, impose a reasonable charge for services *not* required by part 382, *i.e.*, optional services. Examples of such optional services include medical oxygen for use on board an aircraft or stretcher service. [Sec. 382.57]

- *When am I required to provide disability-related accommodations to an individual?* You are required to provide such an accommodation when: (1) an individual with a disability or someone acting on his or her behalf, such as a travel companion, family member, or friend, requests an accommodation required by part 382; or (2) you offer such a required accommodation to a passenger with a disability and he or she accepts such accommodation.

Chapter 3: Assisting Air Travelers With Disabilities Planning a Trip

- A. Advance Notice.
- B. Information about the Aircraft.
- C. Mobility Aids and Assistive Devices.
- D. Service Animals.
- E. Accommodations for Air Travelers who are Deaf, Hard of Hearing, or Deaf-Blind.
- F. Communicable Diseases.
- G. Medical Certificates: When are They Allowed?
- H. Your Obligation to Provide Services and Equipment.
- I. Attendants.

A. Advance Notice

You cannot require passengers with disabilities to provide advance notice of their intention to travel or of their disability except as provided below. [Sec. 382.33(a)]

Advance Notice Only for Particular Services and Equipment

You may require up to 48 hours' advance notice and one hour's advance check-in from a passenger with a disability who wishes to receive the following services:

- Transportation for a battery-powered wheelchair on an aircraft with fewer than 60 seats;
- Provision by the carrier of hazardous materials packaging for the battery of a wheelchair or other assistive device;
- Accommodations for 10 or more passengers with disabilities who travel as a group; and
- Provision of an on-board wheelchair on an aircraft that does not have an accessible lavatory for passengers with disabilities who can use an inaccessible lavatory but need an on-board chair to do so. [Secs. 382.33(b)(5)–(8)]

Example: While making his reservation, a passenger with a disability gave the

reservation agent 48 hours' advance notice that he would need an aisle chair to access the lavatory on his upcoming flight. The flight is on an aircraft with more than 60 seats and it does not have an accessible lavatory. During the call, the passenger is made aware of the fact that the lavatory is inaccessible, but explains that he can use an inaccessible lavatory as long as he has access to a carrier-provided aisle chair. Because the passenger has complied with the advance notice requirement here, normally this information would have been entered into the passenger's reservation record (otherwise known as the passenger name record (PNR)) by the carrier and the request for an aisle chair would have been handled through that notification process. You are a new gate agent for your carrier and when this passenger approaches you at the gate more than an hour before the scheduled departure time of the flight and asks about the aisle chair, you are not sure how to reply. What should you do?

To begin, as a matter of good customer service, you should tell the passenger that you are not sure but you will find out for him. You should ask a colleague and, if necessary, contact a CRO. When you ask your colleague, you are told that all aircraft with more than 60 seats in your carrier's fleet maintain an in-cabin aisle chair. Once you receive this information you should assure the passenger that an aisle chair is available so he can use the inaccessible lavatory on the aircraft.

Advance Notice for Optional Services and Equipment

Although carriers are not required to provide the following services or equipment, if they choose to provide them, you may require 48 hours' advance notice and one hour's advance check-in for:

- Medical oxygen for use on board the aircraft;
- Carriage of an incubator;
- Hook-up for a respirator to the aircraft's electrical power supply; and
- Accommodation for a passenger who must travel on a stretcher. [Secs. 382.33(b)(1)–(4)]

If appropriate advance notice has been given and the requested service is available on that particular flight, you must ensure that the service or equipment is provided.

Make a Reasonable Effort To Accommodate, Even Without Advance Notice

In addition, even if a passenger with a disability does *not* meet the advance notice or check-in requirement, you must make a reasonable effort to furnish the requested service or equipment, provided that making such accommodation would not delay the flight. [Secs. 382.33(c) and (e)]

Example 1: Mr. Thomas uses a battery-powered wheelchair. He travels frequently between Washington, DC, and New York for

business. One day, he finds out that he has an important business meeting in New York and must travel up to New York that afternoon. He has no time to provide advance notice regarding the transportation of his battery-powered wheelchair and arrives at the gate 45 minutes before his flight is scheduled to depart. The aircraft for the flight has fewer than 60 passenger seats. What should you do?

Carriers may require 48 hours' advance notice and one-hour advance check-in for transportation of a battery-powered wheelchair on a flight scheduled to be made on an aircraft with fewer than 60 seats. Carriers may require the same advance notice for provision of hazardous materials packaging for a battery. However, airline personnel are required to make reasonable efforts to accommodate a passenger who fails to provide the requisite notice to the extent it would not delay the flight. Therefore, you must make a reasonable effort to accommodate Mr. Thomas as long as it would not delay the flight.

Mr. Thomas is a frequent traveler on this particular route and he knows that usually it is feasible to load, store, secure, and unload his battery-powered wheelchair and spillable battery in an upright position [Sec. 382.41(g)(2)] or detach, "box", and store the spillable battery [Sec. 382.41(g)(3)] within about 20–25 minutes. If this is the case, you must accommodate Mr. Thomas, his battery-powered wheelchair, and the spillable battery even though Mr. Thomas did not provide advance notice, since doing so would not delay the flight.

Example 2: Ms. Webster must travel with medical oxygen and shows up at the airport without providing advance notice of her need for medical oxygen. As a policy, your carrier does not provide medical oxygen on any flights. What should you do?

To begin, you should confirm that your carrier does not provide the optional service of medical oxygen for use on board a flight. If no medical oxygen service is available on your carrier, you should explain this to Ms. Webster and tell her that the carrier cannot accommodate her.

As a matter of customer service, you may direct Ms. Webster to another carrier that does provide medical oxygen service in that market. The passenger should be aware, however, that the provision of medical oxygen involves coordination with the passenger's physician to determine the flow rate and the amount of oxygen needed and arranging for the delivery of the oxygen by the carrier to the point of origin of the passenger's trip. Therefore, normally, it is not possible to accommodate a passenger who needs medical oxygen on a flight unless the advance notice is provided because the accommodation cannot be made without delaying the flight.

If Aircraft Is Substituted, Make an Effort To Accommodate

Even if a passenger with a disability provides advance notice, sometimes weather or mechanical problems require cancellation of the flight altogether or the substitution of another aircraft.

Under these circumstances, you must, to the maximum extent feasible, assist in providing the accommodation originally requested by the passenger with a disability. [Sec. 382.33(f)]

B. Information About the Aircraft

You should be familiar with and be able to provide information about aircraft accessibility for passengers with a disability when they request this information. [Secs. 382.21 and 382.45] When feasible, you should provide information pertaining to a specific aircraft to be used for a specific flight. In general, you must take into account safety and feasibility when seating passengers with disabilities. [Secs. 382.37(a) and 382.38(j)]

If requested, you should be able to provide information on the following:

- Any limitations concerning the ability of the aircraft to accommodate an individual with a disability;
- The location of seats, if any, in a row with a movable aisle armrest and any seats which the carrier does not make available to individuals with a disability (e.g., exit rows);
- Any limitation on the availability of storage facilities in the cabin or in the cargo bay for mobility aids or other equipment commonly used by an individual with a disability; and
- Whether the aircraft has a lavatory accessible to passengers with a disability.

C. Mobility Aids and Assistive Devices

If, in assisting a passenger with a disability, a carrier employee or contractor takes apart the passenger's mobility aid or assistive device (e.g., a wheelchair), another carrier employee or contractor must reassemble it and ensure its prompt return to the passenger with a disability in the same condition in which the carrier received it. [Secs. 382.43(a) and (b)] You must permit passengers with a disability to provide written instructions concerning the disassembly and reassembly of their wheelchairs. [Sec. 382.41(h)] You cannot require passengers with disabilities to sign a waiver of liability for damage to or loss of wheelchairs or other assistive devices. [Sec. 382.43(c)] However, you may note preexisting damage to wheelchairs or other assistive devices.

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

¹ See also Appendix VI.

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>.

If Service Animal Cannot Be Accommodated at Assigned Seat

If a service animal cannot be accommodated at the seat of the passenger with a disability and if there is another seat in the same class of service where the passenger and the animal can be accommodated, you must offer the passenger the opportunity to move to the other seat with the service animal. Switching seats in the same class of service must be explored as an alternative before requiring that the service animal travel in the cargo compartment. [Sec. 382.37(c)]

Verification of Service Animals

Under particular circumstances, you may see a need to verify whether an animal accompanying a passenger with a disability qualifies as a service animal under the law. You must accept the following as evidence that the animal is indeed a service animal:

- The credible verbal assurances of a passenger with a disability using the animal,
- The presence of harnesses or markings on harnesses,
- Tags, or

- Identification cards or other written documentation. [Sec. 382.55(a)(1)]

Keep in mind that passengers accompanied by service animals may not have identification or written documentation regarding their service animals. *See also* Appendix VI, DOT Guidance Concerning Service Animals in Air Transportation.

