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## **Canada transportation law comment**

*March 20, 2019*

TO: Sonia Gangopadhyay  
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RE: *Canada Gazette*, Part I, February 28, 2019; Comment on updates to regulations pertaining to travel with a service dog

Ms. Gangopadhyay:

Psychiatric Service Dog Partners is a US-based nonprofit that advocates internationally for its worldwide service dog community. As an all-volunteer group led by people with disabilities—and a leading voice in creating reasonable solutions for disability-mitigating animal use in air travel—we have previously urged you (the Canadian Transportation Agency) to heed the lessons wrought by your neighbors through much effort.<sup>1</sup>

With the current request for comments on the proposed transportation regulations, we write again to accentuate these lessons with an overview and valuable pointers to useful resources. The present update from CTA's previous draft makes improvements when it comes to some of the proposals regarding service dogs. However, on other important points in this area, we fear CTA plans to follow a clandestinely perilous path others have counseled against after learning the hard way themselves.

*Shift human rights to the fore*

<sup>1</sup> See our February 23, 2017 letter. <https://www.psychdogpartners.org/wp-content/uploads/2017/02/USAUSA-CTA-Comment.pdf>



We begin with what should be an uncontroversial premise. Human rights should be the centerpiece of disability law, not a whispered afterthought.

In this, we wholeheartedly agree with the sentiment of the National Coalition of People Who Use Guide and Service Dogs in Canada. We also believe a human-rights-centered approach is the only way for CTA to "advance the objective of positioning Canada as a world leader in accessible transportation."<sup>2</sup>

### *Research unveils serious burdens, ineffectiveness of documentation barriers*

We have done the research. If you wanted to disenfranchise disabled service dog users, documentation requirements like CTA proposes are the Trojan horse through which disability rights are pillaged.

Our pioneering studies clearly bear this out. Our coalition's 2016 survey report quantified the broken nature of the US flight access laws at the time.<sup>3</sup> This was before the recent, ill-advised additional (veterinary) paperwork requirements some US airlines have begun to burden-stack onto people with disabilities. The following three highlights from our 926-response 2018 survey report are of particular note:<sup>4</sup>

- If respondents had to get veterinary records or a health certificate before flying, they estimate it would cost \$115, take 8 days total, and take 6 hours of personal time
- Almost two-thirds of respondents expect their veterinarians would not be willing to sign a statement predicting whether an animal would behave in a flying environment
- On a five-point scale where 5 is "totally discouraged", respondents are discouraged from flying at a level of 3.5 at the prospect of having to provide one type of third-party documentation, while having to provide two types would discourage at a level of 4.2

<sup>2</sup> From the Rationale section, Executive Summary, Regulatory Impact Analysis, Canada Gazette, Part I, Volume 153, Number 10: Accessible Transportation for Persons with Disabilities Regulations. <http://www.gazette.gc.ca/rp-pr/p1/2019/2019-03-09/html/reg2-eng.html>

<sup>3</sup> "ACAA Third-Party Documentation Requirements: Survey of Psychiatric-Disability-Mitigating Animal Users" from December 11, 2016; United Service Animal Users, Supporters, and Advocates (USAUSA). "Over three out of four people surveyed have either not flown or have flown less because of these [documentation requirements]". <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>

<sup>4</sup> "Flight Access Survey Report" from May 22, 2018. <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>



Not only do documentation requirements discourage or prevent people with disabilities from traveling—the very opposite of what the law should do—such requirements do not even achieve their stated purpose of discouraging fraud.<sup>5</sup>

Since documentation requirements were imposed in the US, airlines have only complained more and more about perceived fraud. Yet few have developed the wisdom to see that the fault lies in the basic approach, not due to insufficiently high barriers to access.

*Service dogs are for the benefit of individuals, not corporate takeovers*

The fault of this approach certainly also applies to any attempt to blacklist owner-trainers from using service dogs to mitigate their disabilities. Allowing only program-trained dogs, or a subset of them, is not in the interest of people with disabilities, but is in the interest of service dog programs or accreditation programs. Taking care of these organizations' interests should not precede safeguarding the rights of people in need.

There is a dearth of service dog programs compared to the demand, as well as great expense often associated with them. This means many disabled people will not have access to a needed service dog unless able to train their own.<sup>6</sup> Further, for some individuals and some disabilities, training one's own service dog can be worlds better than acquiring one from a program.<sup>7</sup>

These facts do not disparage the valuable work of programs, but they do indicate that overall, Canadians need much more than programs can offer.

<sup>5</sup> Nor do they increase safety. See "§6. Documentation" from our June 3, 2018 "Enforcement Priorities Comment", including "§6.a. Burdens must first meet the burden of proof", "§6.b. Gesturing absently at justification is unsatisfactory", "§6.c. Let's be rabid about the facts", and "§6.d. Barriers as mere deterrents, not for health and safety." <https://www.psychdogpartners.org/wp-content/uploads/2018/06/PSDP-Enforcement-Priorities-Comment-June-2018.pdf>

Also, from our June 26, 2018 "ANPRM Comment", see "§9. Whether airlines should be prohibited from requiring a veterinary health form or immunization record from service animal users without an individualized assessment that the animal would pose a direct threat to the health or safety of others or would cause a significant disruption in the aircraft cabin", especially including the final subsection: "§9.e. Veterinary documentation requirements would not solve any significant problem". <https://www.psychdogpartners.org/wp-content/uploads/2018/06/PSDP-ANPRM-Comment-June-2018.pdf>

<sup>6</sup> Certainly for the inexperienced, this training tends to be with the assistance of a local professional dog trainer, which usually isn't (and need not be) a service dog specialist. What's important, though, is not the process but the product. In other words, the behavior of the dog in the moment is the proper standard, not its provenance. A service dog from the most respected program can lose its training through trauma or poor handling, yet still be worked by a handler ignorant of training or behavior, or fearful of returning the dog and losing a lifeline.

<sup>7</sup> See "Do I train my own dog or get a dog from a program?" within "FAQ: Training—Basics". <https://www.psychdogpartners.org/resources/frequently-asked-questions/faq-training-basics>



While self-empowerment remains legal, this need has a chance of being met.

### *Compulsory IDs are a (rotten) red herring*

The next topic is related to not forcing owner-trainers to depend on corporations for their disability mitigation. Compulsory IDs are superficially a kind of panacea that a second glance reveals to be fraught with problems. Not only are there issues surrounding whence IDs come—who may claim authority and how is this not another pipeline for fraud?—but there are basic human rights issues. This would layer on another burden to free travel, which people without disabilities would not have to endure.<sup>8</sup>

### *When a service dog is trained to help, avoid over-policing exactly how*

Though the announcement does not bring up the following issue, we heard a rumor we would like to cut off at the pass. Some individuals may be of the mind that more than one work or task item should be required of service dogs. Our view is that it would be gratuitous to require that a service dog be trained to execute more than one disability-mitigating, potentially life-saving work or task item.

Further, given that the two terms have been distinguished within the service dog community,<sup>9</sup> it would show bad faith not to include both trained tasks *and* trained work in the service dog definition. As USDOJ has shown, it is inclusive and easy to remain independent on this issue by including the phrase "trained work or task" without concern about defining these beyond a wholesale phrase, such as "trained disability-mitigation service(s)".<sup>10</sup>

<sup>8</sup> See "Service Dog Registry (ActiveDogs)". <https://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/service-dog-registry>

<sup>9</sup> On distinguishing work from tasks, see "Service Dog Work and Tasks: A Cue-Based Analysis". <https://www.psychdogpartners.org/resources/work-tasks/service-dog-work-tasks-cue-based-analysis>

<sup>10</sup> See "Illinois HB5807 Service Dog License Comment":

*This provision limits the disability-mitigating activity of a service dog to "tasks". The ADA regulations specifically say that service dogs can do work or perform tasks to mitigate the handler's disability. Tasks are intentional commands or requests of the dog. For example, asking the dog to fetch a bottle of water from the fridge is a task. Work includes disability-mitigating activity that the dog is trained to do on their own, by recognizing and responding to changes in the person or their environment. For example, a dog might alert a handler to an oncoming panic attack, or direct a blind handler around a novel obstacle. We see no good reason to eliminate disability-mitigating "work" here, nor do we see why a service dog should be required to perform tasks in addition to work.*

*Further, we find it quite strange that disability mitigation would be treated as a numbers game. In our view (and in concert with DOJ's floor of rights), if the dog is trained to perform at least one work or task item and the person's disability is thereby significantly mitigated, that is what's important. A diabetes alert dog that only alerts to blood sugar extremes can still be a regular lifesaver, and is not less of a service dog than one trained to fetch water, beer, and fruit juice.*



*Yours for the taking: Expert, transparently reasoned solutions that respect human rights, etc.*

We do not disparage the system while offering no alternative. Through a long negotiation process with airlines (US-based, Westjet, and others), we developed a reasoned compromise on air travel regulations that respects human rights and dignity, everyone's safety, and the practicalities of the air travel industry. Several organizations, including those across the airline aisle, signed on to our approach.

As mentioned at the start of this letter, we sent our "Pre-NPRM" comment for USDOT to you in 2017 (a product of our multi-organization coalition, *United Service Animal Users, Supporters, and Advocates*), since that comment could be highly useful in developing better flight access laws for Canada. Below, we attach USAUSA's June 2018 ANPRM comment to USDOT because it provides the latest resources and reasoning in this area. This document contains links toward its start to our relevant previous work and, quite helpfully, it contains reasoning summaries in its table of contents.

Please do at least study and take seriously what we're offering you. It is far too easy to push kneejerk reactions or (faulty) intuition-informed positions that may trample the rights deserving of your protection. Instead, we give you research and expert reasoning that honors the values intended to drive your work. We recognize that Canada need not emulate US systems, but here there are many easy opportunities and moral obligations to excel beyond the state of things south of the border by understanding the missteps there.

Sincerely,



Bradley W. Morris, MA, CPhil  
Director of Government Relations  
on behalf of the Board of Directors,  
Psychiatric Service Dog Partners<sup>11</sup>

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*Service dogs are not circus animals, beholden to learn a certain number of tricks to please outsiders. It is up to the service animal user how many—and very importantly, which—work or task items mitigate their disability, and we should not codify arbitrary government standards on this issue.*

<https://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/illinois-license-hb5807>

<sup>11</sup> This comment was drafted with assistance from Jenine Stanley of our Board of Advisors.



February 23, 2017

Canadian Transportation Agency,

We are a loose association of organizations dubbed United Service Animal Users, Supporters, and Advocates (USAUSA). In spite of our acronym, we have constituents in Canada as well as the United States.

We've been in contact with Kris Campbell, who tells us he's forwarded our consensus recommendations document to Steven Winters, since Mr. Winters is responsible for the service animal file. That document was constructed for the USDOT regulatory update regarding service animal air travel access, but we'd like to make it a part of the public record for the Canadian update.

This main document, along with the subsequent survey report on the burdens of the current regulations (also included here in a combined document), embodies decades and cargo-jet loads of group wisdom. We hope and expect this to prove eminently useful for your endeavor.

We proudly served for over half a year on USDOT's ACCESS advisory committee to better understand all parties' considerations. Please do not hesitate to contact us if we might contribute in any other way toward the development of just laws regarding service animal access.

Warm regards,

Bradley W. Morris, MA, CPhil  
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&

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**Pre-NPRM Comment:**  
**DOT's ACAA Service Animal Regulations**

*November 24th, 2016*

United Service Animal Users, Supporters, and Advocates<sup>1</sup>

TO: Blane A. Workie  
Office of the Aviation Enforcement and Proceedings  
US Department of Transportation  
(202) 366-9342

RE: DOT-OST-2015-0246; ACAA service animal regulations

Ms. Workie:

We write to DOT with many voices in a sincere attempt to represent the fruits of the service animal portion of the Negotiated Rulemaking ("Reg Neg") process. We hereby intend to aid DOT in drafting a Notice of Proposed Rulemaking ("NPRM") that does not let these rare fruits spoil.

*Introduction: overall approach*

The primary authors of this comment<sup>2</sup> served as co-chairs among the voting members of the ACCESS Advisory Committee's service animal group. We learned much through Reg Neg collaborations with other stakeholders that we would not otherwise have known.

We adopt an overall approach of meeting the design constraints required by all stakeholders. We are convinced the regulations must balance safety, disability rights, and the practicalities of the air travel context. We aim to give each design challenge its due consideration by providing reasoned compromises, rather than fielding one side for a tug-of-war.

This comment is divided into distinct, severable sections. A name under the heading of any one section does not imply an endorsement for a position in any other section. Endorsement indicates at least that a signatory recognizes the individual position as a viable compromise, not necessarily that the signatory would independently advocate for the position.

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<sup>1</sup> USAUSA is an informal collaboration of diverse stakeholders.

<sup>2</sup> Bradley W. Morris, MA, CPhil, Director of Government Relations for Psychiatric Service Dog Partners, and Jenine Stanley, Consumer Relations Coordinator for Guide Dog Foundation for the Blind and America's VetDogs. Primary authors may be contacted at [brad@psych.dog](mailto:brad@psych.dog) and [jenine@guidedog.org](mailto:jenine@guidedog.org).



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## §1. *Service animal characterization*

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Katy Rosseland, Open Doors Organization\*<sup>4</sup>  
Douglas Kidd, National Association of Airline Passengers  
Jason Gray, Pilot Dogs  
Bill Botten, disability advocate (United States Access Board)<sup>5</sup>  
David S. Martin, Delta Air Lines\*

\*Denotes membership on DOT's ACCESS Advisory Committee or that committee's Service Animal Working Group

Position:

Service animals must be trained for disability mitigation and public access and are limited to dogs, with exceptional access for capuchin monkeys in pet carriers and for miniature horses.

Rationale and details:

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3 In addition to the signatories, we conversed with a number of organizations who support the ideas in this document but did not wish to make that support public until an NPRM. For examples of the widespread support of the essential concepts in this comment, see the Reg Neg straw poll results we reference below. Many expressed to us that this sufficiently demonstrates to DOT what is supportable.

4 Open Doors Organization does not specifically support the species restriction in §1.

5 This is a personal endorsement throughout. The US Access Board does not endorse public comments.



The category of "service animal" does not include (emotional) support animals.<sup>6</sup> A **service animal** is:<sup>7</sup>

- a dog
- trained to do work or perform at least one task to assist with a person's disability on the flight or at the destination<sup>8</sup>
- trained to behave properly in public settings

A service animal that is trained to behave properly in public settings is expected through that training to follow the **behavior standard**, which includes:<sup>9</sup>

6 We provisionally use the term "support animal" hereafter. This was the term last used by DOT during the Reg Neg, but is not meant to bias whatever name might be used for the category in future regulations. The distinction between service animals and support animals, as last defined in the Reg Neg and in this comment, is based on whether the animal is trained to do its job, not on the type of disability mitigated ("emotional" or otherwise).

Some airlines indicated a preference for maintaining the ESA name simply due to ease of historical continuity. Some advocates indicated a worry that no matter how the category of "support animal" is defined, if "emotional" is in the name, it could be misinterpreted in an overly restrictive way. We welcome DOT to choose whatever term it deems best, with the following caveats.

"Support animal" is easily confused with "service animal" and "assistance animal" would be contrary to the way HUD's FHAct term is defined. A term that is easily distinguished from "service animal" but is consistent with other agencies' terms is highly preferred. "Helper animal" was an early such suggestion, which may be the least of the evils, though some advocates worried it might sound denigrating. The term "comfort animal" is definitely to be avoided for that reason.

7 Much of this section is taken from §2 of the 7/21/16 "Advocates' Service Animal Proposal". This document later had an 8/26/16 addendum; the unaddended proposal is available through the following link. <https://www.regulations.gov/document?D=DOT-OST-2015-0246-0180>

Note that we reject the definitions hastily thrown together for the straw polls at the September Reg Neg meeting. That service animal definition was roughly as follows: Service animal is a dog, miniature horse, or capuchin monkey that is individually trained to do work or perform a task for an individual with a disability to assist with his or her disability. *An essential piece of this comment's "service animal" characterization the straw poll definition lacks is the public access training requirement—that the animal is "trained to behave properly in public settings".*

The straw poll definition of "service animal" also did not distinguish dogs from the exceptional species, which we do for clarity and inter-agency consistency. We presume voters did not distinguish the straw poll definition from the one in this comment, which had been used throughout the Reg Neg in the months before the poll. The straw poll results on this were: 13 Yes, 5 No, and 1 Abstain. At least the majority of the five advocates voting "No" later informally indicated they would vote "Yes" as long as disability-mitigating cats had some manner of access (as support animals).

