

The US Department of Transportation Office of Aviation Enforcement and Proceedings



Presented To:

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Staffing & Structure

Office of Aviation Enforcement and Proceedings

- One of offices in Office of the Secretary's Office of the General Counsel
- Legal Division (Office of Aviation Enforcement and Proceedings, C-70)
 - 21 attorneys, including one Assistant General Counsel and two Deputy Assistant General Counsels
 - 4 support staff
- Aviation Industry Analysts (Aviation Consumer Protection Division C-75)
 - 18 professionals, including one director
 - 2 support staff

Jurisdiction

We do not handle:

- Aviation *Safety*
(this is regulated by the Federal Aviation Administration)
- Aviation *Security*
(this is administered by the Transportation Security Administration)



Transportation
Security
Administration

Jurisdiction

We do handle:

- Air Transportation
- Direct and Indirect Air Carriers
- Ticket Agents



Processing Consumer Complaints



- All complaints are reviewed by analysts and entered and tracked in a computer database
- All complaints are referred to the airline for follow-up with the consumer
- Department of Transportation's follow-up with airlines and complainants is primarily limited to regulated areas
- Violations of regulations are pursued by aviation enforcement attorneys



Coordination with FAA Airport Disability Compliance Program

- Information Sharing – Consumer Guidance
- Assistance During Airport Inspections
- Complaint Handling



The Air Carrier Access Act Regulation (14 CFR Part 382)

- The Air Carrier Access Act prohibits discrimination against air travelers with disabilities. DOT has promulgated detailed rules in Part 382 to implement this statute. Part 382 applies to U.S. and foreign air carriers.

14 CFR Part 382 - Definitions

- What is an "Individual with a Disability" (14 CFR§382.3)
 - Physical or Mental Impairment
 - Permanent or Temporary Basis
 - Substantially Limits Major Life Activity (walking, seeing, hearing, speaking, breathing, learning)

Service and Assistance Requirements Part 382

- Airlines must provide assistance, upon request, with enplaning, deplaning, and making connections within an airport between flights (14 CFR § § 382.91 and 382.95)
- Airlines must transport wheelchairs, other assistive devices and their batteries and return them promptly in the condition received to the passengers upon arrival (14 CFR Part 382 Subpart I)

Service and Assistance Requirements Part 382

- Airlines may not charge for providing accommodations required by Part 382, but they may charge for services which our rules make optional, for example, the provision of in-flight medical oxygen (14 CFR § 382.31)
- Airlines must allow for the onboard storage of wheelchairs and other assistive devices (14 CFR § 382.121)

Service and Assistance Requirements Part 382

(14 CFR Part 382 Subpart G)

- Assist a passenger to get on or off an airplane
- Assist a passenger in accessing key areas of the terminal
- Provide assistance between gates so passenger can make a connection to another flight
- Make a stop at the entrance of airport lavatory
- Assist with checked or carry-on luggage
- Escort a passenger to an animal relief area

Service and Assistance Requirements Part 382

- Passengers must inform carrier that they have arrived at the airport & need assistance
- Passengers arriving at a terminal entrance where an airline has no employees or contractors at the curbside or other vehicle drop-off point (e.g., a subway walkway directly connecting the subway facility to an airport terminal entrance) are responsible for entering the terminal (or having someone do so on his/her behalf) to request assistance from the airline.

Service and Assistance Requirements Part 382

- A carrier cannot leave a passenger who has requested enplaning, deplaning, or connecting assistance unattended in a ground wheelchair, boarding wheelchair, or other device, in which the passenger is not *independently mobile*, for more than 30 minutes. (14 CFR § 382.103)
- Applicable even if passenger accompanied, unless passenger explicitly waives the obligation

Requirements of Part 382

A carrier must not do any of the following things on the basis that a passenger has a communicable disease or infection, unless you determine that the passenger's condition poses a direct threat. (14 CFR § 382.21)

1. Refuse to provide transportation
2. Delay the passenger's transportation
3. Impose on the passenger a condition/restriction
4. Require the passenger to provide a medical certificate

Requirements of Part 382

- A Medical certificate can be required in certain limited circumstances: (14 CFR § 382.23)
 1. If a passenger is being transported on a stretcher or in an incubator;
 2. If a passenger needs medical oxygen during flight;
 3. If a passenger has a medical condition that causes the carrier to doubt that the passenger can safely complete the flight without extraordinary medical assistance; or
 4. If a passenger has a communicable disease that could pose a direct threat to the health or safety of others on the flight.

Requirements of Part 382

- For a communicable disease to pose a direct threat, the condition must be both readily transmitted under conditions of flight and have serious health consequences (cold vs. AIDS vs. SARS). (14 CFR § 382.21(a))
- Carriers may rely on directives issued by public health authorities in making this assessment.

Safety Assistants (14 CFR § 82.29)

- Except as provided by Part 382, a carrier must not require a passenger with a disability to travel with a Safety Assistant.
- Term used in the new rule is “safety assistant” to reflect duties completely and solely related to safety.
- Concern that passenger with a disability may need personal care services (e.g., assistance in using lavatory facilities or with eating) is not a basis for requiring a safety assistant.