Carriers may require that passengers traveling with *emotional support animals* present current documentation (*i.e.*, dated within a year of the date of travel) from a mental-health professional stating that:

- The passenger has a mental health-related disability;
- The passenger needs the animal for the mental-health condition; and
- The provider of the letter is a licensed mental-health professional (or a medical doctor) and the passenger is under the individual's professional care.

Even if you receive sufficient verification that an animal accompanying a passenger is indeed a service animal, if the service animal's behavior in a public setting is inappropriate or disruptive to other passengers or carrier personnel, you may refuse to permit the animal on the flight and offer the passenger alternative accommodations in accordance with part 382 and your carrier's policy (*e.g.*, accept the animal for carriage in the cargo hold).

Example 1: A passenger arrives at the gate accompanied by a pot-bellied pig. She claims that the pot-bellied pig is her service animal. What should you do?

While generally speaking, you must permit a passenger with a disability to be accompanied by a service animal, if you have a reasonable basis for questioning whether the animal is a service animal, you may ask for some verification. Usually no written verification is required.

You may begin by asking questions about the service animal, *e.g.*, "What tasks or functions does your animal perform for you?" or "What has its training been?" If you are not satisfied with the credibility of the answers to these questions or if the service animal is an emotional support animal, you may request further verification.

You should also call a CRO if there is any further doubt in your mind as to whether the pot-bellied pig is the passenger's service animal.

Finally, if you determine that the pot-bellied pig is a service animal, you must permit the service animal to accompany the passenger to her seat as long as the animal doesn't obstruct the aisle or present any safety issues and the animal is behaving appropriately in a public setting.

Example 2: A deaf passenger is planning to board the plane with his service animal. The service animal is a hearing dog and is small enough to sit on the deaf passenger's lap. While waiting to board the flight, the hearing dog jumps off the passenger's lap and begins

barking and nipping at other passengers in the waiting area. What should you do?

Since you have already made the determination that the hearing dog is a service animal and may accompany the deaf passenger on the flight, you may reconsider the decision if the dog is behaving in a manner that seems disruptive and infringes on the safety of other passengers. You should carefully observe the hearing dog's behavior and explain it in detail to a CRO (if the CRO is on the telephone). If, after careful consideration of all the facts presented, the CRO decides not to treat the dog as a service animal, you should explain your carrier's policy regarding traveling with animals that are not being allowed in the passenger cabin as service animals.

Requests for Seat Assignments by a Passenger Accompanied by a Service Animal

For a disabled passenger traveling with a service animal, you must provide, as the passenger with a disability requests, either a bulkhead seat or a seat other than a bulkhead seat. [Sec. 382.38(a)(3)]

If carriers provide special information concerning the transportation of animals outside the continental United States to any passengers, you must provide such information to all passengers with a disability traveling with a service animal on the flights. [Sec. 382.55(a)(3)]

E. Accommodations for Air Travelers Who Are Deaf, Hard of Hearing, or Deaf-Blind

If your carrier makes available a telephone reservation and information service to the public, you must make available a text telephone (TTY) to permit individuals who are deaf or hard of hearing to make reservations and obtain information. The TTY must be available during the same hours as the telephone service for the general public and the same wait time and surcharges must apply to the TTY as the telephone service for the general public. [Secs. 382.47(a) and (b)]

F. Communicable Diseases

Passengers With a Communicable Disease Are Permitted on Flight

Except as described below, you must not (i) refuse transportation to; (ii) require provision of a medical certificate from; or (iii) impose any condition, restriction, or requirement not imposed on other passengers on, a passenger with a communicable disease or infection. [Sec. 382.51(a)]

If Direct Threat to Health or Safety of Others, Limitations May Be Imposed

Only if a passenger with a communicable disease or infection poses a *direct threat* to the health or

safety of others, can you take any of the actions listed above. [Sec. 382.51(b)(1)] 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.

If you are faced with particular circumstances where you are required to make a determination as to whether a passenger with a communicable disease or infection poses a direct threat to the health or safety of others, you must make an individualized assessment based on a reasonable judgment, *relying on current medical knowledge or the best available objective evidence*. If the presentation of a medical certificate would alleviate concerns over the passenger's condition, or reasonable modification of policies, practices, or procedures would lessen the risk to other passengers, then you should consider this in making such an individualized assessment. You should also confer with appropriate medical personnel and a CRO when making this assessment.

If the Passenger Poses a Direct Threat to the Health and Safety of Others

If, in your estimation, a passenger with a communicable disease or infection poses a direct threat to the health or safety of other passengers, you may (i) refuse to provide transportation to that person; (ii) require that person to provide a medical certificate stating that the disease at its current stage would not be transmittable during the normal course of a flight or, if applicable, describing measures that would prevent transmission during the flight [Sec. 382.53(c)]; or (iii) impose on that passenger a special condition or restriction (e.g., wearing a mask). You must *choose the least restrictive* of the three options set forth above that would accomplish the objective. [Sec. 382.51(b)(4)]

At all times, as a matter of good customer service, you should treat the passenger with courtesy and respect.

G. Medical Certificates: When Are They Allowed?

A medical certificate is a written statement from the passenger's physician saying that the passenger is capable of completing the flight safely without requiring extraordinary medical assistance during the flight. Except under the circumstances described below, you must not require medical certification of a passenger with a disability as a condition for providing transportation.

You may require a medical certificate only if the passenger with a disability is an individual who:

- Is traveling on a stretcher or in an incubator (where such service is offered);
- Needs medical oxygen during the flight (where such service is offered); or
- Has a medical condition that causes the carrier to have reasonable doubt that the passenger can complete the flight safely without requiring extraordinary medical assistance during the flight. [Sec. 382.53 (a) and (b)]

Medical Certificate and a Passenger With a Communicable Disease or Infection

In addition, if you determine that a passenger with a communicable disease or infection poses a direct threat to the health or safety risk of others, you may require a medical certificate from the passenger. [Sec. 382.53(c)(1)] The medical certificate must be dated within 10 days of the flight date. [Sec. 382.53(c)(2)]

In the event that you determine the need for a medical certificate, you should indicate to the passenger with a disability the reason for the request. You should base your request on the reasons set forth under the law and outlined above.

At all times, you should treat the passenger from whom you are requesting a medical certificate with courtesy and respect.

Example: A passenger arrives at the gate with her six year old daughter. The girl's face and arms are covered with red lesions, resembling chicken pox. What should you do?

Generally, you must not refuse travel to, require a medical certificate from, or impose special conditions on a passenger with a communicable disease or infection. However, if a passenger appears to have a communicable disease or infection that poses a direct threat to the health or safety of other passengers, you may be required to make a determination about the best course of action based on the seriousness of the health risk and the ease of disease transmittal. For a communicable disease or infection to pose a direct threat, the condition must both be readily transmitted under conditions of flight and have serious health consequences (e.g., SARS). Medical conditions that are easily transmitted in aircraft cabins but have limited health consequences (e.g., a common cold) as well as conditions that are difficult to transmit in aircraft cabins but have serious health consequences (e.g., AIDS) do not pose a direct threat to the health or safety of passengers.

The first thing you should do is interview the passenger and her mother to obtain basic information about the girl's condition. This exchange should be done discreetly and in a courteous and respectful manner. If you still have a question about the nature of the

child's condition that will impact decisions about transportation, you should contact a CRO and explain the situation.

Here, the mother tells you and the CRO that the child has chicken pox but is no longer contagious. The CRO would likely consult with appropriate medical personnel to verify whether the child could be contagious based on the mother's statement.

If there is a reasonable basis for believing that the passenger poses a direct threat to the health or safety of others, you must choose the least restrictive alternative among the following options: (i) Refusing transportation to the individual; (ii) requiring a medical certificate; or (iii) imposing a special condition or limitation on the individual. If the medical support people indicate that there is a chance that the child is no longer contagious but only if a certain number of days have passed since the outbreak of the lesions, you could request a medical certificate before you permit the child to travel.

Having discussed the situation with the passenger and her mother and consulted the CRO and the medical support personnel, the request for a medical certificate appears to be reasonable under the circumstances and the least restrictive of the three options.

Keep in mind that section 382.53(c)(2) specifies that the medical certificate be from the child's physician and state that the child's chicken pox would not be communicable to other passengers on the flight. The medical certificate must also include any conditions or precautions that would have to be observed to prevent the transmission of the chicken pox to other passengers and be dated within ten days of the date of the flight. If the medical certificate is incomplete or if the passenger is attempting to travel before the date specified in the medical certificate or without implementing the conditions outlined to prevent transmission, the child would not be permitted to fly.