<https://www.regulations.gov/document?D=DOT-OST-2015-0246-0279>

8 DOJ is usefully detailed in giving work or task examples in its "service animal" definition at 28 CFR §36.104: "Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition." [http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&n=28y1.0.1.1.37&r=PART#se28.1.36\\_1104](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&n=28y1.0.1.1.37&r=PART#se28.1.36_1104)

9 At the Reg Neg meeting on 6/14/16, Blane Workie (of DOT) expressed the worry that if we focus on a



- being housetrained
- generally being connected to the handler by a leash, harness, or other tether (a disability or disability assistance may justify not using a harness, leash, or other tether at a given time)<sup>10</sup>
- not being disruptive or destructive
- not acting aggressively or otherwise creating a threat to health or safety
- not being placed on a seat (on the user's lap is acceptable for assisting with a disability)
- not taking up another passenger's space without permission
- always remaining under control of the handler

A "qualified individual with a disability"<sup>11</sup> would have the same access with such a service animal (used for disability mitigation during the flight or at the destination) as service animal users have under current regulations. However, there is no distinction among service animal users on the basis of their type of disability—psychiatric service animal users are not treated differently from other service animal users.

**Miniature horses** and **capuchin monkeys** that provide disability mitigation during the flight or at the destination are not called "service animals" so as to avoid confusion.<sup>12</sup> However, their users may have similar access as

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training requirement, the behavior will get overlooked. We find this puzzling, as these are two distinct issues. The training occurs before one travels. The behavior is what occurs during travel. The relationship between these is that the training is intended to ensure that the animal will reliably behave in a safe manner in stressful and unpredictable environments, rather than just hoping the animal will behave without having developed the appropriate psychological shock absorbers. From the service animal user perspective, we are confused that one would think these intertwined elements would somehow be mutually exclusive. Also note here that a training requirement is distinct from the much thornier issues of either setting up or verifying more specific training criteria. For many reasons that become apparent when one tries to construct a one-size-fits-all system, these criteria are best left to the various service animal user communities, rather than to regulations.

10 Compare DOJ's tethering requirement at 28 CFR §36.302(c)(4): "*Animal under handler's control.* A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means)." Note that this does not strictly require the active use of the tether as the default, though this is arguably intended. <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&n=28y1.0.1.1.37&r=PART#se28.1.36.1104>

11 See 14 CFR §382.3, but note that only the first prong of the "individual with a disability" definition applies to service animal users (actually having a disability, rather than merely a record of a disability or perception by others of having a disability). The other two prongs are relevant only to other situations, such as denial of service on their basis. <http://www.ecfr.gov/cgi-bin/text-idx?SID=07c80383ddc4c31cf7a10f3f62f7ae62&mc=true&node=se14.4.382.13&rgn=div8>

12 In addition to avoiding confusion about distinct treatments of different species under the same heading, this allows for greater inter-agency consistency between DOT and DOJ. Even though DOJ allows exceptional access for miniature horses under Titles II and III, DOJ's "service animal" definition only labels dogs as "service animals", noting: "Other species of animals, whether wild or domestic,



service animal users or support animal users. This exceptional access would practically function the same as it already does, as follows.

The airline must determine whether any factors preclude the animal traveling in the cabin (e.g., whether the animal is too large or heavy to be accommodated in the cabin, whether the animal would pose a direct threat to the health or safety of others, whether it would cause a significant disruption of cabin service, or whether it would be prohibited from entering a foreign country that is the flight's destination). If no such factors preclude the animal from traveling in the cabin, an airline must permit it to do so with the person with a disability.<sup>13</sup>

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

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

An essential piece to winning the support of many advocates on the ACCESS Advisory Committee was that DOT would, at some specified period, conduct a review of the species allowed as service animals. This would allow DOT to determine whether there is sufficient evidence at that time to add additional species as service animals, such as cats. Airline representatives did not object to this in the September straw poll, and we include it as a requirement here.<sup>14</sup>

See Position SAS 1 in "Service Animal Advocate Positions and Reasoning" for the rationale behind our species restriction for service animals.<sup>15</sup>

## §2. *Support animal characterization*

Signatories:

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trained or untrained, are not service animals for the purposes of this definition." Id. See 28 CFR §36.302(c)(9) for Title III-covered entities' obligations regarding miniature horses.

[http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&n=28y1.0.1.1.37&r=PART#se28.1.36\\_1104](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&n=28y1.0.1.1.37&r=PART#se28.1.36_1104)

<sup>13</sup> This paragraph follows 14 CFR §382.117(f). [http://www.ecfr.gov/cgi-bin/text-idx?SID=07c80383ddc4c31cf7a10f3f62f7ae62&mc=true&node=se14.4.382\\_1117&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=07c80383ddc4c31cf7a10f3f62f7ae62&mc=true&node=se14.4.382_1117&rgn=div8)

<sup>14</sup> We suggest a period on the order of five years from the effective rule date, with six months to make a determination. However, we leave it to DOT to decide whether an alternative timeframe makes sense.

<sup>15</sup> <https://www.regulations.gov/document?D=DOT-OST-2015-0246-0208>



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Titus Herman, Southeastern Guide Dogs  
Eric Loori, Freedom Guide Dogs  
Darlene Sullivan, Canine Partners for Life  
Douglas Kidd, National Association of Airline Passengers  
Bill Botten, disability advocate (United States Access Board)  
David S. Martin, Delta Air Lines\*

\*Denotes membership on DOT's ACCESS Advisory Committee or that committee's Service Animal Working Group

Position:

Support animals<sup>16</sup> assist with disabilities, but generally lack the training that characterizes service animals and should be limited to dogs, cats, and rabbits.

Rationale and details:

A **support animal** is an animal that:

- is a dog, cat, or rabbit
- is used to assist with a person's disability on the flight or at the destination (for example, its presence reduces the likelihood or effects of a panic attack)
- need not be trained to do work or perform a task to assist with a person's disability
- need not be trained to behave properly in public settings

The bulk of the reasoning for the species limitation is available in an earlier document.<sup>17</sup> The gist is that support animals typically start as pets, dogs

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<sup>16</sup> See the earlier footnote regarding the provisional "support animal" terminology.

<sup>17</sup> See Position ESA 1 in §2 of "Service Animal Advocate Positions and Reasoning".  
<https://www.regulations.gov/document?D=DOT-OST-2015-0246-0208>



and cats are common pets but many people are not "dog people", and rabbits provide textures dogs and cats don't, which can be especially helpful in mitigating sensory-related disabilities like autism. Beyond this, DOJ's reasoning on greater species limitations applies.

We note that several advocates would not agree to eliminating cats as service animals unless they were included as support animals. We also highlight that currently, there are very few species prohibited as support animals.<sup>18</sup> So we are proposing going from a virtually unlimited number of species to only three.<sup>19</sup> This represents a good-faith compromise in the face of more extreme initial views among some on both sides.<sup>20</sup>

### *§3. Support animal containment*

Signatories:

Bradley W. Morris, MA, CPhil, Psychiatric Service Dog Partners\*  
Jenine Stanley, Guide Dog Foundation for the Blind and America's VetDogs\*  
Penny Reeder, Guide Dog Users, Inc.\*  
Susan M. Daniels, Leader Dogs for the Blind  
Sarah G. Clapp, Guide Dogs of the Desert  
Dan Ignazewski, Amputee Coalition  
Melanie Brunson, Blinded Veterans Association  
James Kutsch, Jr., PhD, The Seeing Eye, Inc.  
Geoff Freed, National Center for Accessible Media at WGBH\*  
Donnalee Ammons, Hidden Hollow Miniature Horses  
Sarah Mumme, Guide Dogs of Texas  
Titus Herman, Southeastern Guide Dogs  
Eric Loori, Freedom Guide Dogs  
Darlene Sullivan, Canine Partners for Life  
Katy Rosseland, Open Doors Organization\*

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18 According to 14 CFR §382.117(f), airlines "are never required to accommodate certain unusual service animals (e.g., snakes, other reptiles, ferrets, rodents, and spiders) as service animals in the cabin."  
[http://www.ecfr.gov/cgi-bin/text-idx?SID=07c80383ddc4c31cf7a10f3f62f7ae62&mc=true&node=se14.4.382\\_1117&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=07c80383ddc4c31cf7a10f3f62f7ae62&mc=true&node=se14.4.382_1117&rgn=div8)

19 Straw polls at the September Reg Neg indicate (1) there was support among all voters for support animals in principle, but also (2) that there was much airline interest in placing strict limitations on them. (1) <https://www.regulations.gov/document?D=DOT-OST-2015-0246-0282> (2) <https://www.regulations.gov/document?D=DOT-OST-2015-0246-0280>

20 We reject DOT's "symmetry" argument: that the symmetry of allowing dogs, miniature horses, and capuchin monkeys as the exclusive species for both service and support animals is some kind of sufficient benefit to make sense of this. Miniature horses and capuchin monkeys are generally not used as support animals, so the presumed symmetry is effectively nonexistent on this approach. A better approach is to understand which species practically make sense for each category and to base the system on that understanding, tailored to each category. (Theoretical) simplicity does not override all other virtues.



Douglas Kidd, National Association of Airline Passengers  
Jason Gray, Pilot Dogs  
Bill Botten, disability advocate (United States Access Board)  
David S. Martin, Delta Air Lines\*

\*Denotes membership on DOT's ACCESS Advisory Committee or that committee's Service Animal Working Group

Position:

Support animals generally lack the training that characterizes service animals and should be restricted to pet carriers, with a disability mitigation exception.

Rationale and details:

The following recommendations regarding support animal containment are based on the practical safety concerns expressed by representatives of flight crews, passengers, and especially service animal users. They are also based on concerns for the safety and comfort of the animal during travel. Many of these concerns and much of the associated reasoning were detailed in a previous document.<sup>21</sup>

We comprehensively argued in Position ESA 1 of "Service Animal Advocate Positions and Reasoning" that "It is not reasonable to expect ESAs to be trained to behave properly in public settings", as this takes much more substantial work than members of the general public realize. Consequently, support animals must be able to fit into FAA-approved pet containers<sup>22</sup> and must travel in such containers by default. The animal must be able to stand, turn around, sit, and lie down in the container.<sup>23</sup>

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21 Unfortunately, while service animal user advocates were adamant throughout the Reg Neg that these concerns be respected, many other parties seemed to downplay or simply ignore the will and worries of the aforementioned underrepresented communities on these important issues. Again, see Position ESA 1 in §2 of "Service Animal Advocate Positions and Reasoning", on "*ESA containment*".  
<https://www.regulations.gov/document?D=DOT-OST-2015-0246-0208>

22 FAA guidance regarding pet carriers is at Vol. 3, Ch. 33, §6, 3-3547, G.7 about carry-on baggage, available through the following link. Guidance is on the same webpage, at 3-3576, on "LOCATION AND PLACEMENT OF SERVICE ANIMALS ON AIRCRAFT".  
[http://fsims.faa.gov/WDocs/8900.1/V03%20Tech%20Admin/Chapter%2033/03\\_033\\_006.htm](http://fsims.faa.gov/WDocs/8900.1/V03%20Tech%20Admin/Chapter%2033/03_033_006.htm)

23 This is consistent with USDA's Animal Welfare Act regulations. First, regarding dogs and cats, see 9 CFR §3.14(e)(1): "Primary enclosures used to transport live dogs and cats must be large enough to ensure that each animal contained in the primary enclosure has enough space to turn about normally while standing, to stand and sit erect, and to lie in a natural position." [http://www.ecfr.gov/cgi-bin/text-idx?SID=cbb6600299055098232f55316f6d8a16&mc=true&node=se9.1.3\\_114&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=cbb6600299055098232f55316f6d8a16&mc=true&node=se9.1.3_114&rgn=div8)

Regarding rabbits, see 9 CFR §3.61(c): "Primary enclosures used to transport live rabbits shall be large enough to ensure that each rabbit contained therein has sufficient space to turn about freely and to make normal postural adjustments." [http://www.ecfr.gov/cgi-bin/text-idx?SID=cbb6600299055098232f55316f6d8a16&mc=true&node=se9.1.3\\_161&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=cbb6600299055098232f55316f6d8a16&mc=true&node=se9.1.3_161&rgn=div8)



The support animal may be removed from the container during the flight in order to provide disability mitigation. In that circumstance, the animal must be on the passenger's lap, tethered to and under control of the handler, comporting to the behavior standard in §1 above. Members of the flight crew can require that the support animal be returned to and kept in the container if a support animal (user) unreasonably violates these conditions.

For the safety and comfort of the animal, there may only be one animal per FAA-approved container. This rule effectively limits the number of support animals a passenger may bring on board, but not necessarily to one.

If a passenger wishes to travel on any airline with more than one support animal, or a support animal and a service animal, the passenger may be required to purchase an additional seat to accommodate any sub-seat space needed for the support animal container. If the passenger is traveling with another person on an airline that allows pets, the passenger may alternatively be required to pay the airline pet fee for the additional support animal; the two animals would likely occupy the foot space of both passengers in the party.

Normally, fees cannot be associated with the transport of assistive devices for a person with a disability. However, this is not always true when a passenger travels with multiple assistive devices of the same type, such as multiple wheelchairs,<sup>24</sup> or otherwise requires extra space.<sup>25</sup>

There are three factors in these situations that can distinguish them from those involving two service dogs and justify this approach. First, pet containers each require an inflexible footprint in the cabin and each must take up a passenger's entire sub-seat space. Second, information and individual assessments provided by airlines during the Reg Neg indicated airlines believe overwhelmingly that the support animal category is the epicenter of abuse.<sup>26</sup> Third, we find it highly unlikely that a passenger would

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24 See the answer to question 45 in DOT's 2009 Q&A guidance: "As a general matter, a carrier must not charge for assistive devices that exceed the standard baggage limits on size, weight, or number of pieces. However, there are circumstances under which the carriage of devices due to their weight, size, or number would constitute an undue burden or cause a fundamental alteration of the carrier's service. In such situations the carrier may not be required to transport the assistive device free of charge or possibly at all. These situations necessitate case-by-case determinations." [https://www.transportation.gov/sites/dot.gov/files/docs/FAQ\\_5\\_13\\_09\\_1.pdf](https://www.transportation.gov/sites/dot.gov/files/docs/FAQ_5_13_09_1.pdf)

25 See 14 CFR §382.31: "May carriers impose special charges on passengers with a disability for providing services and accommodations required by this rule? [...] (b) You may charge a passenger for the use of more than one seat if the passenger's size or condition (e.g., use of a stretcher) causes him or her to occupy the space of more than one seat. This is not considered a special charge under this section." [http://www.ecfr.gov/cgi-bin/text-idx?SID=88b33264318ef220957c7a77629a9d5e&mc=true&node=se14.4.382\\_131&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=88b33264318ef220957c7a77629a9d5e&mc=true&node=se14.4.382_131&rgn=div8)

26 We find the system we propose is sufficiently justified *even if one does not accept the following argument*: that because more fraud or safety concerns are thought to be (or actually are) mostly associated with one choice of assistive device, greater restrictions on those making that choice are



have two (untrained) support animals that serve distinct disability-mitigating purposes, and thus are both separately and jointly justified.

If a passenger is able to bring multiple support animals on board, only one animal may be out of the container at a time for disability mitigation and must be under the control of the passenger with a disability, as described above.

Passengers do not have support animal access with animals under eight weeks old. Not only is this for animal welfare (importantly), but also to prevent the use of support animal access as a loophole to transport nascent animals that normally would not be allowed as pets, due to their age.