Safety Assistants

A Carrier may require a Safety Assistant in the following situations

1. Passengers in stretchers or incubators,
2. Passengers with a mental disability rendering them unable to understand safety instructions,
3. Passengers with mobility impairments so severe they cannot **physically** assist in their own evacuation, or
4. Passengers with both a severe hearing and severe vision impairment that prevents them from communicating with the crewmembers to assist in their own evacuation.

Safety Assistants

- A carrier may require a passenger to pay for a safety assistant, if the passenger concedes that he/she cannot physically assist in his/her own evacuation, understand safety instructions or communicate with crewmember.
- If a passenger states that he or she can physically assist in his/her own evacuation, understand safety instructions and communicate with crewmember and a carrier disagrees with passenger's determination, a carrier may require a safety assistant but cannot charge for transporting the safety assistant.
- Carrier is not required to locate a safety assistant but at times it may be in the carrier's best interest to do so.

Lifts and Ramps

- **Applicable Airports: (14 CFR § 382.95(b))**
 - U.S. commercial service airports with 10,000 or more annual enplanements where level-entry boarding and deplaning (by jet bridges) is not available.
- **Applicable Aircraft: (14 CFR § 382.97)**
 - Aircraft with a manufacturers design seating capacity of 19 or more.
 - Note: the rule provides some aircraft that are exempt from this requirement.
- **Agreement Requirements: (14 CFR § 382.99)**
 - Ensure lifts or ramps are provided at U.S. airports, if level-entry boarding by jet bridge is not available
 - Written contract with airport operator allocating responsibility for meeting the boarding and deplaning assistance requirements. Foreign carriers must have lift agreement by May 13, 2010, and must have the lift itself by May 13, 2011).

Services on-board the Aircraft

(14 CFR § 382.111)

- Reaching seats
- Assistance with the use of on-board wheelchair to move to and from the lavatory (includes transfer from aircraft seat to chair)
- Assisting in preparation for eating
- Loading and retrieving carry-on items
- Communicating with visual or hearing impaired passengers

Services on-board the Aircraft the Carrier is not required to provide

(14 CFR § 382.113)

- Assistance with actual eating
- Assistance within the restroom
- Provision of medical services



Aircraft Accessibility Requirements

(14 CFR Part 382 Subpart E)

- New aircraft (ordered after Part 382 was enacted or delivered within 2 years of that date) :
 - 19+ seat must permit transport of ventilators, respirators, CPAPs, POCs
 - 30+ seats - 50% moveable aisle armrests
 - 100+ seats – space for stowage of one folding wheelchair
 - Twin-aisle - accessible lavatories

Complaints and Enforcement Procedures under Part 382

(14 CFR Part 382 Subpart K)

- Airlines must send a dispositive written response to any disability complaint (conveyed either **orally** or in writing) within 30 days of its receipt, specifically admitting or denying a violation of Part 382, and advising the passenger of his/her recourse to contact DOT.
- DOT investigates all written disability complaints and enforces compliance

Complaint recordkeeping and reporting under Part 382

- U.S. and foreign carriers with at least one aircraft with a designed seating capacity of more than 60 seats must record all written disability-related complaints received (only refers to complaints regarding flight segments to/from U.S. for foreign carriers)
(14 CFR § 382.157)
- Both U.S. and foreign air carriers must categorize complaints by type of disability and nature of the complaint

Complaint recordkeeping and reporting under Part 382

- Both U.S. and foreign air carriers must submit an annual report to DOT summarizing such complaints
- Both U.S. and foreign air carriers must retain such complaint files for three years

Airline Training Requirements

- Training on the ACAA for all public contact employees (19 or more seats)
(14 CFR § 382.141)
- Make available a Complaint Resolution Official (CRO) to respond to complaints from passengers with disabilities
(14 CFR § 382.151)

Enforcement Procedures

- 49 U.S.C. 46301 – authority to investigate potential violations
- Initiation of Investigation
 - On Enforcement Office’s own initiative or by referral from within DOT or FAA
 - Informal (e.g., by letter or telephone call to AEP, usually by consumers or competitors)
- Investigative Tools
 - 49 U.S.C. 41708 and 41709 provides DOT the authority to order reports from air carriers and to inspect the premises of airlines and ticket agents
 - 49 U.S.C. 46104 provides for the issuance of subpoenas
 - 14 CFR Part 305 provides for nonpublic investigations, with subpoena authority and testimony to be heard before a DOT Administrative Law Judge, if necessary.

Penalties

Penalties/Remedies

- Warning letter; may be accompanied by letter of agreement to take corrective action
- Order to cease and desist from similar conduct in the future
- Civil Penalties
 - 49 U.S.C. 46301
 - For non-small businesses, up to \$27,500 per day per violation and regulations
 - “Small business concerns” and individuals are liable for penalties of up to \$1,100, on the nature of the violation

AEP CONTACT INFORMATION

For licensing information:

- <http://ostpxweb.dot.gov/aviation/index.html>

For enforcement information:

- AEP main office: 202-366-9342
- Website: <http://air.consumer.dot.gov>; click on “Rules and Guidelines” for guidance documents

For consumer information:

- Online complaint form: <http://air.consumer.dot.gov>; click on “Filing a complaint”
- Voicemail consumer complaint line: 202-366-2220
- Disability Hotline: 1-800-778-4838 (voice)
1-800-455-9880 (TTY)



Questions?