H. Your Obligation To Provide Services and Equipment

When assistance getting on or off a plane, making flight connections, or receiving transportation between gates is requested by a passenger with a disability, or offered by carrier personnel and accepted by the passenger, you must provide it. [Sec. 382.39(a)] More specifically, you must provide, as needed, the following:

- Services personnel,
- Ground wheelchairs,
- Boarding wheelchairs,
- Ramps or mechanical lifts. [Sec. 382.39(a)(1)]

Aircraft with more than 60 passenger seats having an accessible lavatory must be equipped with an operable on-board wheelchair. [Sec. 382.21(a)(4)] On-board wheelchairs must be equipped with 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 movement during transfer or turbulence. The on-board wheelchair must 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 easily be pushed, pulled, and turned in the cabin environment. [Sec. 382.21(a)(4)(iii)]

You must permit a passenger with a disability to provide written instructions and should accept oral advice from the passenger concerning the disassembly and reassembly of the passenger's wheelchair. [Sec. 382.41(h)] In addition, you should be familiar with how (i) a passenger accesses and uses a particular service or piece of equipment; (ii) the passenger's needs are being met by the service or piece of equipment; and (iii) that service should be provided or how that equipment operates, is disassembled, stored properly, and reassembled. Finally, consistent with good customer service, you should treat the passenger with a disability with courtesy and respect at all times by keeping the passenger informed about any problems or delays in providing personnel or equipment in connection with an accommodation.

Example: A passenger using a battery-powered wheelchair arrives at the gate and requests that the footrests and joy stick be removed and stowed. He expresses concern because after his last flight, the airline personnel initially misplaced one of the components of the wheelchair when they disassembled it and stored it during the flight. What should you do?

Presuming the aircraft is the type that can accommodate the storage of a battery-powered wheelchair, you are required to stow his wheelchair properly on board and you may, if needed, provide an aisle chair. As a preliminary matter, you should receive training from your carrier on the use of equipment and services for passengers with a disability, including battery-powered wheelchairs. In addition to the formal training, it is worthwhile to review with the passenger how best to meet his needs. For example, you should ask the passenger to review the procedure for disassembling the wheelchair, storing parts during the flight, and reassembling the wheelchair. Once you are clear about the process, you should communicate with the appropriate employees to ensure that they understand the passenger's needs with respect to his battery-powered wheelchair. Your carrier should have a policy and process for ensuring that the battery-powered wheelchair is returned to the passenger at his destination in the same condition in which it was received by the carrier. Problems concerning the reassembly of expensive battery-powered wheelchairs can be minimized by following section 382.41(g)(2), which governs the

proper storage of such wheelchairs. See also Chapter 5, Section D.

I. Attendants

Except under limited circumstances, you cannot require a person with a disability to be accompanied by an attendant. [Sec. 382.35(a)] See Chapter 4, Section E for a discussion of the requirements for an attendant under the law.

Chapter 4: Assisting Air Travelers With Disabilities at the Airport

- A. Accessibility of Terminal Facilities and Services
- B. Security Screening for Air Travelers With a Disability
- C. Air Travelers With a Disability Changing Planes
- D. Accommodations for Air Travelers Who are Deaf, Hard of Hearing, or Deaf-Blind
- E. Attendants

A. Accessibility of Terminal Facilities and Services

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)] These terminal facilities and services must be accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. [Sec. 382.23(b)] For example, terminals must provide accessible inter-terminal transportation systems, e.g., shuttle vehicles and people movers. [Sec. 382.23(d)]

As appropriate to your specific responsibilities and duties when dealing with the traveling public and consistent with all carriers' obligation to ensure training to proficiency [Sec. 382.61(a)], you should understand how these services and facilities function as well as their uses by passengers with a disability. You should also know where they are located within or without the terminal.

Carriers must also ensure that there is an accessible path between the gate and the area from which aircraft are boarded. [Sec. 382.23(c)]

Carriers shall 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)]

B. Security Screening for Air Travelers With a Disability¹

Security Screening for Passenger With a Disability Same as for Other Passengers

You must undertake a security screening of a passenger with a disability in the same manner as any other passenger. You must not subject a passenger with a disability who possesses an aid used for independent travel to a special screening procedure if the passenger and the aid or assistive device clear security without activating the security system. [Sec. 382.49(a)]

Screening Mobility Aid or Assistive Device

The statement of the law set forth above would not, however, prohibit you from examining a mobility aid or assistive device if, in your judgment, it may conceal a weapon or other prohibited item even if the mobility aid or assistive device does not activate the security system.

In the event a passenger's mobility aid or assistive device activates the security system, you must conduct the security search of the passenger with a disability in the same manner as you would for other passengers who activate the system.

If Passenger With a Disability Requests Private Screening

You must not require a private security screening for a passenger with a disability for any reason different from the reasons other passengers would be subject to a private security screening. However, if a passenger with a disability requests a private security screening in a timely manner, you must provide it in time for the passenger to board the flight. [Sec. 382.49(b)] If, however, you are able to conduct a security screening of a passenger with a disability *without* the need for a physical search of the person, you are *not* required to provide a private screening. [Sec. 382.49(c)]

Finally, under certain circumstances, safety considerations may require you to exercise discretion in making the above decisions. You must always seek assistance from the appropriate designated personnel in making such a decision.

¹ In the wake of the events of September 11, 2001, 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.

C. Air Travelers With a Disability Changing Planes

As an employee of the delivering carrier, on request, you must provide assistance to a passenger with a disability in making flight connections and providing transportation between gates. [Sec. 382.39(a)] This is the case regardless whether the delivering carrier has an interline agreement with the other carrier. Where needed and to the extent required by law, you must provide services personnel, wheelchairs, and ramps or mechanical lifts. [Sec. 382.39(a)(1)] **Note:** Carriers must not leave a passenger with a disability unattended in a ground wheelchair or other device in which the passenger is not independently mobile for more than 30 minutes. [Sec. 382.39(a)(3)]

Example: A passenger who developed a progressive onset of weakness in his legs during his flight requests a wheelchair when he deplanes to assist him in making it over to the gate of his connecting flight. What should you do?

Because the delivering carrier has an obligation to provide transportation to a passenger with a disability to the gate of his connecting flight, you must provide timely, accessible ground transportation so he makes it to his connecting flight. In addition, you should keep in mind that once the wheelchair service is provided, you cannot leave the passenger unattended for more than 30 minutes if he is not independently mobile. As a matter of good customer service, you should treat the passenger with courtesy and respect throughout this process.

D. Accommodations for Air Travelers Who Are Deaf, Hard of Hearing, or Deaf-Blind

Carriers are responsible for ensuring that passengers with disabilities, including those with vision or hearing impairments, receive the same information in a timely manner that the carrier provides to other passengers in the terminal or on the aircraft, including but not limited to, information about ticketing, flight delays, schedule changes, connections, flight check-in, gate assignments and the checking and claiming of luggage. [Sec. 382.45(c)] Passengers with disabilities who are unable to obtain such information from the audio or visual system used by carriers in airports or on aircraft must request such information to be provided in an accessible manner.

TTY

You must make available a TTY to permit individuals who are deaf or hard of hearing to obtain information from carriers. *See also* Chapter 3, Section E. The TTY must be available during the same hours as the telephone service for

the general public and the same wait time and surcharges must apply to the TTY as the telephone service for the general public. [Secs. 382.47(a) and (b)] The TTY must also be available if the passenger who is deaf or hard of hearing wishes to contact a CRO. [Sec. 382.65(a)(2)] In addition, you should inform the individual about the DOT Hotline that is accessible by a TTY. You should be familiar with the use of the TTY and its location(s) within the terminal.

In addition, you should be aware of the option of using a relay operator to connect one party who is using a TTY and one party who is using a voice-operated telephone. By dialing 711 on any telephone (TTY or voice operated) you can contact a relay operator who serves as a "go between" between a person using a TTY and a person using a voice-operated telephone.

Example: A passenger who is deaf complains to you about another employee whom she believes has been rude and humiliated her when she asked for an alternate means of communication because she was unable to hear what was being said to passengers waiting to board the flight. What should you do?

As a matter of good customer service, you should apologize to the passenger for any insensitive behavior on the part of carrier personnel. In general, you should carefully observe and gauge the manner in which this passenger who is deaf communicates. When communicating, try to use the same method, e.g., speaking slowly, communicating in writing or with the assistance of an aid or device, etc. Try to find out what happened and what information she missed by communicating in an accessible manner.

You may also consult with a CRO to see about sign language or other assistive services that might be available for this passenger. If the CRO is made available by telephone and the passenger requests, TTY service must be available for the passenger to communicate directly with the CRO. You should also notify the appropriate flight crew regarding ensuring that the transmittal of information onboard is accessible to this passenger.

E. Attendants

You should know that it is generally not appropriate to require a passenger with a disability to be accompanied by a personal care attendant. [Sec. 382.35(a)] Even if you have concerns about a passenger's ability to access the lavatory or the passenger's need for extensive special assistance which airline personnel are not obligated to provide, e.g., assistance in eating, assistance within the lavatory, or provision of medical services [Sec. 382.39(c)], you must not require the passenger with a disability to travel with a personal care attendant except in the circumstances described below.