#### *§4. Decision tree/attestation timing and method of delivery*

Signatories:

Bradley W. Morris, MA, CPhil, Psychiatric Service Dog Partners\*  
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Penny Reeder, Guide Dog Users, Inc.\*  
Susan M. Daniels, Leader Dogs for the Blind  
Sarah G. Clapp, Guide Dogs of the Desert  
Dan Ignazewski, Amputee Coalition  
Melanie Brunson, Blinded Veterans Association  
James Kutsch, Jr., PhD, The Seeing Eye, Inc.  
Candace Kolander, Association of Flight Attendants-CWA\*  
Geoff Freed, National Center for Accessible Media at WGBH\*  
Donnalee Ammons, Hidden Hollow Miniature Horses  
Sarah Mumme, Guide Dogs of Texas  
Titus Herman, Southeastern Guide Dogs  
Eric Loori, Freedom Guide Dogs  
Darlene Sullivan, Canine Partners for Life  
Katy Rosseland, Open Doors Organization\*  
Douglas Kidd, National Association of Airline Passengers  
Jason Gray, Pilot Dogs  
Bill Botten, disability advocate (United States Access Board)

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warranted vs. the restrictions on those choosing related assistive devices. But make no mistake—the difference between a service animal and a support animal is *not* a difference in the types of disabilities they can mitigate. (There is no type of disability a support animal can mitigate than a service animal cannot.) Instead, the difference comes down to the choice of assistive device, such as choosing a wheelchair with a spillable battery vs. non-spillable. Such a device choice can justify a difference in regulatory requirements, as in 14 CFR §382.127. [http://www.ecfr.gov/cgi-bin/text-idx?SID=88b33264318ef220957c7a77629a9d5e&mc=true&node=se14.4.382\\_1127&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=88b33264318ef220957c7a77629a9d5e&mc=true&node=se14.4.382_1127&rgn=div8)



\*Denotes membership on DOT's ACCESS Advisory Committee or that committee's Service Animal Working Group

Position:

Replacing the current access scheme's allowed documentation requirements, airlines<sup>27</sup> can require that a passenger traveling with a disability-mitigating animal fill out a decision tree/attestation. Generally, airlines can require that this be completed up to 12 hours in advance.

Rationale and details:

(a) *Benefits and widespread support*

The basic idea here is that instead of the current scheme of access for users of disability-mitigating animals—which places large burdens only on those with mental health disabilities—an airline can require a passenger to complete a decision tree/attestation<sup>28</sup> in order to travel with a disability-mitigating animal.<sup>29</sup> This decision tree/attestation device would have passengers traveling with disability-mitigating animals agree they understand their rights and responsibilities, as well as alert airlines to expect the passengers to be traveling with such animals.

A decision tree/attestation is intended primarily to reduce (intentional) fraud and ignorance-based problems, and to increase safety for everyone. These are goals of virtually all stakeholders.

This system benefits airlines in many ways:

- by establishing a uniform approach across disability types,
- easily tying in with existing accommodation request requirements,
- reducing the workload of frontline staff and problems arising from any employees operating outside of their training,
- standardly alerting airlines beforehand of the presence of disability-mitigating animals to inform logistics,

27 An airline is an "air carrier" or a "foreign air carrier", as defined in 49 USC §40102(a)(2) and (21), respectively. <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title49/html/USCODE-2011-title49-subtitleVII-partA-subpartI-chap401-sec40102.htm>

28 The difference between a decision tree and an attestation is not relevant in this section.

29 This is consistent with 14 CFR §382.25, which essentially prohibits airlines from requiring advance notice of the mere fact that a passenger has a disability. [http://www.ecfr.gov/cgi-bin/text-idx?SID=2924d7d0b28226bcc03f608e7cd86b81&mc=true&node=se14.4.382\\_125&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=2924d7d0b28226bcc03f608e7cd86b81&mc=true&node=se14.4.382_125&rgn=div8)  
Compare 14 CFR §382.27, which permits airlines to require advance notice of certain accommodation or service needs, including traveling with an animal that mitigates a passenger's mental health disability (see (c)(8)). [http://www.ecfr.gov/cgi-bin/text-idx?SID=2924d7d0b28226bcc03f608e7cd86b81&mc=true&node=se14.4.382\\_127&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=2924d7d0b28226bcc03f608e7cd86b81&mc=true&node=se14.4.382_127&rgn=div8)



- allowing for consistent data-gathering in a way not currently in effect,
- reducing public confusion over applicable laws ("The ADA says..."), and
- focusing frontline staff not on actively assessing whether a passenger subjectively seems trustworthy, but only on passively determining whether there's a specific trigger that clearly violates the behavior standard or clearly arouses suspicion of fraud.

Many of these benefits accrue to passengers with disabilities, as well.

Most acute among benefits to users of disability-mitigating animals are that the discriminatory and onerous documentation requirements for those with mental health disabilities will disappear into equal treatment across disability types, and the upfront third-party attestation transitions into a first-party "documentation" requirement wherein the passenger answers questions ahead of time in writing. These questions are similar to DOJ's standard ADA questions, but modified for the air travel context to ensure passengers understand the full meaning of their agreement.

The benefits clearly aren't to be compared based on *how many* stack up for either side, but are also to be balanced based on their relative value. In a September 23rd, 2016 Reg Neg straw poll of voting members, exchanging the current US air travel access scheme for the proposed one had overwhelming support—only one person out of 19 voted "No".<sup>30</sup>

#### (b) *Fleshing out the concept*

There are many practical issues to consider in setting up the details of the decision tree/attestation implementation. In severable, distinctly numbered sections below, we will consider whether there should be a decision tree vs. an attestation, then what the wording of that device should be. In this section, however, we focus only on the timing and method of delivery.

We start with a first principle: If passengers are to be responsible for completing a decision tree/attestation in order to secure an accommodation or service regarding a disability-mitigating animal, they must have clear notice of their possible decision tree/attestation responsibilities within a

<sup>30</sup> The issue voted on was: "No third-party documentation for either service [or support] animals as a condition of access, but mandatory attestation by users of service [or support] animals as a condition of access". Two separate (nonbinding) straw polls were taken: one with respect to US carriers only, and one with respect to foreign carriers as well. The vote tally on the first was 17 Yes, 1 No, and 1 Abstain. The tally on the second was 16 Yes and 3 No. However, since these straw polls were taken, informal discussions at the October Reg Neg meeting indicate there would be more Yeses on the second poll if it were taken as of this writing. Note that some support was contingent on acceptable attestation/tree language. <https://www.regulations.gov/document?D=DOT-OST-2015-0246-0281>



reasonable timeframe that allows them to readily fulfill those responsibilities.

There are two distinct types of booking parties: airlines and third-party ticket agents<sup>31</sup>. The ideal process is the same for these parties, yet there are currently significant practical barriers to implementing this process across many ticket agent platforms. We'll run through the ideal process and structure first, which is one that would have the highest expected compliance. This ideal is a tool to segue into what would be required of airlines vs. ticket agents.

Ideally, customers are prompted to complete the decision tree/attestation at the point of ticket purchase, toward the end of the booking flow.<sup>32</sup> Next, right after booking, the passenger receives electronic notice of their possible responsibilities, most likely through email.<sup>33</sup> The decision tree/attestation remains available for completion after booking.<sup>34</sup> Airlines and ticket agents provide clear and conspicuous information on their websites about the decision tree/attestation and all that is expected of those who use disability-mitigating animals. Airlines are highly encouraged to remind passengers of their possible decision tree/attestation responsibilities in any early check-in email.

Airlines are in a much better position than ticket agents to implement the ideal process just described, and that is what we propose would be required of each airline that chooses to require use of the decision tree/attestation. Airlines are currently required to provide an accommodation request form ("ARF") on their websites,<sup>35</sup> which provides a perfect piggybacking opportunity. Some airlines have chosen to provide this ARF on the tail end of the booking flow, rather than just on a non-

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31 A third-party ticket agent is simply a "ticket agent", as defined in 49 USC §40102(a)(45). <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title49/html/USCODE-2011-title49-subtitleVII-partA-subpartI-chap401-sec40102.htm>

32 This would be immediately after the passenger name record ("PNR") is generated. This special service request ("SSR") information would not be part of the PNR, but would be attached to the PNR. This avoids various difficulties associated with adjusting an airline's critical system.

33 We only require this electronic notification to be through some common means of communication that passengers individually make clear they can receive. However, we leave it open-ended as to what that method might be since methods of electronic communication arise and become common on a pace faster than regulations are updated. For instance, some variation of texting, an internet chat message (such as through Skype or Facebook), or a notification through a mobile app all might make sense for this notification, if a passenger prefers. Email is the floor of notification options, not the ceiling.

34 This post-purchase email notice is still needed for various reasons: the need for an accommodation may change before travel, the person booking the flight is not the passenger who will be responsible for the disability-mitigating animal, etc.

35 Per 14 CFR §382.43(d). Note in (c) of this section that the web accessibility rule does not apply to certain small airlines. We expect such airlines to act in reasonable ways consistent with the decision tree/attestation content and design, as general nondiscrimination regulations would apply regardless. Clearly, third-party documentation requirements would be out. [http://www.ecfr.gov/cgi-bin/text-idx?SID=2924d7d0b28226bcc03f608e7cd86b81&mc=true&node=se14.4.382\\_143&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=2924d7d0b28226bcc03f608e7cd86b81&mc=true&node=se14.4.382_143&rgn=div8)



booking part of their website. It is feasible for airlines to incorporate a decision tree/attestation into an ARF, and to incorporate such an ARF into the tail end of an airline's booking flow.<sup>36</sup>

There are non-technological hurdles with many ticket agents that currently stand in the way of regulating that ticket agents implement the ideal system.<sup>37</sup> For those ticket agents that do not choose to implement the ideal system, the next best thing—as indicated by airlines during the Reg Neg—is to have airlines ensure that right after someone books a flight with a ticket agent, the passenger is alerted either by the ticket agent or the airline of the passenger's possible decision tree/attestation responsibility.<sup>38</sup> Airlines also indicated they have a strong incentive to make sure passengers with disability-mitigating animals are aware of their responsibilities so all parties can avoid difficulties at the airport.<sup>39</sup> We thus follow the airlines' recommendation with respect to ticket agents and require this "next best" system for bookings through them, as ensured through airlines.

These systems hold promise for the common booking scenario in which tickets are purchased well in advance of travel. There are other ways to account for less common booking scenarios.

On the extreme, a passenger may show up at the airport in an emergency and purchase a ticket at the ticket counter. A passenger with a disability-mitigating animal must be allowed to do this if any otherwise similar passenger can, but the airline may still require that the passenger complete the decision tree/attestation before flying. As airlines indicated during the Reg Neg, if an airline is going to require that such a passenger complete the decision tree/attestation, the airline must find a way to have that readily available to the passenger in a way accessible to the passenger. Similarly

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36 See Appendix A: *Report on Technical Feasibility*, which indicates these may be easier through a third party.

37 These barriers are not insurmountable, but in order to honor all stakeholders' meaningful considerations, we accept the reasonable compromise offered by the airlines with respect to ticket agents. This is notwithstanding 14 CFR §382.15, "Do carriers have to make sure that contractors comply with the requirements of this Part?" [http://www.ecfr.gov/cgi-bin/text-idx?SID=88b33264318ef220957c7a77629a9d5e&mc=true&node=se14.4.382\\_115&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=88b33264318ef220957c7a77629a9d5e&mc=true&node=se14.4.382_115&rgn=div8)

38 The ACAA (49 USC §41705) enables DOT to regulate airlines, not ticket agents. 49 USC §41712 (regarding unfair and deceptive practices) gives DOT some mildly relevant authority over ticket agents, but applying it here may be a stretch. We do not propose that airlines must duplicate notifications (or even decision trees/attestations) implemented by ticket agents, only that airlines are ultimately responsible for ensuring that passengers are afforded the necessary opportunities to fulfill their possible obligations.

39 "The airlines have every interest and incentive to make passengers planning to travel with service animals aware of the requirement to submit the required documentation no later than 12 hours before flight. In addition to including that service animal documentation submission information on carrier websites, carriers would also include a reminder on ticket receipts and check in reminders." *Carrier Response to Revised Service Animal Proposal*, revised September 8th, 2016 (p. 4, item 5). <https://www.regulations.gov/document?D=DOT-OST-2015-0246-0209>



and as proposed by airlines, a passenger who books within 12 hours of the flight must be allowed to complete any required decision tree/attestation within that timeframe,<sup>40</sup> which may well have to occur at the airport and be facilitated by the airline.

Another type of less common scenario involves those who either don't book online or are not able to complete the decision tree/attestation online. As airlines have suggested, they (or a ticket agent, where relevant) would be responsible for the individual receiving the notification at and/or after the point of purchase, roughly in accordance with the timeline and applicable system above. Those who receive paper tickets through the mail would receive notification with the ticket. All notifications refer passengers both to the online method for getting to the decision tree/attestation, and to the offline method for receiving a decision tree/attestation equivalent that could be faxed in (See Appendix B. *Notification language*). In the latter case, a passenger would call to request such a form.

## §5. *Decision tree vs. attestation*

Signatories:

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Penny Reeder, Guide Dog Users, Inc.\*  
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Sarah G. Clapp, Guide Dogs of the Desert  
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Melanie Brunson, Blinded Veterans Association  
James Kutsch, Jr., PhD, The Seeing Eye, Inc.  
Candace Kolander, Association of Flight Attendants-CWA\*  
Geoff Freed, National Center for Accessible Media at WGBH\*  
Donnalee Ammons, Hidden Hollow Miniature Horses  
Sarah Mumme, Guide Dogs of Texas  
Titus Herman, Southeastern Guide Dogs  
Eric Loori, Freedom Guide Dogs  
Darlene Sullivan, Canine Partners for Life  
Katy Rosseland, Open Doors Organization\*  
Douglas Kidd, National Association of Airline Passengers  
Jason Gray, Pilot Dogs

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40 "The only circumstances in which the required documentation would be allowed to be provided closer than 12 hour before time of travel would be when ticketing occurs fewer than 12 hours prior to the time of travel." Sic, id. (p. 3, item 5).



Bill Botten, disability advocate (United States Access Board)

\*Denotes membership on DOT's ACCESS Advisory Committee or that committee's Service Animal Working Group

Position:

DOT, advocates, and airlines each have independently sufficient reasons to prefer a decision tree over an attestation.

Rationale and details:

Both a decision tree and an attestation are ways for passengers traveling with disability-mitigating animals to let airlines know they understand they have certain rights and responsibilities. In the present context, a **decision tree** branches into option paths with forced choices in a stepwise process and can yield different outputs, given different inputs. An **attestation**, as put forth by DOT just before the fifth Reg Neg meeting,<sup>41</sup> is a single block of text with one possible selection or output.

During the Reg Neg, practically all advocates and airlines agreed that service animals and support animals are separate categories. At the fifth meeting, DOT surprisingly proposed to flatten the two categories into one through an attestation, rather than a decision tree.

We forcefully object to the attestation approach, from several angles.

Even if DOT does not want to *treat* service animals and support animals differently—as we believe should happen—there are reasons to meaningfully separate these categories in ways an attestation does not allow. Merely distinguishing between service animals and support animals through a decision tree, in contrast with the current system, would have three significant gains and one aspect that at least does not negatively change. Separating service from support animals in a decision tree would:

- lessen confusion over the variety of access available under different federal agencies,<sup>42</sup>

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41 This document was submitted late and did not make it into the public docket (as of the time of writing).

42 DOT's ACAA regulations are the only ones that consider support animals "service animals". DOT called the Reg Neg on service animals in part because the widespread conflation of federal laws was seen as a problem, as indicated in the "Supplementary Information" section of the DOT's initial "Consideration of Negotiated Rulemaking Process" (below). DOT should not now ignore this problem.

[S]ince the issuance of the 2008 final rule, the Department has become aware of other difficulties individuals with disabilities are having in accessing the air travel system. For example, airlines and disability organizations (1) have raised concerns with the Department



- enable meaningful data collection,<sup>43</sup>
- lower stigma for psychiatric service animal users, and
- have no net increase in the stigma faced by ESA users.<sup>44</sup>

Using a one-size-fits-all attestation voids or minimizes these benefits.

Beyond these benefits from DOT's perspective, airlines and service animal users each have an interest in people actually reading and understanding the text to which they agree. The great majority of people do not read large blocks of text, especially if the text is written in "legalese". The attestation is a large block of text, which drafts indicate would be in legalese. This may be helpful in airlines' secondary objective of reducing liability when an incident occurs, but it ignores the primary objectives of reducing fraud and increasing safety by actually educating passengers. An ounce of prevention is well-worth a pound of cure here.

A decision tree presents step-by-step options. One must read through each carefully to choose the appropriate option, which makes it much harder to ignore their meaning. The flip side of the same coin is a step up in fraud prevention. Airlines seemed to recognize during the Reg Neg that multiple steps are more likely to be dissuasive for "fraudsters" than the ease of a single click, since one must have a firmer resolve to commit fraud when forced to sit with the thought of it through multiple agreements.

In addition, a decision tree is the efficient, effective way to provide different information and different outputs for service animal users and support

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of passengers falsely claiming that their pets are service animals. These groups have also pointed out the inconsistency between the Department of Justice definition of a service animal and the Department of Transportation's definition of a service animal.

<https://www.regulations.gov/document?D=DOT-OST-2015-0246-0001>

43 During the Reg Neg, there were many complaints about the lack of data on ESAs vs. service animals. If DOT chooses not to separate service animals from support animals (regardless of whether there is separate treatment), DOT makes it impractical to collect the data needed to inform the next update, and we will have made zero progress on this front. This lack of data was also a major complaint in Psychiatric Service Dog Society's 2009 petition, in which the organization rightly claimed DOT was conflating ESAs and psychiatric service animals and severely discriminating against their users without case-proving evidence. <https://www.regulations.gov/docket?D=DOT-OST-2009-0093>

44 DOT might be opposed to separating support animals from service animals because they worry that those who currently use ESAs might face increased scrutiny. In the current system, ESA users (and psychiatric service animal users) can be required to provide third-party documentation and advance notice. They are also subject to the face-to-face challenges and stigma encouraged by this system. This amount of heightened scrutiny is incalculably high.

The proposals on offer throughout the Reg Neg, including the present one, tend to establish a new system. Under the new system, the default is that a decision tree or attestation gets completed ahead of time. Passengers would not have to engage in a verification dance at the ticket counter to gain access with their support animals. Airlines could then only deny carriage to a support animal if there were a specific trigger, such as the animal clearly acting aggressively. Eliminating the access dance at the ticket counter removes the main opportunity for stigma to manifest.

The result is that ESA users may well face fewer stigma-based barriers under a new system, rather than more. This means DOT cannot use a worry about increased ESA-user stigma to block the benefits that would arise from simply aligning the access system with the common usage of terms.



animal users. Even if the attestation were incredibly lengthy with conditionally applicable statements, the best it could offer would be providing an overabundance of information to all comers, but it would not be able to offer different outputs. Assuming (trained) service animals and (not necessarily trained) support animals are to have different treatment types in accordance with their expected training level, a decision tree allows the airline to know what type of animal and treatment to expect (such as containment for a support animal, for example).

We recognize that a decision tree—as opposed to an attestation—is likely an increased initial burden for a passenger who is following the rules. It may not amount to more reading—it may even be less—but it is more clicks. We are advocating in this direction because we see it as the only viable way to actually achieve the goals for which the enterprise was designed. Additionally, in the next section we articulate a way to maintain respect for these goals while easing the burden on people with disabilities.

#### *§6. Decision tree profile retention*

Signatories:

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Eric Loori, Freedom Guide Dogs  
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Katy Rosseland, Open Doors Organization\*  
Douglas Kidd, National Association of Airline Passengers  
Jason Gray, Pilot Dogs  
Bill Botten, disability advocate (United States Access Board)



\*Denotes membership on DOT's ACCESS Advisory Committee or that committee's Service Animal Working Group

Position:

In order to reduce the decision tree burden on frequent flyers, airlines should allow passengers to store their information in a profile that eases future decision tree completion.

Rationale and details:

Airlines must allow passengers to store their decision tree submission information as part of their profile in either a frequent flier program or through the carrier's required accommodation request form ("ARF").<sup>45</sup> Airlines would allow passengers to pre-populate the same attestation information for future travel and re-attest that the information is accurate. Airlines indicated at the Reg Neg they would commit to exploring whether this is feasible;<sup>46</sup> a third-party report indicates this profile retention is feasible.<sup>47</sup>

This profile retention solution was suggested and supported by advocates at the Reg Neg as a way to make the decision tree palatable to the service animal user community. To allay privacy concerns, profile retention must be voluntary (one must actively opt in), and airlines would be prohibited from using decision tree information for commercial purposes. Many service animal users have been amenable to this process as long as it is flexible regarding the retention and use of their data.

## §7. *The medical model of disability*

Signatories:

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Jenine Stanley, Guide Dog Foundation for the Blind and America's VetDogs\*

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45 See 14 CFR §382.43(d). [http://www.ecfr.gov/cgi-bin/text-idx?SID=2924d7d0b282226bcc03f608e7cd86b81&mc=true&node=se14.4.382\\_143&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=2924d7d0b282226bcc03f608e7cd86b81&mc=true&node=se14.4.382_143&rgn=div8)

46 "The carriers commit to exploring reasonable means to minimize the burden of re-submission (including but not limited to storing of information already submitted) once the exact details of the initial submission process are determined." *Carrier Response to Revised Service Animal Proposal*, revised September 8th, 2016 (p. 4, item 6). <https://www.regulations.gov/document?D=DOT-OST-2015-0246-0209>

47 See Appendix A: *Report on Technical Feasibility*, which indicates that some airlines may find it easier to contract a third party for this purpose. Note that the particular (potential) stumbling block raised in the report, that of segmenting information for HIPAA purposes, is not raised by the decision tree data.



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Position:

The medical model of disability is an inaccurate and unjust basis for service animal regulations.

Rationale and details:

"Overall, the biggest accomplishment of the ACAA regulations was moving away from the medical model of disability. Disability rights were seen as civil rights."

These are the words of David Capozzi, Executive Director of the United States Access Board, at DOT's October 13th 30-year ACAA celebration. Mr. Capozzi didn't know it, but his statement during a panel discussion with Blane Workie came just days after the service animal portion of the Reg Neg fell apart due to the insistence of some that talks on any other sub-topic were useless unless the decision tree/attestation deployed the medical model of disability.<sup>48</sup>

48 Specifically, the language in question was as follows:

I attest that I am a qualified individual with a disability, as I have been seen in person by a licensed health professional who confirmed that [sic] my physical or mental condition



This is a model whereby the right to disability mitigation is not inherent to the individual, but is handed down from a third party—a healthcare worker.<sup>49</sup> This model may make sense to the (non-disabled) layperson, but it is fundamentally abhorrent to disability rights advocates. This model is harmful to people with disabilities who have zero/poor healthcare or limited access to it, and additionally inaccurate for many whose disabilities are not medical issues, such as those with congenitally missing limbs or who lack functioning eyes. When we're crafting disability rights regulations, we need to listen to the experts on disability rights so these proportionally large communities aren't wronged, rather than adopting a layperson's view or splitting the ideological difference.

It took years to get away from the medical model of disability, yet we find ourselves still fighting a regressive mindset much later, even though it is contrary to the standard of service animal user access in other U.S. disability rights law. It is not only paternalistic and infantilizing, but erects an undue burden since most healthcare professionals are not experts on disability determination and therefore do not customarily make these determinations (some explicitly refuse to).<sup>50</sup> This means the medical model, as seriously considered by DOT up through the end of the Reg Neg, would typically require a special doctor's visit for service animal users before flying.<sup>51</sup>

We could write at great length against regulatorily requiring the involvement of healthcare workers when it comes to the right to choose and use an

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substantially limits a major life activity such as caring for one's self, performing manual tasks, walking, seeing, hearing, breathing, learning, thinking, speaking, and working.

This may seem innocuous until one realizes this requires a special request (and likely appointment) with a healthcare provider before flying. Beyond this foundational barrier, further complications build up the hurdle. In spite of the aims of the Affordable Care Act, there are still major coverage gaps into which people with disabilities easily fall, and while some healthcare workers may agree to anything, others are equally as resistant about disability determination. This is pointedly an undue burden, one certainly not required of people without disabilities, and so is a violation of the prime directive of the ACAA at 49 USC §41705(a). <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title49/html/USCODE-2011-title49-subtitleVII-partA-subpartii-chap417-subchapl-sec41705.htm>

49 As examples of how basic ACAA regulations reject this model, see 14 CFR §382.23, "May carriers require a passenger with a disability to provide a medical certificate?" at [http://www.ecfr.gov/cgi-bin/text-idx?SID=88b33264318ef220957c7a77629a9d5e&mc=true&node=se14.4.382\\_123&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=88b33264318ef220957c7a77629a9d5e&mc=true&node=se14.4.382_123&rgn=div8) and 14 CFR §382.29, "May a carrier require a passenger with a disability to travel with a safety assistant?", at [http://www.ecfr.gov/cgi-bin/text-idx?SID=88b33264318ef220957c7a77629a9d5e&mc=true&node=se14.4.382\\_129&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=88b33264318ef220957c7a77629a9d5e&mc=true&node=se14.4.382_129&rgn=div8)

50 For proof healthcare workers are actually discouraged from making relevant determinations, see the article abstracted at this link ("Examining emotional support animals and role conflicts in professional psychology"): <http://psycnet.apa.org/?&fa=main.doiLanding&doi=10.1037/pro0000083>

51 To give some context, under the language proposed by an airline representative and considered by DOT, at least one of the primary authors would not count as a "qualified individual with a disability", even though the author looks "obviously disabled" and Social Security determined the author meets their very high standard of having a disability that entitles one to disability benefits.



assistive device. Instead of giving more arguments here, we simply refer DOT to the plethora of arguments in the almost 50 messages that came into the docket over a two day period. The common thread among these commenters is a strong opposition to using the medical model of disability.<sup>52</sup> With due respect to DOT, this is a small sample of the opposition DOT should rightly expect during (and after) the NPRM period if DOT insists on using a layperson's understanding of disability to write disability rights regulations.<sup>53</sup>

## §8. *Decision tree content*

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<sup>52</sup> See the comments in the docket around October 6th–7th, 2016. <https://www.regulations.gov/docket?D=DOT-OST-2015-0246>

<sup>53</sup> In 2009, the predecessor to Psychiatric Service Dog Partners—Psychiatric Service Dog *Society*—petitioned DOT to right the wrong of the discriminatory treatment of those with psychiatric disabilities under the ACAA service animal regulations. The problem was not just the *disparate* treatment of those with psychiatric disabilities. It was the *unjust* treatment they have suffered under the medical model of disability. Expanding the medical model to apply to those with any type of disability is not the answer. The answer is to reject the medical model altogether in favor of ethical solutions based on civil rights. <https://www.regulations.gov/docket?D=DOT-OST-2009-0093>



Position:

The decision tree's goals of education, fraud prevention, and more are achieved by including particular items in the decision tree.

Rationale and details:

In this section, we provide reasoning and recommendations about the information the decision tree (or attestation) should contain. We later exhibit these recommendations in Appendix D. *Decision tree language*.<sup>54</sup>

Since terms such as "service animal" and "support animal" are often misunderstood—even among people who think they have such animals—it's best not to ask passengers which label they attach to their animals. Instead, by **inquiring about which properties apply** to each passenger's animal, the decision tree can filter entries into the appropriate categories. Airlines may wish to have a decision tree completion confirmation that informs passengers as to the results of their selections. Airlines would also be free to present the totality of the passenger's decision tree selections on one page for a final confirmation. This is exactly what would be presented to a passenger at the beginning of the process if there were a retained decision tree profile from an earlier trip.

The decision tree must use **accessible language**. Not only should the language be independently easy to understand, but significant portions of the disability community in particular require simpler language. For example, English is not the default language for many individuals who primarily use American Sign Language. Others have intellectual, developmental, or cognitive disabilities and are perfectly able to understand and complete simply worded forms, but as with many people in the general population, "legalese" will trip them up. Such barriers are contrary to the purpose of the enterprise and should be avoided.

In order to gain high compliance and acceptance among the target population, airlines (and ticket agents) are encouraged to integrate the relevant **pet policy** into the initial portion of the decision tree—even if that policy is that none are allowed. If this is done, it must be done in a way that is unlikely to mislead travelers as to the terms applicable to their respective situations.

When passengers are required to agree they understand some key term applies to their situation, that **term's explanation or definition should be**

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<sup>54</sup> This is also exhibited in an interactive mock-up at <http://www.psychdogpartners.org/dt2>



**provided** adjacent to the agreement. This is relevant to claiming one has a "disability" and that one's service animal will follow the "behavior standard".

There are various **special circumstances** that should prompt the passenger to contact the airline directly to ensure the passenger and airline are prepared for the passenger's travel.

One of these circumstances is exceptional service animal species. Passengers wishing to travel with **a miniature horse or a capuchin monkey** merit special attention to ensure the miniature horse or capuchin monkey meets acceptable parameters<sup>55</sup> or that the capuchin monkey will remain contained.

Another special circumstance is when a passenger seeks to travel with **more than one disability-mitigating animal**. Subject to the way DOT regulates how or whether a passenger is allowed to bring more than one disability-mitigating animal,<sup>56</sup> this is a special request that merits a conversation between the airline and passenger.

**Support animal** users must be alerted to whatever conditions apply to them. We assume here that DOT will go forward with our recommendations in §3 on support animal containment. If so, passengers must be clearly told their support animal must fit comfortably in an FAA-approved pet carrier, and what the conditions are under which the support animal may be out of the container. This includes reference to the behavior standard, and so that standard must be included so passengers are aware of their rights and responsibilities.

**Service animal** users must agree that their animals (will) meet the definitive components of being a service animal. This includes being sufficiently trained to behave properly in public settings, actually comporting to the behavior standard, and being trained for disability mitigation.

One major misunderstanding among the public is that a service animal **vest, registration, or identification** will act as a free pass for their animal. Vests are a courtesy to alert others to the status of one's animal, but they are not appropriate gear for all service animals and should not be required. Vests, registration, and identification are no substitute for meeting the training and behavior requirements, and education is needed to alert the public to this fact. This will avert or end arguments at the airport that one's aggressive animal is allowed to fly because it has an ID—even if that ID

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<sup>55</sup> See 14 CFR §382.117(f). [http://www.ecfr.gov/cgi-bin/text-idx?SID=07c80383ddc4c31cf7a10f3f62f7ae62&mc=true&node=se14.4.382\\_1117&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=07c80383ddc4c31cf7a10f3f62f7ae62&mc=true&node=se14.4.382_1117&rgn=div8)

<sup>56</sup> See §3 on support animal containment and §10 on miscellany for guidance regarding multiple animals.



comes from a prominent training provider.<sup>57</sup>

Informal reports indicate airlines have routinely attempted to force a significant number of individuals with disabilities to accept unwanted services, contrary to 14 CFR §382.11(a)(2).<sup>58</sup> Similarly, airlines have adjusted passengers' accommodation requests based on the mistaken idea that they are doing the passengers favors.<sup>59</sup> These practices lead to service animal users being wary of notifying airlines they plan to travel with a service animal.

It is easy to combine **reassuring language about unwanted services and seating adjustments** with anti-fraud language toward the beginning of the decision tree. We recommend doing so to gain increased compliance from these duly concerned passengers, and as an additional safeguard against these practices by potentially under-trained airline employees.

There are particular conceptual aspects of the **anti-fraud language** DOT, airlines, and advocates seemed to find acceptable during the Reg Neg. These include noting that:

- the form falls under the regulations of DOT,
- DOT approved the form and it can be required,
- the airline may give the passenger's decision tree/attestation information to DOT,
- the passenger may be required to provide third-party verification of some access-associated fact if there is some triggering situation<sup>60</sup>
- lying on the form may be an actionable breach of contract (contract of carriage and/or frequent flyer program), and
- lying on the form constitutes fraud.

Some of these aspects are best combined with other statements toward the beginning of the decision tree, in order to accomplish the education and fraud prevention goals. Others are best left until the end. Having distinct anti-fraud messages bookending the process is the most effective setup.

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57 This approach thus not only tightens the valve on the current fraud pipelines, but makes individuals responsible for their animals' present behavior, with no exception for a currently dangerous animal with evidence that it was well-trained at some point in the past.