Safety Considerations May Necessitate an Attendant

In the interests of safety, however, you may require that a passenger with a disability travel with an attendant as a condition of receiving air transportation if the passenger is:

- Traveling on a stretcher or in an incubator (where such service is offered);
- Mentally disabled and unable to comprehend or respond appropriately to safety instructions;
- Severely impaired with respect to mobility and would be unable to assist in the passenger's own evacuation from the aircraft; or
- Deaf and severely impaired with respect to vision such that the passenger could not adequately communicate with airline employees to permit transmission of the safety briefing. [Secs. 382.35(b)(1)–(4)]

If Carrier Contends That Attendant Is Required for Safety Reasons and Passenger Disagrees

If, after careful consultation with a CRO and any other personnel required to be consulted by the carrier, you determine that a passenger with a disability must travel with an attendant for one of the reasons described in Section 382.35(b) (see above), then the carrier may require that the passenger be accompanied by an attendant. If your decision is contrary to the self-assessment of the passenger with a disability, then the carrier must not charge for the transportation of the attendant. [Sec. 382.35(c)] In addition, if no seat is available on the flight for the attendant whom the carrier has determined to be necessary and as a result the passenger with a disability with a confirmed reservation is unable to travel on the flight, the passenger with a disability is eligible for denied boarding compensation. [Sec. 382.35(d)] For purposes of determining whether a seat is available for an attendant, the attendant must be deemed to have checked in at the same time as the passenger with a disability. [Sec. 382.35(e)]

In the event you choose to recruit an attendant to accompany the passenger with a disability, even though carriers are not obligated to do so, you may ask (i) an off-duty airline employee traveling on the same flight to function as the attendant; (ii) a volunteer from among the other customers traveling on the flight and offer a free ticket for their assistance; or (iii) the passenger with a disability to choose an attendant and offer a free ticket.

If the attendant is accompanying a passenger traveling on a stretcher or in

an incubator, the attendant must be capable of attending to the passenger's in-flight medical needs. [Sec. 382.35(b)(1)] Otherwise, the purpose of the attendant is to assist the passenger with a disability in an emergency evacuation. Other than the situation set forth above when an attendant is accompanying a passenger who is on a stretcher or in an incubator, the attendant is not obligated to provide personal services to the passenger with a disability such as assistance with eating or accessing the lavatory.

Example: A passenger with quadriplegia traveling alone approaches the check-in counter. You have concerns as to whether the passenger's mobility impairment is so severe that he would be unable to assist in his own evacuation from the aircraft. What should you do?

You should begin by communicating with the passenger to determine the extent of his mobility impairment. As a matter of good customer service, you should treat the passenger with courtesy and respect at all times. Under the circumstances, you should contact a CRO to discuss the situation and determine whether the passenger must be accompanied by an attendant. You and the CRO could begin by asking the passenger about his mobility impairment and whether he would be able to assist with his own evacuation in the event of an emergency. More specifically, you should determine whether the passenger has the functional ability to make any progress toward an exit during an evacuation. If the passenger tells you that his ability to assist in his evacuation is limited to shouting "Help!", you and the CRO should explain to him that the issue is whether he can physically assist in his own evacuation. If not, he must travel with an attendant.

If, after speaking with the passenger, you and the CRO determine that he must be accompanied by an attendant because of his severe mobility impairment, you should explain this requirement to the passenger. Next, you should explain that he can choose someone to serve as his attendant or you can assist him by recruiting an off-duty employee or another passenger on the flight to serve as his attendant. You must not charge for the transportation of the attendant. You should also explain that the purpose of the attendant is to assist in the case of an emergency evacuation.

Chapter 5: Assisting Air Travelers With Disabilities Boarding, Deplaning, and During the Flight

- A. Aircraft Accessibility
- B. Seating Assignments and Accommodations
- C. Boarding and Deplaning Assistance
- D. Stowing and Treatment of Personal Equipment
- E. Services in the Cabin
- F. Safety Briefings

A. Aircraft Accessibility

In order to assist passengers with a disability, it is important for you to have

some understanding of how aircraft have been made accessible to accommodate those passengers. 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. [Secs. 382.21(a)(i) and (ii)] (Movable armrests are not feasible where tray tables and video entertainment systems are installed.);
- Aircraft with 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;
- Aircraft with 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)];
- Aircraft with more than 60 passenger seats having an accessible lavatory must be equipped with an on-board wheelchair [Sec. 382.21(a)(4)(i)]; and
- Aircraft with 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 the passenger can use an inaccessible lavatory but cannot reach the lavatory from a seat without the use of an on-board wheelchair. [Sec. 382.21(a)(4)(ii)]

Aircraft in service on April 5, 1990, are not required to be retrofitted for the sole purpose of enhancing accessibility. [Sec. 382.21(b)(1)] However, with respect to all aircraft with more than 60 passenger seats operated under 14 CFR part 121, regardless of the age of the aircraft, carriers must provide on-board wheelchairs if (i) the aircraft has an accessible lavatory; or (ii) a passenger with a disability gives up to 48 hours' notice that the passenger can use an inaccessible lavatory. [Sec. 382.21(b)(2)] Whenever an aircraft operating under 14 CFR part 121 which does not have the accessibility features set forth above undergoes replacement of (i) cabin interior elements or lavatories, or (ii) existing seats with newly-manufactured seats (*i.e.*, previously unused), the carrier must comply with the

accessibility features set forth above with respect to the feature being replaced. [Sec. 382.21(c)]

Where Part 382 requires a particular aircraft to have an on-board wheelchair and a stowage space within the cabin for at least one passenger's folding wheelchair, that aircraft must have stowage spaces for *both* of these chairs and must accommodate *both* of these chairs as required by law. [Secs. 382.21(a)(4)(i) and 382.21(a)(2)]

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)]

B. Seating Assignments and Accommodations

Only Safety Affects Seat Assignments

You must not exclude a passenger with a disability from any seat in an exit row or other location or require a passenger with a disability to sit in a particular seat based on the passenger's disability, except to comply with FAA safety requirements. [Sec. 382.37(a)] If a passenger's disability results in involuntary behavior that would result in refusal of transportation under section 382.31 and the safety problem could be addressed by seating the passenger in a particular location, you must offer the passenger that particular seat location as an alternative to refusing transportation. [Sec. 382.37(b)]

Example: A passenger with Tourette's syndrome—a neurological disability that manifests itself by episodes of shaking, muscle tics, and/or spasms and uncontrolled shouting, barking, screaming, cursing, and/or abusive language—approaches the check-in desk, self-identifies as a passenger with a disability, and presents brochures explaining the disability to the agent. What should you do?

As long as safety is not an issue, you cannot restrict this passenger from any particular seat, including an exit row. If this passenger's disability causes him to physically touch other passengers or flight crew involuntarily, safety considerations could require that he be seated in his own row, if available, as an alternative to being refused transportation. However, if the physical and/or verbal manifestations of this passenger's Tourette's syndrome are such that the safety of others would be jeopardized, *e.g.*, if the passenger with Tourette's syndrome involuntarily touches or strikes other passengers or flight crew, it might create a safety concern. Therefore, refusing transportation could be appropriate.

Otherwise, although the passenger's conduct may create an uncomfortable experience for other passengers, if his involuntary behavior only amounts to an annoyance and not a safety concern, you

must not restrict the passenger with Tourette's syndrome from any seating assignment.

Four Specific Situations in Which a Seating Accommodation Must Be Provided

If a passenger self-identifies as an individual with a disability, there are four specific situations where you must provide a particular seating accommodation, if requested. The four situations are as follows:

- If the passenger uses an aisle chair to access the aircraft and cannot readily transfer over a fixed aisle armrest, you must provide a seat in a row with a movable armrest if one exists [Sec. 382.38(a)(1)];
- If the passenger (i) is a passenger who is traveling with an attendant who will be performing functions during the flight that airline personnel are not required to perform, e.g., assistance with eating [Sec. 382.38(a)(2)(i)]; (ii) is a passenger with a visual impairment who is traveling with a reader/assistant who will be performing functions for the passenger during the flight [Sec. 382.38(a)(2)(ii)]; or (iii) is a passenger who is deaf, hard of hearing, or deaf-blind who is traveling with an interpreter who will be performing functions for the passenger during the flight, you must provide a seat for the care attendant next to the passenger with a disability [Sec. 382.38(a)(2)(iii)];
- If the passenger is accompanied by a service animal, you must provide a bulkhead seat if one exists or a seat other than a bulkhead seat, depending on the passenger's request [Sec. 382.38(a)(3)]; or
- If the passenger has a fused or immobilized leg, you must provide a bulkhead seat if one exists or other seat with more legroom than other seats on the side of the aisle that best accommodates the passenger. [Sec. 382.38(a)(4)]

Regardless of which type of system a carrier uses for handling its seat assignments, you must provide the required seating accommodation in the four specific situations described above, if requested. The type of seat assignment system will determine how a carrier fulfills its obligation to provide these seating assignments. You should be aware of your carrier's method for managing seat assignments and be able to explain it to passengers with disabilities and the general passenger population depending on the circumstances.

Advance Seat Assignments

Carriers providing advance seat assignments may employ either the seat

"blocking" method or the "priority" seating method.