58 Reports include blind travelers being forced to wait for unneeded wheelchair service to deplane at a familiar airport. "You must not require a qualified individual with a disability to accept special services (including, but not limited to, preboarding) that the individual does not request."

<http://www.ecfr.gov/cgi-bin/text-idx?>

[SID=88b33264318ef220957c7a77629a9d5e&mc=true&node=se14.4.382\\_111&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=88b33264318ef220957c7a77629a9d5e&mc=true&node=se14.4.382_111&rgn=div8)

59 14 CFR §382.81(c) indicates passengers with service animals can choose to either be in the bulkhead or not in the bulkhead, yet some airline employees will paternalistically switch service animal users to the bulkhead without their permission and against their desire. <http://www.ecfr.gov/cgi-bin/text-idx?>

[SID=88d6202a76cc4d4c2ddb13a9875ae6f&mc=true&node=se14.4.382\\_181&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=88d6202a76cc4d4c2ddb13a9875ae6f&mc=true&node=se14.4.382_181&rgn=div8)

60 See §9 on contingent third-party verification.



## §9. *Contingent third-party verification*

### Signatories:

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\*Denotes membership on DOT's ACCESS Advisory Committee or that committee's Service Animal Working Group

### Position:

Before requesting third-party verification, airlines should ensure the particular request would be warranted, relevant, and useful.

### Rationale and details:

Airlines are interested in at least theoretically being able to require third-party verification at the airport when there's a problem. Our approach is for airlines only to request third-party verification in cases where that verification is clearly warranted, tied to the fact(s) in question, and would be useful in resolving the situation.

In cases of egregious misbehavior or clear-cut fraud, no verification is relevant. If a dog is biting your leg, a signed letter from a premier guide dog



school or the Mayo Clinic is not going to help. The same applies if someone has publicly and clearly boasted on Facebook about how they're going to commit service animal fraud on their upcoming flight.

However, in borderline cases, some *relevant* verification procedure may be in order. Borderline cases might include a loudly or aggressively barking dog needing to be quieted multiple times,<sup>61</sup> or a fellow passenger credibly reporting they overheard the person saying they lied on the decision tree about having a disability. These borderline issues would not typically rise to the point of causing an animal to be stopped from flying, but would clearly and significantly raise suspicion as to whether the animal is a service animal or the person has a disability.

These situations would be rare,<sup>62</sup> but would acceptably trigger a standard similar to the one currently in place in DOT guidance. Where verbal assurance fails, third-party verification can enter the mix. In that case, the verification must be relevant to establishing the fact that is in question: whether the person has a disability-related need for the animal, whether the animal assists or is trained to assist with the person's disability, or whether the service animal is trained to behave properly in public settings.

It is not reasonable to expect service animal users to carry documentation of any of these things, as most do not carry anything of the kind in their daily lives. So while relevant third-party documentation may be accepted if it is available and appropriate to the situation, verification possibilities must also include phone calls or checking online (social media, for instance). If a medical professional, dog trainer, credible family member, history of Youtube dog training videos, etc. can credibly verify some fact about the person, that should be able to establish the fact in question.

We take care to note here that our recommendations may seem contrary to 14 CFR §382.117(d), which is as follows:

As evidence that an animal is a service animal, you must accept identification cards, other written documentation, presence of harnesses, tags, or the credible verbal assurances of a qualified individual with a disability using the animal.<sup>63</sup>

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<sup>61</sup> See Appendix E for guidance on applying the behavior standard.

<sup>62</sup> We would expect CRO involvement, and for a report to be kept on file to be available for DOT inspection. This would be similar to record-keeping requirements under 14 CFR §382.157.

[http://www.ecfr.gov/cgi-bin/text-idx?](http://www.ecfr.gov/cgi-bin/text-idx?SID=46c9910f93ca1b883ffc572f9eb836e4&mc=true&node=se14.4.382_1157&rgn=div8)

[SID=46c9910f93ca1b883ffc572f9eb836e4&mc=true&node=se14.4.382\\_1157&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=46c9910f93ca1b883ffc572f9eb836e4&mc=true&node=se14.4.382_1157&rgn=div8)

<sup>63</sup> [http://www.ecfr.gov/cgi-bin/text-idx?](http://www.ecfr.gov/cgi-bin/text-idx?SID=07c80383ddc4c31cf7a10f3f62f7ae62&mc=true&node=se14.4.382_1117&rgn=div8)

[SID=07c80383ddc4c31cf7a10f3f62f7ae62&mc=true&node=se14.4.382\\_1117&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=07c80383ddc4c31cf7a10f3f62f7ae62&mc=true&node=se14.4.382_1117&rgn=div8)



This does not say that no evidence or situation can override these specified types of evidence. However, the regulation has been interpreted by some airlines in this manner, wherein if a passenger is able to show some item that is readily procured by anyone, the airlines must accept bad behavior. We advise DOT to improve the wording so that airlines do not hold the passenger's belongings in such high regard, as opposed to focusing on the behavior of the animal and person.<sup>64</sup>

## §10. *Miscellany*

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\*Denotes membership on DOT's ACCESS Advisory Committee or that committee's Service Animal Working Group

Position:

There are multiple important issues not covered in previous sections.

Rationale and details:

Individuals with disabilities must be able to access the decision tree (or

<sup>64</sup> We detail this approach in §8 when discussing service animal vests, registration, and identification, and there is a specific item to address this in Appendix D in our decision tree language.

<sup>65</sup> Canine Partners for Life signs onto §10 with the understanding that it does not support one person using multiple disability-mitigating animals.



attestation), and this is not only about the language it uses. Considerations related to **decision tree accessibility** include that there must be a paper version (also available in braille upon request) that is substantially similar to the online version. The paper version should be accepted by fax or mail (including private delivery services). We strongly encourage a phone/TTY<sup>66</sup> decision tree completion option.<sup>67</sup>

Passengers seeking to travel with **multiple service animals** would need to contact the airline directly. Passengers seeking to travel with two service animals would need to merely *alert* the airline via phone/TTY, as we find the slight additional burden justified. There would be a higher burden for those seeking to travel with three service animals, as the passenger could be required to *justify* to the airline that the animals are separately and jointly needed for the passenger's disability mitigation.

Historically, it seems that DOT has limited its enforcement against airlines to cases involving only three or fewer disability-mitigating animals. We believe there is good reason for this, and recommend making this de facto rule de jure by simply setting the maximum at three.

Frequent flyers have concerns about how changes in flights would affect their decision tree responsibilities. We expect US carriers to attach decision tree outputs (e.g., "SVAN") to the passenger name record (PNR) in the special service request (SSR) category. We further expect the **information to transfer** within any US airline if there is an itinerary update, and among US airlines if there is a code-share situation.

The upshot is that airlines could only require a passenger to complete the decision tree multiple times if the *passenger* either makes distinct bookings with different airlines, or at different times makes distinct bookings with the same airline. A multi-part (typically round-trip) booking made through one airline constitutes a single booking for these purposes, regardless of how many US carriers are involved in the actual transportation.

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66 TTY required per 14 CFR §382.43(a). [http://www.ecfr.gov/cgi-bin/text-idx?SID=2924d7d0b28226bcc03f608e7cd86b81&mc=true&node=se14.4.382\\_143&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=2924d7d0b28226bcc03f608e7cd86b81&mc=true&node=se14.4.382_143&rgn=div8)

67 DOT may require this anyway under 14 CFR §382.43(c):

(4) You must assist prospective passengers who indicate that they are unable to use your Web site due to a disability and contact you through other channels (e.g., by telephone or at the ticket counter) as follows: [...]

(ii) Provide Web-based amenities to the passenger, such as waiving any fee applicable to making a reservation or purchasing a ticket using a method other than your Web site (e.g., by telephone), unless the fee applies to other customers purchasing the same fare online.

[http://www.ecfr.gov/cgi-bin/text-idx?SID=46c9910f93ca1b883ffc572f9eb836e4&mc=true&node=se14.4.382\\_143&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=46c9910f93ca1b883ffc572f9eb836e4&mc=true&node=se14.4.382_143&rgn=div8)



Foreign air carriers are currently only required to transport disability-mitigating dogs, but not other species. The main reason is based on the default access available in foreign countries, and this access does not include non-canine species or support animals. If DOT is going to distinguish service animals from support animals, we believe the same reasoning should **limit foreign air carriers' obligations to include the carriage of service dogs**, but not support dogs. We believe this is how the requirement would have been originally written, had DOT clearly distinguished ESAs from service animals.

Consistent with DOT's fifth Plenary meeting document, we encourage but do not require airlines to transport **service animals in training**.

Airline employees in contact with passengers must be **trained** to proficiency regarding the relevant service animal regulations.<sup>68</sup>

While we are against the medical model of disability determination and do not believe individuals should be required to have visited healthcare workers about their disabling conditions, we worry DOT will adopt a regressive layperson view of disability and require this anyway. If this happens, it would be even more regressive to require people to be seen **in person** by a healthcare worker.<sup>69</sup>

This requirement has been called backward-looking because it does not respect the increasing role of technology in our healthcare system. Individuals in rural areas or with agoraphobia can see legitimate doctors and therapists over video chat services and the telephone,<sup>70</sup> regardless of whether this meets an impractical ideal of care.

We are talking about crafting regulations that will likely stand for over a decade, so we must look ahead to the future of healthcare and technology. Civic responsibility requires us to guard against fencing everyone in with our own current personal experiences that don't represent the spectrum of changing possibilities for our diverse and often disadvantaged constituents.

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68 Consistent with 14 CFR §382.141. [http://www.ecfr.gov/cgi-bin/text-idx?SID=46c9910f93ca1b883ffc572f9eb836e4&mc=true&node=se14.4.382\\_1141&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=46c9910f93ca1b883ffc572f9eb836e4&mc=true&node=se14.4.382_1141&rgn=div8)

69 As we attempted to convey to DOT during an October 5th leadership call (after the 5th Reg Neg meeting), the intended anti-fraud goal is already met by transitioning from third-party documentation requirements to a decision tree/attestation. The online scam sites that provide documentation are most successful when that documentation is featured in an access scheme. The in-person medical visit requirement erects a barrier to address a problem that we already plan to minimize by changing the access scheme. This means the burden of the requirement is not only undue, but is not useful.

70 Increasingly, insurance plans are covering virtual medical appointments. As one example, see <https://www.uhc.com/news-room/2015-news-release-archive/unitedhealthcare-covers-virtual-care-physician-visits>



## Appendix A. *Report on Technical Feasibility*

[This report consists of four pages in picture form. The text is available after these images for screen readers unable to access the text in the images.]



October 19th, 2016

Bradley W. Morris  
Director of Government Relations  
Psychiatric Service Dog Partners

RE: PawsGlobal Report for PSDP Request

Brad,

Please find PawsGlobal's report that addresses your five questions. You have requested a generalization across airlines.

PawsGlobal recognizes that individual airlines have extremely complex systems that are not uniform and does create constraints for airlines as well as third party systems. As a result, it is challenging for PawsGlobal to provide a generalized response that applies on a broad basis to multiple carriers. It is realized that there is a need to establish a knowledge foundation of what could be feasible and the answers below represent a best efforts basis to answer the provided questions.

PawsGlobal's expertise is unparalleled for working with airlines and global reservation systems via a broad range of technology developers with deep expertise in travel booking and other elements of the travel industry.

- 1) Is there any significant barrier to constructing and implementing a system in which passengers are automatically alerted by email (or mail, if no email address is provided) that if they plan to travel with a disability-mitigating animal, they must alert the airline by completing a decision tree or attestation? (This question applies both to purchases made directly on airlines' websites and through (third-party) ticket agents.)

PawsGlobal Response: This response incorporates an assumption that the airline or third-party system has implemented a system for the passenger to indicate to the airline that they plan to travel with a disability-mitigating animal. If that is the case and based on the complexity of an individual airline back-end system, it is feasible for an email or written correspondence to be generated to the traveler. There could be issues with spam filtering or other issues that could prevent an individual from receiving the communication. In addition to an email or mail, the customer could opt-in to receive a text or phone call.





Another aspect for consideration is passenger acknowledgement of receipt of such correspondence. Once the email has been issued, it is possible to track passenger acknowledgement of the communication. Or, if there is no acknowledgement, it is possible to track the number of additional attempts, method of communication and utilize other opt-in communication methods. A regular analytics report could be created to define the success percentage for passenger acknowledgement based on the type of communication, passenger preference and number of times required to generate a passenger response or acknowledgement. This would enable an understanding of the preferred and most successful communication type for the disability-mitigating passenger.

- 2) Is there any significant barrier to incorporating a decision tree in the accommodation request form ("ARF"), or any particular difficulty when compared to incorporating an attestation?

PawsGlobal Response: The key statement that needs to be considered is "incorporated". Incorporated could lead one to think it is sold with the ticket and this is currently not the case with most extras, such as excess baggage. To effectively answer this question, this response has two assumptions. First, incorporation is connectivity to the front end of an airline system as well as the back end of the airline system. Second, this response incorporates an assumption that the airline has implemented a system that presents the accommodation request form ("ARF") to the disability-mitigating passenger.

If an "ARF" is presented to the passenger, it is feasible for a decision tree to be presented to the passenger. Once the decision tree is completed by the disability-mitigating passenger, it is likely complex for an airline to fully incorporate the decision tree result into their back-end systems. There is potential for a third party to host the "ARF" for a specific airline and/or receive the decision tree output with a subsequent communication to the airline of the disability-mitigating passenger status. This could result in the airline issuing an attachment to a passenger name record "PNR".





The inclusion of attestation, decision tree for the airlines' websites and subsequent notification is the use case scenario for the current PawsGlobal demo with an underlying rules engine. A PawsGlobal overview has been provided to various parties during the U.S. Department of Transportation ACCESS Advisory Committee meetings. A mock-up utilizing current taxonomy:

- 3) Is there any significant barrier to incorporating an ARF, including a decision tree or attestation, on the back end of an airline's booking flow (at the point of purchase)? (This would be attached to the newly established passenger name record ("PNR"), not be part of the PNR.)

**PawsGlobal Response:** Please see above.

- 4) Is there any significant barrier to (A) creating or (B) co-opting a feature (like a frequent flyer profile) that saves an individual's decision tree output, at the option of the individual, for easy re-population of the options for a later travel date? (The individual would still have to click at least one re-affirmation statement with the





compiled selections each time. Assume there would not be a central registry that shares information among any participating airline.)

PawsGlobal Response: In scenario (A) or (B), it would likely be difficult for many airlines to have connectivity to a stored profile based on their complex operations. Each airline has highly configured systems that are generally not modular in nature for system modification. In particular, airline compliance with federal and/or state regulations, for example, if there is relevance with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") then segmentation of appropriate information may not be easily accomplished within an airline's current system. In order to accomplish population or re-population, it is potentially easier for an airline to provide an application programming interface ("API") accessible to a third party that can receive information and maintain the information within a system that allows for compliance with federal and/or state regulations.

- 5) Given that an individual's decision tree output can be voluntarily saved in a profile, is there any significant barrier to making the profile editable?

PawsGlobal Response: Based on the complexity of an individual airline system to create the profile itself and the storage of a profile within their operational system, it should be possible for a profile to be editable. If an airline used a third party for profile creation and/or hosting, there should not be a significant barrier for a profile that can be edited based on the establishment of an application programming interface ("API").

Please let me know if you have any questions.

Marcia

Marcia E. Alden  
President  
PawsGlobal, Inc.  
marcia.alden@pawsglobal.com  
+1 (703) 629 3264



[Appendix A text reproduction from images for screen reader accessibility]

PawsGlobal  
October 19th, 2016  
Bradley W. Morris  
Director of Government Relations  
Psychiatric Service Dog Partners  
RE: PawsGlobal Report for PSDP Request  
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1) Is there any significant barrier to constructing and implementing a system in which passengers are automatically alerted by email (or mail, if no email address is provided) that if they plan to travel with a disability-mitigating animal, they must alert the airline by completing a decision tree or attestation? (This question applies both to purchases made directly on airlines' websites and through (third-party) ticket agents.)

PawsGlobal Response: This response incorporates an assumption that the airline or third-party system has implemented a system for the passenger to indicate to the airline that they plan to travel with a disability-mitigating animal. If that is the case and based on the complexity of an individual airline back-end system, it is feasible for an email or written correspondence to be generated to the traveler. There could be issues with spam filtering or other issues that could prevent an individual from receiving the communication. In addition to an email or mail, the customer could opt-in to receive a text or phone call.

Another aspect for consideration is passenger acknowledgement of receipt of such correspondence. Once the email has been issued, it is possible to track passenger acknowledgement of the communication. Or, if there is no acknowledgement, it is possible to track the number of additional attempts, method of communication and utilize other opt-in communication methods. A regular analytics report could be created to define the success percentage for passenger acknowledgement based on the type of communication, passenger preference and number of times required to generate a passenger response or acknowledgement. This would enable an understanding of the preferred and most successful communication type for the disability-mitigating passenger.

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The inclusion of attestation, decision tree for the airlines' websites and subsequent notification is the use case scenario for the current PawsGlobal demo with an underlying rules engine. A PawsGlobal overview has been provided to various parties during the U.S. Department of Transportation ACCESS Advisory Committee meetings. A mock-up utilizing current taxonomy: [image of mock-up with a drop-down menu including "Service Dog", "Psychiatric Service Animal", "Emotional Support Animal", and "Pet"]

3) Is there any significant barrier to incorporating an ARF, including a decision tree or attestation, on the back end of an airline's booking flow (at the point of purchase)? (This would be attached to the newly established passenger name record ("PNR"), not be part of the PNR.)

PawsGlobal Response: Please see above.

4) Is there any significant barrier to (A) creating or (B) co-opting a feature (like a frequent flyer profile) that saves an individual's decision tree output, at the option of the individual, for easy re-population of the options for a later travel date? (The individual would still have to click at least one re-affirmation statement with the compiled selections each time. Assume there would not be a central registry that shares information among any participating airline.)

PawsGlobal Response: In scenario (A) or (B), it would likely be difficult for many airlines to have connectivity to a stored profile based on their complex operations. Each airline has highly configured systems that are generally not modular in nature for system modification. In particular, airline compliance with federal and/or state regulations, for example, if there is relevance with the Health Insurance Portability and

Accountability Act of 1996 ("HIPAA") then segmentation of appropriate information may not be easily accomplished within an airline's current system. In order to accomplish population or re-population, it is potentially easier for an airline to provide an application programming interface ("API") accessible to a third party that can receive information and maintain the information within a system that allows for compliance with federal and/or state regulations.

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Please let me know if you have any questions. Marcia

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## Appendix B. *Notification language*

In this appendix, we suggest the language to be used to notify passengers of their possible decision tree/attestation responsibilities. For this purpose, ticket purchases split into two types of situations.

In the first situation, the purchaser has already had the opportunity to complete the decision tree/attestation at the point of purchase. This happens when the ticket(s) are either purchased directly from an airline that requires the decision tree/attestation, or through a ticket agent for such an airline, where the ticket agent provides the decision tree/attestation at the point of purchase. The airline or ticket agent should be required to send a message that conspicuously includes the following notification text:

*If you have a disability and plan to fly with an animal to help with your disability, under federal law [insert airline name] requires you to fill out a form. This form is available by contacting [insert airline name]: [insert URL link to airline's accommodation request form] [insert airline's phone number for mail accommodation request form requests, including TTY] [insert airline's email address, if available] If you already told [insert airline or ticket agent's name, as appropriate] about this by filling out a form on the [insert airline or ticket agent's name, as appropriate] website, there is no need to do this again for this trip.*

In the second situation, the ticket/reservation is purchased through a ticket agent for an airline that requires the decision tree/attestation, yet the ticket agent does not provide the decision tree/attestation at the point of purchase. In that case, the airline or ticket agent must send a message that conspicuously includes the notification text above, minus the last sentence.

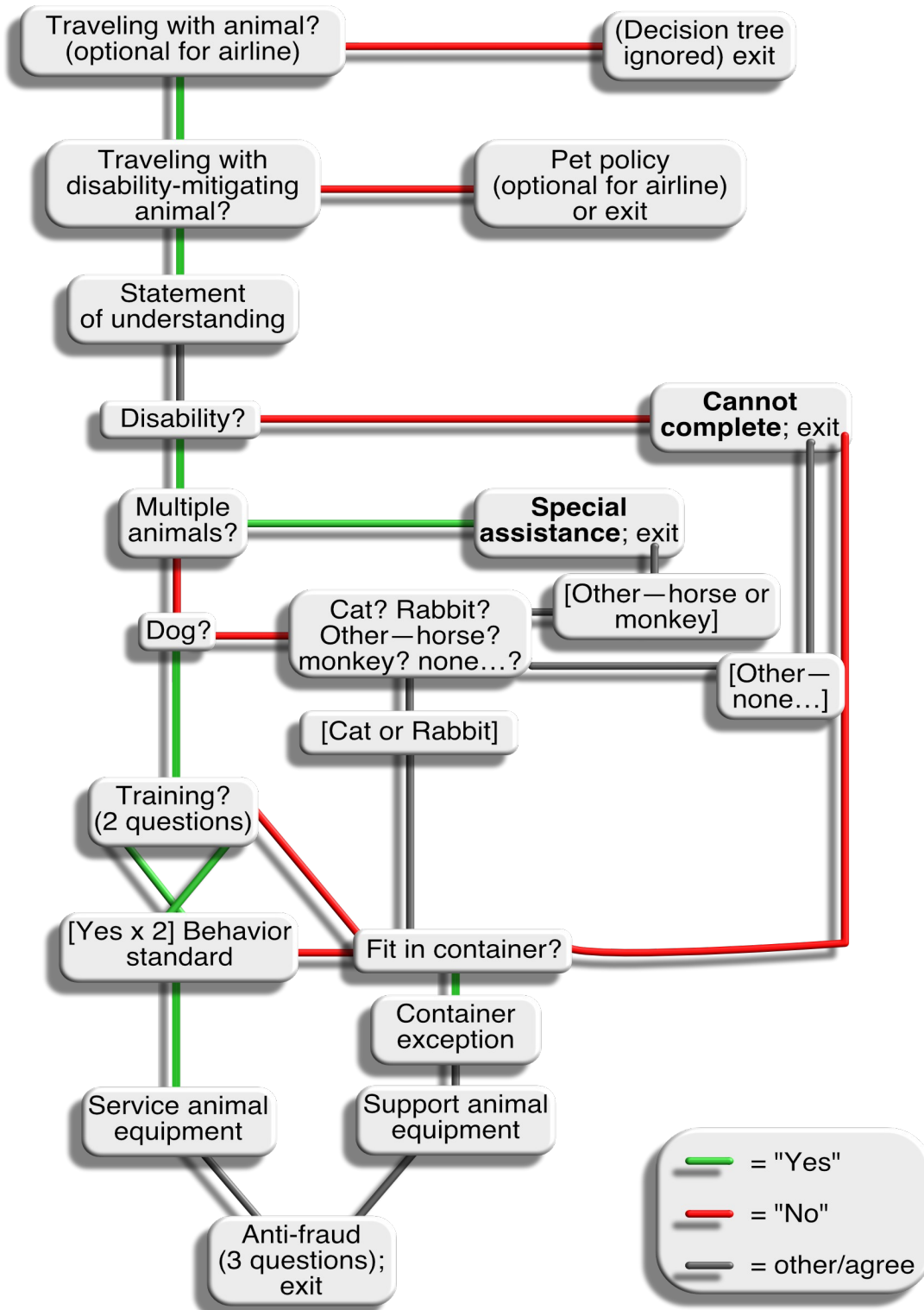
Airlines and ticket agents would also be encouraged to accurately and clearly alert passengers as to the applicable deadline for completing the decision tree/attestation. We suggest language such as the following:

*You may be delayed or not able to travel on your flight with your animal if you do not fill out the form at least 12 hours before your travel. If you book your flight within 12 hours of travel, you can still be required to complete the form before flying.*



## Appendix C. *Decision tree schematic*

[This appendix contains an image that represents the logical connections among the decision tree parts. These relationships are also represented via text in Appendix D. *Decision tree language*.]





## Appendix D. *Decision tree language*

Bullet points below represent selectable radio buttons. Explanatory text is bracketed or footnoted; all other text below is intended to appear in the decision tree. The default is that one option set appears at a time. A few connected underscore markings indicate breaks in option sets.

[If the airline chooses to incorporate information related to pet carriage into the decision tree, the first question below may be used, and then the second. Otherwise, the airline may begin with the second question.]

Do you plan to travel with an animal, whether to assist with a disability or not?

- Yes
- No

\_\_\_\_\_

[Or just:]

Do you plan to travel with an animal to assist with a disability?

- Yes
- No

[The following statement should appear with the first question asked out of the two above.]

If you plan to travel with an animal to assist with a disability, the laws of the United States Department of Transportation (DOT) allow [insert airline name] to require you to complete this form.

["Yes" continues to the next selectable statement. "No" either does not enter the decision tree or takes the passenger to a pet policy for the airline.]

\_\_\_\_\_

• I understand: I am filling out this form to travel with my service animal or support animal under the laws of the United States Department of Transportation (DOT); DOT approved this form and the airline's requirement that I fill it out to travel with my animal; the information I give on this form cannot be used for commercial purposes, to force me to accept help I do not request, or to change my seating for non-safety reasons; [insert airline name] may provide this information to DOT.



---

Do you have a disability, as defined by the US Department of Transportation?

- Yes
- No

[The following statement should appear with the question above.]

The US Department of Transportation explains what it means to say you have a disability at 14 CFR §382.3: "*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, [...] such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working."<sup>[71]</sup>

["Yes" continues further below. "No" to the question above leads to the following "**cannot complete**" message.]

---

[Cannot complete message:]

This form cannot be used to complete your request. Please contact [insert airline name] if you have any questions: [insert airline's website link to information on access with disability-mitigating animals, airline telephone and TTY numbers, and airline email address, if available]

---

Do you plan to travel with more than one animal to help with your disability?

- Yes
- No

["Yes" to the question above leads to the following "**special assistance**" message. "No" continues further below.]

---

[Special assistance message:]

---

71 This quotation only provides one of the three prongs of disability in 14 CFR §382.3, since it is the only one that is relevant to the use of a disability-mitigating animal. Such animals are not intended to mitigate the perception or record of one having a disability, but actual physical or mental impairments. This approach is consistent with DOT's during the Reg Neg, including in DOT's attestation language. [http://www.ecfr.gov/cgi-bin/text-idx?SID=263b2fb7c9a53e03ae297eb4f9405a20&mc=true&node=se14.4.382\\_13&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=263b2fb7c9a53e03ae297eb4f9405a20&mc=true&node=se14.4.382_13&rgn=div8)



Special assistance is needed to complete this accommodation or service request. Contact [insert airline name] as follows: [insert airline telephone and TTY numbers, and airline email address, if available]

---

Is your animal a dog?

- Yes
- No

["Yes" to "Is your animal a dog?" skips the question immediately below and moves on to the "service animal" section. "No" leads to the following species question.]

---

Which of the following is your animal's species?

- Cat
- Rabbit
- Other

[A "Cat" or "Rabbit" selection leads to the "Support animal" section further below. "Other" contains a drop-down menu with options for "miniature horse", "capuchin monkey", and "none of the above". A "miniature horse" or "capuchin monkey" "Other" selection leads to the "special assistance" message above. A "none of the above" "Other" selection leads to the "cannot complete" message above.]

---

[Service animal section:]

Has your animal been individually trained to help with your disability by recognizing and responding to a command or a change in you or your environment? Training is not necessarily required for access with an animal.

- Yes
- No

Has your animal been trained to behave properly in unpredictable situations that can happen during air travel? This includes being safe around: other animals, a variety of passengers, and busy and cramped environments.



- Yes
- No

["Yes" to both questions continues below. "No" to either of the above two questions leads to the "support animal" section.]

---

Will your animal follow the behavior standard if it is outside of an FAA-approved pet carrier?

- Yes
- No

[The following "**behavior standard**" should appear with the question above.]

The behavior standard includes:

- being housetrained
- generally being connected to the handler by a leash, harness, or other tether (a disability or disability assistance may justify not using a harness, leash, or other tether at a given time)
- not being disruptive or destructive
- not acting aggressively or otherwise creating a threat to health or safety
- not being placed on a seat (on the user's lap is acceptable for assisting with a disability)
- not taking up another passenger's space without permission
- always remaining under control of the handler

["Yes" continues below. "No" leads to the "support animal" section below.]

---

• I understand that using equipment marked "service animal" may help other people, but is not required. I understand that a company's service animal registration and/or identification do not change that my animal must meet US Department of Transportation training and behavior requirements.

[This leads further below to the "anti-fraud" section.]

---

[**Support animal** section]



- Can your support animal fit comfortably in an FAA-approved pet carrier that fits under an airplane seat? Yes/No

["Yes" leads to the selectable statement below, including the behavior standard. "No" leads to the "cannot complete" statement above.]

---

• I understand that my support animal must be kept in an FAA-approved pet carrier. I understand the only exceptions are times I need my support animal to assist with my disability while on the airplane. If that occurs, my animal must be on a lap, tethered to a handler, and must follow the behavior standard. I understand I can be required to keep my support animal in an FAA-approved pet carrier if these rules are broken.

The behavior standard includes:

- being housetrained
- generally being connected to the handler by a leash, harness, or other tether (a disability or disability assistance may justify not using a harness, leash, or other tether at a given time)
- not being disruptive or destructive
- not acting aggressively or otherwise creating a threat to health or safety
- not being placed on a seat (on the user's lap is acceptable for assisting with a disability)
- not taking up another passenger's space without permission
- always remaining under control of the handler

[This leads immediately below.]

---

• I understand that using equipment marked "support animal" may help other people, but is not required. I understand that a company's support animal registration and/or identification do not change that my animal must meet US Department of Transportation behavior requirements if it is out of its FAA-approved pet carrier to help with my disability.

[This leads immediately below.]

---

**[Anti-fraud section:]**

• I understand that lying on this form may violate the airline's contract of carriage or frequent flyer program terms. If I do violate one of these



agreements, the airline may take action against me for this.

- I understand that [insert airline name] may ask for evidence that I need my animal or that my animal meets any training standards it needs to, if there is a specific reason for [insert airline name] to ask this.

- I am telling the truth on this form. I understand I am committing fraud if I lie to get disability services under United States law.



## Appendix E. *Behavior standard guidance*

We do not expect frontline airline staff to become experts in animal behavior. However, there are some obvious situations in which an animal, regardless of status, can be removed from the gate area or be required to leave an aircraft on the ground.

Both service animals and support animals (when out of their containers for disability mitigation) are required to comport to the behavior standard.<sup>72</sup> If an animal is observed repeatedly violating the standard and the passenger is not taking steps to correct the situation, airline staff may require the passenger to remove the animal from any gate area or lounge set aside for passengers prior to boarding.

If the repeated violations occur either on the jetway or on the aircraft prior to the main doors closing, the passenger can be required to remove the animal from the aircraft or jetway. This would likely result in the passenger needing to take another flight.

If the violations occur while the aircraft is in flight, the flight crew can ask that the passenger remove the animal during any layover or change of flights. This would mean that the passenger may need to take another connecting flight. Airlines may instead offer cargo services, if available. This action would be considered drastic and used only if a serious risk to safety occurs, such as biting or snapping at passengers or other animals.

Below we elaborate on each of the items in the behavior standard with examples. These are merely a small sample of the various ways the behavior standard can be interpreted, and violated.

- being housetrained

Accidents happen. Airline staff generally understand this aspect of traveling with an animal or small child. If a service or support animal is repeatedly relieving itself in the gate area or on the aircraft and the passenger is taking

---

<sup>72</sup> The behavior standard includes:

- being housetrained
- generally being connected to the handler by a leash, harness, or other tether (a disability or disability assistance may justify not using a harness, leash, or other tether at a given time)
- not being disruptive or destructive
- not acting aggressively or otherwise creating a threat to health or safety
- not being placed on a seat (on the user's lap is acceptable for assisting with a disability)
- not taking up another passenger's space without permission
- always remaining under control of the handler



no steps to contain the animal, take it to a different area or limit its movement, airline staff may initially suggest the passenger go to one of the Service Animal Relief Areas ("SARAs") located within the secure side of most major U.S. airports.