Seat "Blocking" Method

Carriers may "block" an adequate number of seats to provide the seating accommodations discussed above. If carriers employ this "block" method, they must not assign these "blocked" seats to passengers other than the types of passengers entitled to a seating accommodation discussed above until 24 hours before the scheduled departure of the flight. At any time up to 24 hours before the flight, carriers using the "block" system must assign a "blocked" seat to any passenger in need of a particular seating accommodation outlined in the four situations above.

If a passenger with a disability meeting the above requirements does not make a request for a seating accommodation at least 24 hours before the scheduled departure of the flight, a carrier using the "block" system must provide the requested seating accommodation to the extent practicable, but is not required to reassign a seat assigned to another passenger in order to do so. [Secs. 382.38(b)(1)(i), (ii), and (iii)]

Example: A passenger with a service animal calls you, a reservation agent, several days before the scheduled departure of her flight and requests a bulkhead seat. What should you do?

The aircraft has four bulkhead seats, two of which are "blocked" under your carrier's reservation system for passengers traveling with a service animal or passengers with an immobilized leg. Since the passenger has requested the seating accommodation more than 24 hours in advance of the scheduled departure of the flight, you must assign one of the "blocked" bulkhead seats to this passenger with the service animal.

If, on the other hand, the passenger with the service animal requests the bulkhead seat within 24 hours of the scheduled departure of her flight, you must provide the bulkhead seat to her and her service animal to the extent practicable, but you are not required to reassign a seat already assigned to another passenger in order to do so.

"Priority" Seating Method

Carriers may designate an adequate number of "priority" seats for passengers with a disability who meet the above requirements and who request a seating accommodation. In this case, the carrier must provide notice to any passenger assigned to a "priority" seat (other than passengers with a disability entitled to a seating accommodation in one of the four situations discussed above) that they are subject to being reassigned to another seat if necessary to provide a seating accommodation required under the law. The carrier may provide this notice through its computer

reservation system, verbal information provided by reservations personnel, counter signs, seat cards or notices, frequent-flyer literature, or other appropriate means. [Sec. 382.38(b)(2)(i)] The carrier must provide a "priority" seat to a passenger with a disability entitled to such accommodation if the passenger requests the accommodation and checks in at least one hour before the scheduled departure of the flight. If all of the designated "priority" seats have been assigned to other passengers who do not have disabilities, the carrier must reassign the seats of the other passengers to accommodate the passenger with a disability entitled to a seating accommodation as discussed above. [Sec. 382.38(b)(2)(ii)]

If a passenger with a disability does not check in at least one hour before the scheduled departure of the flight, a carrier using the "priority" seating system must provide the requested seating accommodation, to the extent practicable, but is not required to reassign a seat assigned to another passenger in order to do so. [Sec. 382.38(b)(2)(iii)]

Example: A passenger with an immobilized leg requests a bulkhead seat and checks in two hours before the scheduled departure of the flight. Your carrier employs the "priority" seating method and has designated all four bulkhead seats on the aircraft as "priority" seating. Three of the bulkhead seats have already been assigned to three passengers traveling with small service animals who have requested the seating accommodations and checked in at least an hour before the scheduled departure of the flight. The fourth "priority" bulkhead seat has been assigned to a passenger who also checked in two hours before the flight and uses an aisle chair to enplane who prefers the bulkhead seat to a seat in a row with a movable armrest. What should you do?

The passenger who uses the aisle chair to enplane should have received notice that she has been assigned a "priority" seat. Because she is not a passenger with an immobilized leg or a passenger traveling with a service animal, she is not automatically entitled to a "priority" bulkhead seat. (However, she would be entitled to a "priority" seat in a row with a movable armrest if she requested one and checked in at least an hour before the scheduled departure of the flight.) The passenger using the aisle chair to enplane should have been notified that you might have to reassign her seat if a passenger with a service animal or a passenger with an immobilized leg requests a "priority" bulkhead seating accommodation and checks in at least one hour before the scheduled departure of the flight. Accordingly, the passenger using the aisle chair would be reassigned to a seat in a row with a movable armrest and the passenger with the immobilized leg would be assigned to the fourth "priority" bulkhead seat.

Seating Accommodations for Passengers With a Disability Other Than One of the Four Types Listed Above

Passengers with a disability—other than the types of passengers with a disability entitled to a seating accommodation in one of the four specific situations discussed above—may identify themselves as passengers with a disability and request a seating accommodation. [Sec. 382.38(c)]

In this case, a carrier employing the “block” method is *not* required to offer one of the “blocked” seats when the passenger with a disability makes a reservation more than 24 hours before the scheduled departure time of the flight. However, the carrier must assign the passenger with a disability 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. [Secs. 382.38(c)(1)(i) and (ii)]

Example: A passenger with arthritis in his spine making his back extremely stiff calls a week before his flight and asks you, the reservation agent, for a bulkhead seat. He explains that it is much easier for him to access a bulkhead seat because he has to be lowered into the seat with assistance from another person. The aircraft has six bulkhead seats, two of which are “blocked” under your carrier’s reservation system for passengers traveling with service animals or passengers with immobilized legs. One of the four remaining bulkhead seats is unassigned when he calls. What should you do?

Although your carrier normally reserves such seats for its frequent flier passengers, you must assign the remaining bulkhead seat to the passenger with arthritis in his spine.

In a similar situation, a carrier using the “priority” seating method must assign the passenger with a disability 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. If this passenger with a disability is assigned to a “priority” bulkhead seat, he/she is subject to being reassigned to another seat if necessary to provide a seating accommodation to a passenger with a disability entitled to a seating accommodation required under the law, as discussed above. [Sec. 382.38(c)(2)(i) and (ii)]

Example: Suppose the same passenger, with arthritis in his spine, in Example 1 above, calls your carrier, asking for a bulkhead seat, but your carrier uses the “priority” seating method. The aircraft has six bulkhead seats, two of which are “priority” seats for passengers traveling with service animals or passengers with immobilized legs. At the time of the call, all

four of the other “non-priority” bulkhead seats have been assigned to other passengers, but the two “priority” seats are unassigned. What should you do?

You should assign the passenger with arthritis in his spine one of the two “priority” seats, but you must notify him that he may have his “priority” seat reassigned if another passenger who is entitled to a “priority” seat requests one. On the day of the flight, a passenger with a service animal and a passenger with a fused leg show up for the same flight and request bulkhead seats. In this instance, the passenger with arthritis in his spine would be informed that his “priority” seat must be assigned to one of those passengers and that he must be moved to another seat. As a matter of good customer service, he may be assigned an aisle seat because it would make it easier to access.

No Advance Seat Assignments

If a carrier does not provide advance seat assignments, you must allow passengers who identify themselves as passengers with a disability in need of a seating accommodation to pre-board—even before other passengers entitled to pre-board—and select the seat assignment that best meets their needs. [Sec. 382.38(d)] If a carrier wishes to comply with this requirement in another way, it must receive written approval from DOT. [Sec. 382.38(e)]

Other Issues Relating to Seat Assignments

You must provide a seat assignment accommodation when requested by a passenger with a disability even if the seat is not otherwise available for assignment to the general passenger population at the time of the request. [Sec. 382.38(f)] You cannot reassign the seat of a passenger with a disability who has received a seat assignment to accommodate a disability in the event of a subsequent request for the same seat unless the passenger with a disability consents to the reassignment. [Sec. 382.38(g)]

You must not deny transportation to any individual on a flight in order to provide a seat accommodation to a passenger with a disability. [Sec. 382.38(h)] You are also 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 requesting a seating accommodation. [Sec. 382.38(i)] You must comply with all FAA safety requirements in responding to requests from individuals with a disability for seating accommodations. [Sec. 382.38(j)]

Example: A passenger with an economy class ticket and an immobilized leg (with a full-leg cast) arrives more than an hour before his flight is scheduled to depart. He arrives at the check-in counter, explains his

disability, and insists that he is entitled to a seat in first class to accommodate his extended leg. Your carrier uses the “priority” seating method for advance seat assignments. What should you do?

Since the passenger has identified himself as a passenger with a disability and has requested a seat assignment to accommodate him, you must provide a bulkhead seat or other seat with more legroom than other seats on the side of the aisle that best accommodates him. While first class seats generally have more legroom than economy class seats, you are not required to provide a seat in a class of service other than the one the passenger has purchased in order to accommodate him. You should explain politely and respectfully that under the law, you must seat him in (i) a bulkhead or (ii) an aisle seat in economy class on the side of the plane that would best accommodate his leg. At his subsequent request for a bulkhead seat, you must arrange to move another passenger from the bulkhead seat and give it to the passenger with the immobilized leg. Although you are not required to do so under the law, you may choose to seat him in first class.

C. Boarding and Deplaning Assistance

If a passenger with a disability requests assistance getting on or off an airplane or you offer assistance and the passenger consents to the type of boarding or deplaning assistance you offer, you must provide such assistance. [Sec. 382.39(a)] The type of assistance you must offer includes, as needed, services personnel and the use of wheelchairs, ramps, or mechanical lifts. [Sec. 382.39(a)(1)]

Keep in mind, however, that a wheelchair is not required or desired in all cases. A wheelchair may not be an appropriate assistive device in a particular situation. For example, a passenger with vision impairment may need a sighted guide, not a wheelchair.