If this does not resolve the issue or the passenger refuses to do so, the airline staff may request that the animal not travel on the flight.

- generally being controlled through some form of tether (a disability or disability assistance may justify not using a harness, leash, or other tether at a given time)

Support animals under the characterization in §3 of this document must remain in FAA-approved pet containers unless providing disability mitigation. If providing disability mitigation, they must remain on a person's lap, held by that person using a tether. Service animals should also be held by or connected to their handlers using a tether, unless prevented by a disability or disability mitigation.

Animals allowed to run around a gate area without a tether or with an extendable leash pose a safety risk to passengers, airline staff, and other service or support animal users. If the passenger does not abide by requests to control the animal and keep it in a designated space, (e.g., at the passenger's feet, not at the end of an extended leash), airline staff can ask that the animal be removed and/or not allowed to fly with the passenger.

- not being disruptive or destructive

Generally, service animals do not bark or make noise. Some service animals may have a controlled bark as a trained task (an alert, for example). Occasional noises are not cause for concern, unless they are sufficiently loud or disruptive, such as growling.

If a service animal is repeatedly barking, whining or otherwise vocalizing and the passenger is not actively trying to control the behavior after being asked to do so, airline staff can ask that the animal be removed or that it not fly with the passenger.

- not acting aggressively or otherwise creating a threat to health or safety

Service animals are not taught any defensive behaviors, such as guarding or police-type protection work. Some animals' vocalizations may sound like



growling. If a service or support animal continues to growl, lunge, or snap at others in the gate area, and the passenger is not sufficiently controlling the behavior, airline staff can ask that the animal be removed or not fly with the passenger.

If a service or support animal behaves aggressively while on the aircraft, biting, growling, snapping, or lunging at other passengers, flight crew, or other service or support animals on board, and the passenger is not sufficiently stopping the behavior, the passenger can be asked to return a support animal to its container. If the offending animal is a service animal, the flight crew should make an effort to remove others from around the animal and allow the passenger and animal to exit the aircraft either first or last to minimize any safety issues for others as they disembark.

- not being placed on a seat (on the user's lap is acceptable for assisting with a disability)

Service and support animals should not be allowed on seats, tables, or other structures in the gate area, or on seats, tray tables, in overhead bins, or other structures in the aircraft cabin. It is not necessary to walk either a service animal or support animal down an aircraft aisle on a tether during flight unless the service animal is providing disability mitigation, which may not be obvious.

- not taking up another passenger's space without permission

This particular item is difficult to enforce. Though many people do not mind sitting with a service or support animal and may readily give up foot space if asked, service and support animals should not actively solicit attention from other passengers, move into their personal seat space without permission, steal food or otherwise move onto the tray table or possessions of another passenger, etc.

- always remaining under control of the handler

Service and support animals accompany their users to do a job. They are not public property or entertainment. They should be under passenger control at all times.

We strongly suggest that if airline employees have situations in which they need to remove an animal due to violations of the behavior standard, they document all steps taken to allow the passenger to improve the behavior. If a passenger is unable to sufficiently improve the behavior or makes no effort to do so, staff should contact a CRO to handle removal of the animal.



# **ACAA Third-Party Documentation Requirements: Survey of Psychiatric-Disability-Mitigating Animal Users**

*December 11th, 2016*

United Service Animal Users, Supporters, and Advocates<sup>1</sup>

TO: Blane A. Workie (& Jerome Davis of Econometrica)  
Office of the Aviation Enforcement and Proceedings  
US Department of Transportation  
(202) 366-9342

RE: DOT-OST-2015-0246; DOT's request for information for regulatory impact analysis

Ms. Workie & Mr. Davis:

On December 7th, Jerome Davis of Econometrica requested information from us by December 12th for "a regulatory impact analysis for an eventual proposed rulemaking" by your office. He asked for "any data or other qualitative information on the costs of obtaining or maintaining third-party documentation for service animals and/or emotional support animals".

We clarified via teleconference on December 7th with DOT and Econometrica that DOT is interested in the impact of the current regulations, which allow airlines to require a letter from a medical professional up to 48 hours before flying for those who use an animal to mitigate a psychiatric disability. We are responding to this request publicly (in addition to writing the requesting parties directly), in order to share this information with other interested parties.

In addition to references we provide below, between the nights of December 7th and December 10th we surveyed individuals who identify as having a psychiatric disability and who use an animal to mitigate it. This population includes psychiatric service animal users (which itself includes PTSD service dog users) and emotional support animal ("ESA") users. We advertised the survey via social media and directly to groups devoted to the target audience, and received 56 responses.

This report is organized in six sections as follows.

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<sup>1</sup> USAUSA is an informal collaboration of diverse stakeholders.



- §1. *Earlier qualitative sources*
- §2. *Statistical context*
- §3. *Survey content*
- §4. *Survey results overview*
- §5. *Quantitative survey data*
- §6. *Qualitative survey information*

### §1. *Earlier qualitative sources*

As referenced in footnote 52 of our recent public comment that 23 parties signed onto,<sup>2</sup> around October 6th–7th in the Reg Neg docket you can find many qualitative descriptions of the difficulties people with disabilities suffer when forced to obtain third-party medical documentation in order to fly.<sup>3</sup> Even more such descriptions can be found in the 2009 petition from Psychiatric Service Dog Society,<sup>4</sup> referenced in footnote 53 of the same comment.

### §2. *Statistical context*

Over 325 million people are in the United States.<sup>5</sup> The US Census Bureau indicates that in 2010, 56.7 million of these people had a disability (19 percent of the population), with at least 7 million of these related to mental illness.<sup>6</sup> According to a Substance Abuse and Mental Health Services Administration (SAMHSA) report cited by the National Institute of Mental Health (NIMH), "In 2014, about 1 in 5 adults aged 18 or older (18.1 percent, or 43.6 million adults) had any mental illness (AMI) in the past year, and 4.1 percent (9.8 million adults) had serious mental illness (SMI)."<sup>7</sup>

Based on unofficial self-reports from airlines during the Negotiated Rulemaking ("Reg Neg"), we estimate there are somewhere in the neighborhood of 100,000 flyings each year by psychiatric service animals and emotional support animals (ESAs).

### §3. *Survey content*

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2 <https://www.regulations.gov/document?D=DOT-OST-2015-0246-0290>

3 <https://www.regulations.gov/docketBrowser?rpp=25&so=DESC&sb=postedDate&po=0&dct=PS&D=DOT-OST-2015-0246>

4 <https://www.regulations.gov/docket?D=DOT-OST-2009-0093>

5 <https://www.census.gov>

6 <https://www.census.gov/newsroom/releases/archives/miscellaneous/cb12-134.html>

7 Note that "serious mental illness" is defined in a way that clearly connects with standard federal definitions of disability. <http://www.samhsa.gov/data/sites/default/files/NSDUH-FRR1-2014/NSDUH-FRR1-2014.htm>



Here we reproduce in text and image exactly what the content of the survey was.

### ACAA Medical Letter Survey

This survey is only for those with a psychiatric service dog (including a PTSD service dog) or an emotional support animal (ESA). It's only open until \*Saturday, December 10th\*, 2016. Thank you so much for your quick input!

In order to fly, the Air Carrier Access Act (ACAA) currently lets airlines require a medical professional's letter for a person with a mental health disability who uses an animal to assist with that disability. The Department of Transportation (DOT) is trying to understand the impact of this requirement to evaluate a possible update to the rules. Your input will seriously help.

1. Do you have a medical professional who you know is willing to write a letter for you to fly with your animal? (If not, you can skip to question 5.)
2. If you were to get a letter to fly, approximately how many \*dollars\* would it cost to get the letter? In a single number, please include your co-pay, any transportation costs, any lost wages, childcare, or any other associated costs you would not otherwise have.
3. On average, how many \*days\* does/would it take before you could get in to see a medical professional and then get a letter to fly? (Please do not give a range.)
4. How many \*hours\* does/would a visit take you to get a letter to fly? In a single number, please include transportation, waiting time, and the medical visit itself.
5. Have any of these issues above caused you not to fly or to fly less than you would otherwise?
6. Please share any other remarks about this that might help DOT understand the costs and burdens you might face because of the ACAA requirements.

[image follows]



## ACAA Medical Letter Survey

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In order to fly, the Air Carrier Access Act (ACAA) currently lets airlines require a medical professional's letter for a person with a mental health disability who uses an animal to assist with that disability. The Department of Transportation (DOT) is trying to understand the impact of this requirement to evaluate a possible update to the rules. Your input will seriously help.

1. Do you have a medical professional who you know is willing to write a letter for you to fly with your animal? (If not, you can skip to question 5.)

- ☐ Yes  
☐ No

2. If you were to get a letter to fly, approximately how many \*dollars\* would it cost to get the letter? In a single number, please include your co-pay, any transportation costs, any lost wages, childcare, or any other associated costs you would not otherwise have.

Your answer

3. On average, how many \*days\* does/would it take before you could get in to see a medical professional and then get a letter to fly? (Please do not give a range.)

Your answer

4. How many \*hours\* does/would a visit take you to get a letter to fly? In a single number, please include transportation, waiting time, and the medical visit itself.

Your answer

5. Have any of these issues above caused you not to fly or to fly less than you would otherwise?

- ☐ Yes  
☐ No

6. Please share any other remarks about this that might help DOT understand the costs and burdens you might face because of the ACAA requirements.

Your answer

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#### *§4. Survey results overview*

There were responses from 56 individuals, but all questions were optional, so not every responder answered every question. The quantitative summary is bulleted below.

- Over one out of ten people surveyed indicated they do not think they have a medical professional willing to write a letter for them to fly with their animal.
- The average cost to obtain the paperwork is \$156.77.
- It takes an average of 30.6 days to get in to see a medical professional and obtain a letter.
- The average time for a visit to obtain the letter is 4.8 hours.
- Over three out of four people surveyed have either not flown or have flown less because of these factors.

There are significant costs to the economy that are touched on by these numbers. As reported by the Johns Hopkins Bloomberg School of Public Health, our \$156.77 cost is similar to the (\$160) average cost for a new, uninsured patient visit.<sup>8</sup> However, our numbers do not include the amount any insurance pays, any losses in work productivity for the 4.8 hours the employee might have to take off work, etc.

While a significant portion of those surveyed do not have access to a medical professional willing to enable them to comply with the documentation requirement, there is an even more stunning statistic. Fully three quarters have reduced or eliminated flying as an option because of the current regulations. If we generalize this survey and apply our earlier estimate of around 100,000 annual flyings of psychiatric service animals and ESAs, we might conclude that the regulations have prevented somewhere on the same level of tickets from being purchased. If we take the average fare for 2016 from DOT's Bureau of Transportation Statistics, \$361,<sup>9</sup> we're looking at a magnitude of loss to the airline industry alone on the order of \$36,100,000.

#### *§5. Quantitative survey data*

At the request of DOT or Econometrica, we are happy to set up direct

<sup>8</sup> <http://www.jhsph.edu/news/news-releases/2015/primary-care-visits-available-to-most-uninsured-but-at-a-high-price.html>

<sup>9</sup> [http://www.rita.dot.gov/bts/airfares/programs/economics\\_and\\_finance/air\\_travel\\_price\\_index/html/AnnualFares.html](http://www.rita.dot.gov/bts/airfares/programs/economics_and_finance/air_travel_price_index/html/AnnualFares.html)



access to the raw data separately from this report. In this section, we provide the data under each of the (five) quantitative questions. We note but filter out such responses as non-numerical answers to numerical questions.

1. Do you have a medical professional who you know is willing to write a letter for you to fly with your animal? (If not, you can skip to question 5.)

55 responses  
89.1% Yes, 10.9% No

2. If you were to get a letter to fly, approximately how many \*dollars\* would it cost to get the letter? In a single number, please include your co-pay, any transportation costs, any lost wages, childcare, or any other associated costs you would not otherwise have.

50 responses, 47 amenable  
Mean: \$156.77. Median: \$70. Range: \$0–\$1,500.

\$0	\$0	\$0	\$3	\$10	\$15	\$20	\$20
\$20	\$20	\$20	\$25	\$25	\$30	\$45	\$50
\$50	\$50	\$50	\$60	\$60	\$60	\$70	\$70
\$80	\$80	\$100	\$100	\$100	\$115	\$125	\$150
\$150	\$150	\$175	\$175	\$185	\$200	\$200	\$230
\$280	\$300	\$350	\$400	\$450	\$1,000	\$1,500	

Not incorporated:  
"I don't know"  
"It soesn't mattrer" (sic)  
"Unknown but probably an office visit."

3. On average, how many \*days\* does/would it take before you could get in to see a medical professional and then get a letter to fly? (Please do not give a range.)

49 responses, 48 amenable  
Mean: 30.6 days. Median: 16.5 days. Range: 1–180 days.<sup>10</sup>

<sup>10</sup> When responses were given in months, 30 days were used per month. When a range was given, the mean was used.



1	2	5	5	7	7	7	7
7	7	9	9	10	10	10	10
14	14	14	14	14	14	14	15
18	21	21	21	21	21	21	28
28	30	30	30	36	45	45	45
60	60	90	90	90	90	120	180

Not incorporated:  
"It doesn't matter"

4. How many \*hours\* does/would a visit take you to get a letter to fly? In a single number, please include transportation, waiting time, and the medical visit itself.

50 responses, 48 amenable  
Mean: 4.8 hours. Median: 3 hours. Range: 1–48 hours.

1	2	2	2	2	2	2	2
2	2	2	2	2	2.5	2.5	3
3	3	3	3	3	3	3	3
3	3	3	3	3	3.5	3.5	4
4	4	4	4	4	4	4	4
5	5	5	6	6	12	30	48

Not incorporated:  
"a few messages and hopefully only one trip or they might mail it to me...idk"  
"It doesn't matter"

5. Have any of these issues above caused you not to fly or to fly less than you would otherwise?

55 responses  
76.4% Yes, 23.6% No

## §6. Qualitative survey information

This final section contains the information collected from 36 individuals in response to the final, qualitative question in the survey. These comments clarify the great weight of the burdens the current regulations inject in



people's lives that can't be adequately conveyed by the numbers.

6. Please share any other remarks about this that might help DOT understand the costs and burdens you might face because of the ACA requirements.

1) If I was diabetic or hard of hearing I wouldn't have to worry. But a PTSD dog (especially since I'm not a veteran) is looked at differently. They need to separate service dogs from ESAs. The public believes they are the same thing because the airlines allow everything from lizards, turkeys and pigs to fly. People confuse the terms. I hate it.

2) It's hard to see my doctor because I have no child care. I have my son 24/7 while my husband works. Time is a big factor plus extra costs, all out of pocket. I know that we cannot afford both-a letter & flying costs. It's hard enough to provide top notch care for a service dog without any help, much less wasted time & money for a piece of paper.

3) I have discomfort with having information about my medical condition kept by people not bound by HIPAA and that it is not kept in secure storage.

4) There are just so many judgmental people who want to be doctors. It's tiring to have to explain to everyone I meet what my condition is. I don't feel it's any of their business. I unfortunately face this hurdle in the coming year as some of my medical appointments are in other states. It would be nice if things were simple to understand when requesting travel info. I most often get "I don't know" or "are you blind?" Which is defeating in spirit and productivity.

5) Due to memory problems associated with my disability I may not be able to get the letter and get it in on time.

6) I do not want to share information about my disability with strangers. If I have a seizure disorder or diabetes I don't have to share that my disability is medical and with the stigma on psychiatric disorders having to share that is even harder. It was also a problem finding a therapist who could write the letter and opening up to new people is very difficult. Much of my family lives out of state. I went through the trouble to get the letter but haven't been able to bring myself to use it.



7) Any support letter takes months to build relationship with provider first. Consider building a provider survey around this.

8) I don't fly due to the extra access stuff needed. It triggers my PTSD and anxiety way too much for me just thinking about it. If I knew I wouldn't have any access challenges to fly with my dog I might consider flying. But as it is, I can't do it.