Carriers must train employees 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)] Therefore, regardless of the size of the aircraft, you should know how to use mechanical boarding assistance devices and the appropriate procedures for providing boarding assistance.

In addition, you should be aware that when level-entry boarding is not required or if a lift is temporarily not functioning, you must obtain the consent of the passenger with a disability to the means of boarding assistance. [Sec. 382.40(c)(5)] Therefore, in such situations, you should present the various options and provide only the type of boarding assistance to which the passenger consents. If the passenger does not consent to the available means

of boarding assistance, you should contact a CRO.

You cannot leave a passenger in a boarding wheelchair or other device in which the passenger is not independently mobile for more than 30 minutes. [Sec. 382.39(a)(3)]

Carriers must provide access to the airplane for a passenger with a disability by a level-entry loading bridge or accessible passenger lounges where these means are available. [Sec. 382.39(a)(2)] But 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 you to physically lift or carry passengers up stairs. [Secs. 382.40 and 382.40a]

Boarding and Deplaning Assistance Where Level-Entry Boarding Is Unavailable

For aircraft with 19 or more seats operating at airports with 10,000 or more annual enplanements where level-entry boarding is not available [Secs. 382.40(a) and 382.40a(a)], carriers must provide boarding assistance to passengers with a disability using mechanical lifts, ramps, or other suitable devices that do not require you to physically lift or carry passengers up stairs. [Secs. 382.40(b) and 382.40a(b)] In addition, carriers may require that a passenger seeking boarding assistance by use of a lift check in for the flight one hour before the scheduled departure time. [Secs. 382.40(c)(3) and 382.40a(c)(3)] You must make a reasonable effort to accommodate the passenger and provide the boarding assistance by lift even if the passenger does not check in one hour before the scheduled departure time, as long as it would not delay the flight.

Boarding assistance by mechanical lift is not required in the following situations:

- On aircraft with fewer than 19 seats;
- On float planes;
- On the following 19-seat capacity aircraft models that are unsuitable for boarding assistance by lift: the Fairchild Metro, the Jetstream 31, and the Beech 1900 (C and D Models);
- On any other 19-seat aircraft model determined by DOT to be unsuitable for boarding assistance by lift; [Sec. 382.40(c)(4)]; or
- On any widebody aircraft determined by DOT to be unsuitable for boarding assistance by lift, ramp, or other device.

If boarding assistance by lift is not required (as set forth above) or it cannot be provided for reasons beyond the

control of the carrier, e.g., the mechanical lift is not functioning, then boarding assistance must be provided by any available means, except physically hand-carrying the passenger. Hand-carrying is defined as directly picking 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. [Sec. 382.39(a)(2)]

Except in an Emergency Evacuation, No Hand-Carrying Passengers

Under no circumstances—except for emergency evacuations—should you physically pick up a passenger with a disability to provide boarding or deplaning assistance. [Sec. 382.39(a)(2)]

Example: A woman asks for assistance in boarding a flight with 30 seats. General boarding for passengers is by a set of stairs on the tarmac. When she arrives at the gate and asks for boarding assistance, she is provided a boarding wheelchair, but you inform her that the mechanical lift is out of order. The passenger tells you to physically pick her up and carry her up the stairs and onto the plane because she really needs to make the flight. What should you do?

Under the law, you must not physically hand-carry the passenger onto the plane. Hand-carrying is only appropriate in the case of an emergency evacuation. Even though the law states that the passenger must consent to the type of boarding assistance and she has requested to be hand carried, you must not hand-carry her onto the aircraft. Instead, you should contact a CRO for advice about options for alternative means of boarding the passenger, e.g., carrying the boarding wheelchair, with the passenger in it, up the stairs and onto the plane. Next, you and the CRO should explain to the passenger that, under the law, you are not permitted to physically hand-carry her onto the plane. In addition, you should explore other available options for assisting this passenger with boarding the aircraft, including carrying the passenger onto the plane in a boarding wheelchair or arranging for another flight with a working lift or a jet bridge. If the passenger consents to being carried onto the plane in the boarding wheelchair, you may do so. Regardless, you should notify the appropriate personnel that the mechanical lift is not functioning properly and arrange for repair as quickly as possible.

D. Stowing and Treatment of Personal Equipment

You should be familiar with the legal requirements for storage and treatment of personal equipment used by passengers with a disability, including ventilator/respirators, non-spillable batteries, canes, wheelchairs, and other assistive devices. [Sec. 382.41]

Storing Assistive Devices in the Aircraft Cabin

You must allow passengers with a disability to bring their personal

ventilators/respirators, including non-spillable batteries, on board the aircraft as long as FAA safety regulations are met. [Sec. 382.41(b)] You 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)]

Example: Because a passenger with a disability arrived at the airport late, time and space constraints on board the aircraft require you to store her assistive walking device in first class, even though her seat assignment is in the back of the plane in economy class. She insists that she has the right to have her assistive walking device stored near her. She explains further that she would need this device to access and use the lavatory. What should you do?

You must permit a passenger with a disability to bring her assistive devices into the cabin as long as FAA safety regulations are met. [Sec. 382.41(b)] In addition, the rule generally requires you to allow a passenger to stow her assistive device close to her seat, consistent with FAA safety regulations concerning carry-on items. [Sec. 382.41(c)] Under the circumstances, you should reassess the storage space and consider either moving the passenger closer to her walker or the walker closer to the passenger.

You must not count assistive devices brought on board the aircraft by a passenger with a disability toward the limit on the passenger's carry-on items. [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 weight limit on checked baggage. [Sec. 382.57]

Example: A passenger with multiple sclerosis is one of many passengers on a flight who is informed that the flight will not be taking off because of mechanical problems. It is late at night and the carrier has announced that the passengers will be put up in a hotel for the night and rescheduled on a flight leaving the following morning. The passenger with multiple sclerosis approaches you when she hears the announcement and explains that she needs access to her checked luggage because it contains her syringe and medication for her multiple sclerosis which she must take on a daily basis. What should you do?

The passenger's syringe and medication would be considered an assistive device under the law. Under section 382.41(f)(1), because the passenger requested the return of her assistive device, you must return it to her. As a matter of customer service, you may also advise such passengers (e.g., via the carrier's Web site or other consumer

information materials) that the carrier recommends to all of its passengers who require such medication or other items for medical necessity to bring a carry-on bag containing the medication or other item on board. Such medication carry-on bags would not be counted toward the passenger's carry-on baggage allotment.

Wheelchairs

Carriers must permit storage in the cabin of wheelchairs or components of wheelchairs, including folding, collapsible, or breakdown battery-powered wheelchairs [Sec. 382.41(e)] as follows:

- In overhead compartments and under seats consistent with FAA safety regulations for carry-on items. [Sec. 382.41(e)(1)]
- If the aircraft contains a closet or storage area of a size sufficient to accommodate a passenger's folding, collapsible, or breakdown wheelchair, the carrier must designate priority stowage space for at least one passenger's wheelchair in that area. If a passenger with a disability decides to pre-board, the passenger may stow the wheelchair in the designated storage space with priority over the carry-on items brought on board by other passengers or crew members boarding the plane at the same airport. If, on the other hand, a passenger with a disability chooses not to pre-board, the passenger may stow the wheelchair in the designated storage space on a first-come, first-served basis along with all other passengers seeking to stow carry-on items in the space. [Sec. 382.41(e)(2)]
- If the aircraft cabin does not contain a storage area of a size sufficient to accommodate a folding, collapsible, or breakdown wheelchair, you must stow the wheelchair in the cargo compartment with priority over other luggage. [Sec. 382.41(e)(3)]

Wheelchairs Unable To Be Stowed in the Aircraft Cabin as Carry-On

When a folding, collapsible, or breakdown wheelchair cannot be stowed in the cabin as carry-on baggage, you 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, so that the passenger with a disability can use his or her own equipment, where possible, consistent with DOT regulations concerning transportation of hazardous materials. [Sec. 382.41(f)]

If, on the other hand, a passenger with a disability requests, you should return the wheelchair or other assistive device at the baggage claim area instead of at the door of the aircraft. [Sec. 382.41(f)(1)]

A passenger's wheelchair or other assistive device must be stowed in the baggage compartment with priority over other items and baggage. [Sec. 382.41(f)(3)] In order to ensure the timely return of a passenger's wheelchair or other assistive device, it must be among the first items retrieved from the baggage compartment. [Sec. 382.41(f)(2)] If giving priority to wheelchairs and other assistive devices results in passengers' non-assistive device-related baggage being unable to be carried on the flight, you must use your best efforts to ensure that the non-assistive device-related baggage reaches the passengers' destination within four hours of the scheduled arrival time of the flight.

Battery-Powered Wheelchairs

You 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 where required) check in for the flight one hour before the scheduled departure time. [Sec. 382.41(g)(1)] You must also make a reasonable effort to accommodate the passenger and transport the wheelchair even if the passenger does not check in one hour before the scheduled departure time, as long as it would not delay the flight.

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, you must *not require* the battery to be removed and separately packaged. You 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, you must provide packaging for the battery and package the battery consistent with appropriate hazardous materials regulations. [Sec. 382.41(g)(3)] You must not charge for such packaging. [Sec. 382.57]

You must not drain batteries. [Sec. 382.41(g)(4)]

If a passenger with a disability requests, you must stow a folding, breakdown, or collapsible battery-powered wheelchair in the cabin consistent with the requirements set forth above. If the wheelchair can be stowed in the cabin without removing the battery, then you must not remove

the battery. If the wheelchair cannot be stowed in the cabin without removing the battery, then you must remove the battery and stow it in the baggage compartment in the proper packaging as set forth above. In this case, you must permit the wheelchair, with the battery removed, to be stowed in the cabin. [Sec. 382.41(g)(5)]

You must permit passengers with a disability to provide written instructions concerning the disassembly and reassembly of their wheelchairs. [Sec. 382.41(h)]

When you disassemble wheelchairs or other assistive devices for stowage, you must reassemble them and ensure their prompt return to the passenger with a disability. You must return a wheelchair or other assistive device to the passenger in the same condition in which you received it. [Sec. 382.43(a)]

On domestic flights, the normal baggage liability limits do not apply to 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)] Moreover, you 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, although you may make notes about preexisting damage or conditions of wheelchairs or other assistive devices. [Sec. 382.43(c)]

Example: A passenger with a battery-powered wheelchair with a spillable battery arrived at his departure gate for his domestic flight and airline personnel there determined that the wheelchair could not be loaded, stored, secured, and unloaded in an upright position. Therefore, they directed the appropriate personnel to remove and store the battery and gate check the wheelchair. When the passenger arrives at his destination and the battery is replaced, it is done so incorrectly and the entire electronic circuit board of the wheelchair is severely damaged, rendering the wheelchair temporarily unusable. What should you do?

Upon request, you must permit passengers with a disability to provide written instructions concerning the disassembly and reassembly of their wheelchairs. As a matter of good customer service, you should apologize to the passenger for the problem and the resulting inconvenience. In addition, you should explain to the passenger that the carrier will compensate him for the damaged wheelchair in an amount up to the original purchase price of the device. If, for example, the passenger provides you with documentation that the original cost of the wheelchair was \$10,000 and verification that it cost \$2,900 to be repaired, the carrier would pay the passenger or the repair company \$2,900 to cover the cost of the wheelchair repair. In addition, paying for reasonable costs associated with the rental of

a wheelchair by the passenger during the repair period could also be recovered by the passenger from the carrier.

E. Services in the Cabin

Within the aircraft cabin, when requested by a passenger with a disability or when offered and accepted by a passenger with a disability, you must assist the passenger in:

- Moving to and from a seat as part of enplaning and deplaning [Sec. 382.39(b)(1)];
- Preparing for eating, such as opening packets and identifying food [Sec. 382.39(b)(2)];
- If there is an on-board wheelchair, using the on-board wheelchair to enable the passenger to move to and from the lavatory which, if requested, could entail transferring the passenger from a seat to an aisle chair [Sec. 382.39(b)(3)];
- Moving to and from the lavatory, if the passenger is semi-ambulatory, not involving lifting or carrying the individual [Sec. 382.39(b)(4)]; and
- Loading and retrieving carry-on items, including mobility aids and other assistive devices stowed in the cabin [Sec. 382.39(b)(5)];

Example 1: A passenger using a boarding wheelchair asks for help storing her carry-on item in the overhead compartment because, it is apparent, her disability limits her ability to reach up to the overhead compartment. What should you do?

You must either assist the passenger directly or indicate that you will find the appropriate employee to assist her in stowing her carry-on bag in the overhead compartment.

Example 2: A passenger who walks onto the plane for an evening flight with a rolling carry-on bag asks for help lifting his bag and putting it in the overhead storage compartment. What should you do?

Since he has not identified himself as a qualified individual with a disability, you may want to ask for further clarification. Because, under the law, normally you cannot ask a passenger if he has a disability, you might ask, "Is there any particular reason you need assistance sir?" or "Could you tell me a little about your need for help?" or "Are you unable to lift it yourself?" If, for example, the passenger explains that he has multiple sclerosis and his muscles are particularly fatigued at the end of the day and therefore he needs help lifting things, you must either assist the passenger directly or indicate that you will find the appropriate employee to assist him in stowing his carry-on bag. If, on the other hand, the passenger states that he is merely tired and doesn't feel like lifting the bag, the passenger is not a qualified individual with a disability and, therefore, you are not obligated to assist him. You may politely decline to assist him, depending on the carrier's policies regarding assistance with stowing carry-on items for passengers.

You are not required to provide extensive special assistance to passengers with a disability such as:

- Help with eating, for example, cutting food and feeding the passenger [Sec. 382.39(c)(1)];
- Assistance within the restroom or at the passenger's seat with elimination functions [Sec. 382.39(c)(2)]; or
- Provision of medical services. [Sec. 382.39(c)(3)]

You cannot require that a passenger with a disability sit on a blanket. [Sec. 382.55(b)]

F. Safety Briefings

Individual Safety Briefings

Under certain circumstances, you must provide individual safety briefings to a passenger with a disability. Federal safety regulations require you to conduct an individual briefing for each passenger who may need assistance to move expeditiously to an emergency exit. You must brief the passenger and the attendant, if any, on the routes to the appropriate exit and on the most appropriate time to move toward the exit in the event of an emergency. In addition, you must ask the passenger and the attendant, if any, the most appropriate manner of assisting the passenger. [14 CFR 121.571(a)(3)] You may offer such briefings to other passengers. [Sec. 382.45(b)(2)]

In the case of private safety briefings for passengers with a disability:

- You must conduct the briefing as inconspicuously and discreetly as possible. [Sec. 382.45(b)(3)]
- You must not require a passenger with a disability to demonstrate that the person has listened to, read, or understood the information presented, except to the extent that you or other employees impose such a requirement on all passengers with respect to the general safety briefing.
- You must not take any action adverse to a passenger with a disability on the basis the individual has not "accepted" the briefing. [Sec. 382.45(b)(4)]

Accommodations for Passengers Who Are Deaf or Hard of Hearing

If the safety briefings are 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)] More specifically, carriers must implement this requirement by using open captioning or an inset for a sign language interpreter as part of the video presentation. [Sec. 382.47(b)(1)] 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 if it would not be large enough to be readable. [Sec. 382.47(b)(2)] Carriers must implement these requirements by substituting captioned video materials for uncaptioned video materials as the uncaptioned materials are replaced in the normal course of the carrier's operations. [Sec. 382.47(b)(3)]

Timely and Complete Access to Information

Carriers must ensure that, upon request, passengers with a disability, including those who are (i) blind or visually impaired; or (ii) deaf, hard of hearing, or deaf-blind, have timely access to information being provided to other passengers, including but not limited to, 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)] Passengers who are unable to obtain the information from the audio or visual systems in airports or on board must request the information from you. In other words, as a practical matter, passengers may have to identify themselves as (i) blind or visually impaired; or (ii) deaf, hard of hearing, or deaf-blind in order to obtain the information. See Chapter 7 in general and "Tips for Assisting People Who Are Blind or Visually-Impaired" and "Tips for Assisting People Who Are Deaf, Hard of Hearing, or Deaf-Blind" in particular.

Chapter 6: Assisting Air Travelers With Disabilities With Their Complaints

- A. Complaint Procedures and Complaints Resolution Officials (CRO's)
- B. Process to Resolve Complaints
- C. General Complaint Resolution Tips
- D. Recording, Categorizing, and Reporting Written Disability-related Complaints Received by Carriers

A. Complaint Procedures and Complaints Resolution Officials (CRO's)

Carriers must (i) establish a procedure for resolving disability-related complaints raised by passengers with a disability and (ii) designate at least one CRO to be available to handle disability-related complaints at each airport the carrier serves. [Sec. 382.65(a)] Each CRO must be trained and thoroughly proficient with respect to the rights of passengers with disabilities under the ACAA and accompanying regulations. [Secs. 382.61(a)(7) and 382.65(a)(3)] The

carrier must make a CRO available to any person who makes a disability-related complaint during all times the carrier is operating at an airport and should make that person aware of the existence of the Department of Transportation's aviation consumer disability hotline for resolving issues related to disability accommodations. The toll-free number for the hotline is 1-800-778-4838 (voice) and 1-800-455-9880 (TTY).

Availability of the CRO

Carriers must make a CRO available at all times the carrier is operating at each airport it serves. [Secs. 382.65(a)(1) and (2)] The CRO may be made available in person or by telephone. If the CRO is made available by telephone, it must be at no cost to the passenger. The CRO must be accessible via a TTY for passengers who are deaf or hard of hearing. If a passenger with a disability, or someone on behalf of a passenger with a disability, complains about an alleged violation or potential violation of the law, you must put the customer in touch with a CRO on duty. [Sec. 382.65(a)(1)] A CRO has the authority to resolve complaints by passengers with a disability on behalf of the carrier. [Sec. 382.65(a)(4)]

Complaints Made During the Trip

When a passenger with a disability makes a complaint to a CRO during the course of the trip (e.g., over the telephone or in person at an airport), the CRO must promptly take action to resolve the problem as follows:

- If no violation of the law has occurred yet, the CRO must take action or direct other employees to take action to ensure compliance. Only the pilot-in-command of an aircraft has final authority to make decisions regarding safety and the CRO cannot countermand a pilot's decisions regarding safety. [Sec. 382.65(a)(5)(i)]
- If a passenger complains about a disability-related issue or alleges a violation of the law that has already occurred and the CRO agrees that a violation has occurred, the CRO must provide the complaining passenger with a written statement summarizing the facts at issue and the steps, if any, the carrier proposes to take in response to the violation. [Sec. 382.65(a)(5)(ii)] This statement must be provided in person to the passenger at the airport, if possible; otherwise, it must be forwarded to the passenger within 10 calendar days of the complaint. [Sec. 382.65(a)(5)(iv)]
- If a passenger alleges a violation of the law but the CRO determines that no violation has occurred, the CRO must provide a written statement including a

summary of the facts and the reasons for the determination. [Sec.

382.65(a)(5)(iii)] This statement must be provided in person to the passenger at the airport, if possible; otherwise, it must be forwarded to the passenger within 10 calendar days of the complaint. [Sec. 382.65(a)(5)(iv)]

The written statement provided to the complaining passenger must include information about the right to pursue DOT enforcement action under the law. [Sec. 382.65(a)(5)(iv)]

Written Complaints Received After the Trip

You should be aware of your carrier's established procedure for resolving written complaints from passengers with a disability. [Sec. 382.65(b)] In addition, under the law, a carrier is not required to respond to a written complaint postmarked more than 45 days after the date of the alleged violation. [Sec. 382.65(b)(1)] Your carrier must provide a dispositive written response within 30 days of receipt of a written complaint describing a situation that would constitute a violation of the law. [Sec. 382.65(b)(3)]

You should provide all information regarding written complaints—and in general—in a polite and respectful manner as a matter of high standards of customer service.

Depending on the carrier's determination, its response to a written complaint must include the following:

- If the carrier agrees that a violation has occurred, the carrier must provide a written statement to the complaining passenger summarizing the facts and stating what steps, if any, the carrier proposes to take in response to the violation. [Sec. 382.65(b)(3)(i)]
- If the carrier denies that a violation has occurred, the written response must include a summary of the facts and the carrier's reasons under the law for making its determination. [Sec. 382.65(b)(3)(iii)]

The written statement provided to the complaining passenger must include information about the right to pursue DOT enforcement action under the law. [Sec. 382.65(b)(3)(iii)]

Responsibilities of Employees Other Than the CRO

You should be aware that all personnel dealing with the traveling public should be trained to proficiency regarding the legal requirements and the carrier's policies concerning the provision of air travel to individuals with disabilities. [Sec. 382.61(a)(1)] These employees must receive training regarding awareness about and

appropriate responses to individuals with physical, sensory, mental, and emotional disabilities. [Sec. 382.61(a)(2)]

You should be familiar with your carrier's established procedures and the CRO's duties and responsibilities with respect to resolving a complaint raised by a passenger with a disability. You should convey this information to passengers with a disability under the appropriate circumstances.

When resolving complaints from a passenger with a disability, you should keep the following in mind:

- Request assistance from a CRO immediately or assist the passenger with a disability in doing so, if the passenger requests to speak with a "supervisor" or "manager."
- Contact a CRO if you are having any difficulty providing an accommodation required by law or carrier policy to a passenger with a disability.
- Carry the information about how to contact a CRO with you at all times. Remember a CRO may be available in person or by telephone but a CRO must be available during all hours of the carrier's operation at the airport.

B. Process To Resolve Complaints

When you receive a complaint from a passenger with a disability, there are certain requirements under the law with which you, your carrier, and a CRO must comply. Even if you call a CRO, it is important to be able to assess the situation firsthand through observation, communication, and information gathering because a CRO is not always available on site and may only be involved in resolving the complaint via telephone.

Having a consistent process for fielding these complaints will assist you in complying with those legal obligations and providing good customer service. Learning what the particular problem is, finding the applicable rule, regulation, or policy that addresses the situation, and remedying the situation by taking affirmative action are important aspects of the process.

The ACCESS checklist set forth below provides an easy way to remember how to respond to these complaints. Remember ACCESS as a thorough and useful process through which you can address the complaint or refer it to a CRO as needed.

ACCESS

Ask the passenger with a disability how you may assist with concerns. Listen actively and carefully to what the passenger tells you and ask for further clarification when necessary.

Call a CRO and report the complaint if you are unable to resolve the problem. If a passenger with a disability would like to contact a CRO directly, you must assist the passenger in doing so. If your carrier has an internal procedure for documenting complaints that requires CRO involvement or for documenting other types of passenger complaints, fill out the appropriate forms, if any, and provide relevant and detailed information to satisfy that internal carrier policy.

Check this manual (and Appendix V containing the full text of part 382) and your carrier's policies (concerning the law as well as good customer service) to identify the issue at hand. If you need assistance, ask a CRO on duty.

Evaluate the relevant provisions of this manual (and Appendix V containing the full text of part 382) and your carrier's policies to determine the appropriate options for resolving the problem considering the following factors:

- Does the solution comply with the law?
- Does the solution comply with your carrier's policies?
- Is there a question of airline and passenger safety? (Remember, the pilot-in-command of an aircraft is the final arbiter of a safety issue.)
- Does the solution meet the needs of the passenger with a disability?
- Can the solution be implemented in a timely manner, *e.g.*, to help the passenger with a disability make the flight or receive the accommodation?

Solve the problem by providing the passenger with a disability with the information, services, or appropriate action required under the law.

Satisfy the passenger with a disability to the extent possible when complying with the law. Communicating the basis for the action taken (or not taken) to the passenger with a disability is critical.

Thank the passenger for bringing the problem to your attention and ask if the passenger has any additional questions about the solution you or a CRO has provided. Ask if you are able to assist with any other concerns.

C. General Complaint Resolution Tips

- You should familiarize yourself with this manual (and Appendix V containing the full text of part 382) and your carrier's policies (concerning the law as well as good customer service). First and foremost, you must not violate the civil rights of passengers with a disability. In addition, you should treat passengers in a manner consistent with good customer service policy.

- You should work as quickly as possible to ensure prompt service and, at the same time, respect for the needs of passengers with a disability.

- You should be aware of your carrier's procedures for addressing complaints. You should take the time necessary to resolve the complaint while maintaining flight schedules. If an unfamiliar situation presents itself or you have any doubts or questions, you should contact your immediate supervisor or a CRO for prompt resolution of the issue.

- You should make reasonable attempts to keep the passenger with a disability informed about your or other carrier personnel's progress with respect to resolving a complaint.

- You should avoid engaging in an argument with a passenger with a disability presenting a complaint.

- You should listen carefully and actively, evaluate appropriate options under the law and your carrier's policy, and communicate the basis for the action taken (or not taken) to the passenger with a disability in a respectful and polite manner to ensure effective complaint resolution.

- Even if you call a CRO, it is important to be able to assess the situation firsthand through observation, communication, and information gathering because a CRO is not always available on site and may only be involved in resolving the complaint via telephone.

D. Recording, Categorizing, and Reporting Written Disability-Related Complaints Received by Carriers

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 the carrier to DOT on an annual basis. [Secs. 382.70(b) and (c)] The first annual report covers calendar year 2004 and was due 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. See Appendix V. 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)]

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.

Use	Avoid
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.

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)].

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 tics 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.

Indices

[A PDF copy and a Microsoft Word copy of the Technical Assistance Manual containing an Alphabetical Index and a Part 382 Index are available on the World Wide Web at <http://airconsumer.ost.dot.gov/>]

Appendix I

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 Traveller 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 <http://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

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 CROs. [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)]

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)]

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

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

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)]

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

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 <http://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 No.	Docket No.
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
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 required assistance	2/11/02	2002-3-15	OST-2002-10598
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-2000-10597
Prompt and proper enplaning and deplaning assistance; wheelchair stowage	3/27/00	2000-3-24	OST-99-6111

Appendix V

14 CFR Part 382

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, cardio-vascular, reproductive, digestive, genito-urinary, 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 a 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 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)

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.

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(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:

(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.

(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 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

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.

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]

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

[illegible]

[illegible]

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: _____

BILLING CODE 4910-62-C

Appendix VI

DOT Guidance Concerning Service Animals in Air Transportation

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 1996,⁴ 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.

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.

- 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

⁴ 61 FR 56409, 56420 (Nov. 1, 1996).

⁵ See Glossary for definition of this and other terms.

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

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

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.

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

⁷ See Glossary.

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?

- 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).

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