9) I am a nurse practitioner that served at the 9/11/2001 tragedy. In spite of having medical documentation, a highly and professionally trained service dog, I have been grossly mistreated on more than one occasion by Hawaiian Airlines. My disabilities and service at 9/11 have been mocked, I have had to disembark planes twice and have been routinely hassled for insisting on my rights as a disabled flyer. HA retaliated for my reports to DOT by telling me I have to receive special permission each time I fly and that I am forbidden to fly with my service dog. All of this has been videotaped and documented extensively. As a Hawaii state resident, this effectively grounds me unless I take a major carrier, none of which flies interisland. I strongly urge to establish regulations which will actually protect legitimately disabled travelers who need legitimate service dogs, rather than making travel difficult to impossible for them. If anything, the carriers' obligations need to reflect the spirit of the ADA and civil rights, rather than forcing disabled persons to be subject to repressive regulations that able bodied passengers are not. Will we need to climb the DC capital house steps on our hands and knees again to illustrate our right to disabled accessibility again? I remain in your service.

O au me ka ha`a ha`a (I am humbly yours),

Elizabeth Bush, MSN, APRN, CARN-AP, CSAC, CCDP-D  
Board Certified Psychiatric Advanced Practice Nurse (NP and CNS)

Certified Addiction Registered Nurse, Advanced Practice  
Certified Substance Abuse Counselor  
Certified Co-Occurring Disorder Professional-Diplomate

"The best way to find yourself is to lose yourself in the service of others." ~ Mahatma Gandhi

10) My dog is an experienced flyer. Having to make sure I have



a letter ready to present at any moment simply adds to my stress levels. If I had a cane or wheelchair, no one would question my dog's job.

I have to request a full appointment just to have a letter signed. Simply because my disability is invisible. When you factor in childcare, and travel time, it gets quite expensive for a piece of paper. That in all my flights, no one has ever actually asked to see.

11) I have flown once with my PTSD service dog and it was absolutely mortifying to have to hand multiple complete strangers a piece of paper verifying that I had a psychiatric disability to get through the airport and onto that plane. Psychiatric issues carry a lot of stigma and you never know who you're dealing with so it's not something I advertise in public with people I don't know. To have to do that simply because my disability is psychiatric instead of physical, even though I use a task trained service dog with thousands of hours of training just like someone using a guide dog or mobility service dog is discriminatory. Plain and simple. My service dog is NOT an ESA, she is highly trained. A service dog is a service dog no matter the disability they mitigate. I will not fly again unless it is absolutely necessary as the ACAA stands.

Let me paint another scenario for you. It is very likely with my severity of PTSD that I will never function in public alone without a service dog. There will also come a day when I'm not in therapy sessions anymore because there are no more coping skills to learn and no more trauma to process. I will be functioning as best as I can be, but still experience disruptions of my major life activities that a service dog can mitigate. Then I won't have that treatment professional to write me a letter even though my PTSD is still disabling. My primary care physician doesn't understand enough about my PTSD to write that letter. So I'd be placed in a situation where I had to get another therapist, just to write that letter and that could take WEEKS just to get in and then there's no guarantee that that particular therapist would agree to write that letter without seeing me a number of times, so add a few more weeks on top of that. That's a lot of money and time. 10+ hours and and \$1000+ dollars. At that point, why fly in the first place? That's too much of a burden, and I'd just have to drive. If I had to get across the country for a dying family member or friend I'd just have to hope



I could drive there in time because there's just no way of getting on a plane on short notice. I couldn't visit family or friends on whim or take an unplanned weekend getaway. All the while the airlines are losing money that myself and whoever I was traveling with would have been spending to get to a destination all because the ACAA requires letters for task trained psychiatric service animals! Sounds like a lose-lose situation to me.

I truly hope that DOT can reach an agreement with the service dog advocates involved in this process so that the process for admitting a service dog is the same for any type of service dog and that an undue burden is no longer placed on psychiatric service dog handlers. When my dog is so well behaved that the flight attendants didn't even realize my 65 lb German Shepherd was on their 4.5 hour long flight until we walked off the plane (and out of our standard seat I might add) I shouldn't be facing this whole letter requirement just because she does PTSD tasks. I would love for things to change so I can start flying again. Until they do, I'll be driving.

12) Having to go through these steps make me less willing to fly or travel to places where I might need to fly back home.

13) Requiring a doctor's note to be able to fly with our medical device is discriminatory against service dog users. If you are to implement a doctor's note policy for medical equipment, you must extend that requirement to all: service dogs, wheelchairs, oxygen tanks, epi pens, canes, etc. If you find this too cumbersome, perhaps consider getting rid of the elementary policy altogether; instead of singling out service dog users and making us have to jump through extra hoops just to fly, treat us like you treat every other disabled customer. Thank you.

14) In an emergency I would not be able to fly.

15) I guess the biggest problem is the dogs size. An assistance dog medium to large has very little space. Are given a lot of slack for not having a little dog. Discrimination against service dog owners with mobility dogs, or blind assistance dogs.

16) I have to wait for an opening or go and sit for 5-6 hours for a walk in and risk seeing another doctor explaining why I need the note and usually they will tell me to see my doctor since



they were not the one seeing me. My dr is 45-60 min away and uses up to a quarter of a tank of gas round trip. not to mention people with psychiatric disabilities are the only ones required to get a drs note.

17) It identifies my category of disability as mental health where that is protected by HIPPA. So it kinda scapegoated me as a mental case and people have treated me differently because of my psychiatric service dog.

18) I have anxiety attack and my girl helps protect me from harming myself and possibly others near by me so in my situations I need her every day everywhere

19) I'm autistic and that's primarily what my SD mitigates. I don't need regular care from my psychologist so a letter from a mental health professional currently treating me is 1) a bit of a stretch and 2) I would have to do an intake as a new patient if it had been more than 3 months since I was last in. This means insurance approval, wait for an opening, etc. and I have great insurance through my job. If I wasn't fortunate to have a job and a job with great benefits this would easily stop me from flying.

20) Each time I have to ask a doctor for a letter for any purpose, I have to request an appointment SPECIFICALLY for the purpose of the letter and then spend the entire appointment educating him or her about the various laws as well as talking them into writing the letter. Many doctors would prefer not to put their signature on such a letter. If I had to have a doctor's letter to fly and needed to make an emergency trip, the trip wouldn't happen simply due to the added stress, rigamarole and time added by the process of obtaining the needed letter. Fortunately this hasn't happened - yet - but that's by luck with the age of my remaining relatives. And I can't plan in advance for the letter because the ACA requires the letter be written within a certain period of time and planning in advance could easily mean repeatedly writing the letters - at great wastes of time and expense. Basically, a well thought out, well planned and prepared for travel flight is the ONLY way to fly thanks to the letter requirement. That's the only way to have the time to get the necessary letter unless by sheer luck the one on hand is still within the allowed time window.

21) Just the possibility of needing a letter adds stress to an



already stressful activity and doesn't feel fair when no other SD handler is required to furnish a letter from their doctor(s). Disregarding stress and inequality, this also requires PSD handlers to divulge potentially sensitive information to airline staff who may not fully appreciate the need for discretion and privacy.

22) Extra stress! Possible panic attacks.

23) I live 80 miles from town. My Dr is so busy the wait time to get in is 4-6 weeks. With my insurance deductible high (thank you Obama) I have to pay visits like this out of pocket. I would not make a special visit just to get a Dr note and have it updates annually just for flying (the only place it's required). I do have a disability and requiring proof of that is not only demeaning and embarrassing, it's financially a burden.

I'd rather have a behavioral assessment of my dog at security rather than show a ticket agent a letter describing my intimate health details. Really all you want are well behaved dogs, just do a simple test. Any real service dog will pass with flying colors, pets will likely not. Simple.

24) Getting an appointment for the letter is extremely prohibitive, the cost associated with acquiring the letter is extremely prohibitive (the appointment, drive time, gas, cost of the Dr writing the letter, the time to wait for the letter to be created, usually not the same day), the time it takes to actually go down and see the Dr. and ask for a letter, plus having all the information that needs to go into the letter is prohibitive (the letter must be very specific), The fact that I am disabled and don't have the time, energy, money for acquiring a letter is completely unfair.

I am VERY lucky that I have Drs who support my use of a service dog otherwise I just might be out of luck entirely. A lot of Drs think that because they have written a letter of support for a service dog that they are now somehow responsible for that service dog and everything it does. They don't want to put that burden upon themselves should something go wrong so they won't support writing a letter. Also some Drs think that using a service dog is akin to using a 'crutch' and will not support the use of a service dog for a psychiatric illness much less write a letter for one.



I also use a wheelchair and have never been asked for any kind of letter regarding my use of it. I don't need a Drs letter of approval to fly. I don't need a Drs note to purchase a wheelchair if I need one. I also don't need to worry that a Dr will feel 'responsible' for what actions I take while in a wheelchair.

This double standard is sickening . While I used my service dog for psychiatric reasons and not mobility reasons there really should be NO difference.

I have a lot of elderly people in my family right now spread all across the country. At this point if I needed to see a dying relative or attend a funeral I would be literally BANNED from flying to do so. This is discriminatory and illegal.

I would not be surprised to see a class action lawsuit happen if this does not change IMMEDIATELY!

25) Flying is stressful so adding the burden of obtaining a letter exacerbated my PTSD symptoms. Also, I feel discriminated against compared to other disabled people as well as the general public. If my sister is ill I cannot go to help her in a timely fashion.

26) I don't support ESA flying in the cabin, unless they are crated, as there is not the training required to be safe and calm around the general public that service dogs are required to have. Making one general type of disability less than another by requiring them to jump through a bunch of hoops that is not required by other disabilities is demeaning.

I understand the issues that people are having with fakes being brought onto planes and them causing issues, but airlines are able to ask the same questions of service dog handlers that businesses are and if you restrict or remove ESA, you can remove a good deal of the problem.

There is also the issue with education throughout the airlines and airports about service dogs, esa, and therapy dogs. What dogs out of these do and do not have access rights and what they can ask of handlers.

27) I have to get a letter for my Service Dog but being the



caregiver of a dependent child ,I would have to get one for my dependant child's Service Dog as well. Doubling the co pay costs fuel ,time away from therapy,school work,and classes for papers. This makes it cost prohibitive for my family, that is living off of a limited income, to fly anywhere.

28) Because of my letter stating that my dog is a psychiatric service dog, I get judgemental looks and comments from airline staff. Because travel causes me great distress already, knowing that people are also judging me based on my medical equipment usually sends me into a panic attack.

29) I have gone to two psychiatrists trying to get a letter but both feel a service dog is a crutch. I have PTSD and agoraphobia; I cannot leave the house without my service dog. Even with lots of explanation, they both felt medication was a better route even though I've tried several with no benefit. My service dog gave me my life back, but I'm not allowed to fly because these doctors do not like service dogs.

Merriam Webster defines discrimination as "prejudiced or prejudicial outlook, action, or treatment". Requiring a doctor's note for psychiatric service dog handlers to fly when no other type of service dog (or assistive device) needs one is discrimination. Our dogs still go through hundreds of hours of training to mitigate our disability(ies) and behave properly in public. I have come across many service dogs who were not as well behaved as mine, yet their handlers can fly with them because they have a non-psychiatric disability.

I have to drive 12 plus hours to see a specialist every ten weeks for a different medical condition because I cannot fly. It has been a huge burden. But even though that is a non-psychiatric disability, there is nothing a service dog can do to mitigate it.

It is difficult enough having a psychiatric disability. Trying to explain to doctors that a service dog is a legitimate option and it is my choice what treatment I would prefer, has been infuriating. A blind person has the choice between a service dog and a cane. No one considers the dog a crutch or optional or anything else. I'm tired of the legal discrimination against those with psychiatric disabilities. Please allow us to use our medical devices without discrimination like everyone else!



30) I would have to know in advance that I want to fly, preferably at least a month ahead of time because scheduling with my doctor generally takes about 21 days to get in. Then I would have to take a full day off work to go to the doctor's appointment. I would have to drive partway and then take public transportation for about four-five hours round trip after I drive partway up there. Then I would have to wait at the doctor. I would incur parking fees, public transportation fees, gas mileage, co-pay, and then payment to my insurance for the doctor's letter as well.

My condition is fairly stable and I try to avoid going to the doctor unless needed. If I have to have a doctor's letter to fly this is additional cost not incurred by other people. All because I need a medical alert / medical response service dog who also assists me with mobility in addition to Autism. This also requires substantial pre-planning; if I have to fly due to an emergent situation, how do I get the documentation in time? What if an unplanned event happens that necessitates me flying back home (rather than driving) and I am away from my medical providers to get this note?

Requiring a note puts a substantial burden on me that people without disabilities, or people without certain types of disabilities, do not face. Please let me save my limited money to use for plane tickets and vacation - not medical visits!

31) It doesn't cost me anything for my psychiatrist is supportive of my psychiatric/medical alert service dog because of how much it has helped me to come out of my shell and get back into public instead of staying at home.

32) This is a violation of my Civil Rights. No other group of Service Dog users (guide, hearing, mobility, medic alert) have to have a letter. It is discrimination pure and simple, for only Service Dogs for mental health, PTSD, etc. have to have a Doctors letter. If the DOT insist on allowing Emotional Support Dog (that are not trained Service Dogs) then the DOT can ask for a Doctors letter for them. To ask for a Doctors letter to fly with a ADA qualified Service Dog is discrimination and a violation of my and every disabled person using a Service Dogs Civil Rights. I feel the only way DOT has gotten away with it for as long as they have is because no one has gone to Federal Court and fought for their Civil Rights. I do not believe the DOJ



really finds this "Legal". I feel this act by DOT makes me look and feel like my Service Dog is a "lesser" Service Dog because we have to have and letter and our guide, hearing mobility, medic alert Service Dog friends and family do not. So DOT are people with mental health disabilities lesser citizen's than others types of Service Dogs? Do we have less Civil Rights? The ADA and ADAAA say discrimination is not allowed in any form, but the ACAA and DOT say discrimination is okay if the air lines are having problems with illegal dogs flying in the plane cabins.

[personal message to surveyor omitted]

Carol F. King

33) As disabled people, using a Service Dog we have enough of a challenge without DOT singling us out to be discriminated against and Violating our Civil Rights. If the ACAA said only people with yellow skin that use Service Dogs had to have a letter for their Service Dog. The Nation would be up in arms, treating people differently because of skin color gets attention, but by, DOT and ACAA discriminating against one disability is no big deal. This is why we can't get the courts to take our Service Dog issue seriously.

On the first page of the DOJ web site under ADA it says this law was patterned after the Civil Rights Laws of the 1960's that was "people of color" could get registered and to actually vote.

How ever Disability Rights are not seen as "important" as others. Women's Rights are not (vote) seen as important as independence from England and "people of color" Civil Right yet Women were killed, jailed with out being charged, or allowed to have an attorney just like "people of color". People with Disabilities fought for their Civil Rights. Up until 1990 many states had "ugly laws" to keep the disabled (not pleasant to look at with CP, MS, etc.) out of public and locked up in basements. These are not histories taught in high school history. How many of you were taught in high school what horrors Women and Disabled People went thought to be treated as human?

34) Most doctors require education by the disabled person to even consent to write such a letter, which usually requires multiple visits. They often then write the letter incorrectly the first time, omitting information that might be needed by the



airline. If you bring in a template, they often don't want to write one on the spot because they worry about potential legal consequences for signing a document they're unfamiliar with. This means multiple visits/phone calls/transportation between home and the doctor, and a lot of knowledge on the disabled person's part to educate their doctor to even get a letter... then you get to do it all over again in a year if you get a new doctor. Forget emergency flights if you didn't think to have the document written ahead of time in the first place and have 24 hours advance notice to give the airlines for your "emergency".

35) When flying last minute, I don't have time to get an updated letter.

36) Due to how my medical care is currently being paid for, I am only able to see my treating doctor every 6 weeks and she is unable to assist me in any way over the phone. If I were to need a letter with any type of urgency, it would be impossible. Additionally, not all healthcare staff view service dogs the same. I have been lucky in that my doctors have been supportive and included my service dog as part of my ongoing treatment plan. However, even with hospital/medical staff, I have faced discrimination regarding my service dog in different situations. I mention this since if I tried to acquire a letter from healthcare staff (in a last minute case scenario) that were not familiar with my history/situation; they may not be willing to write a letter.

I feel that requiring a letter is discrimination regarding what type of disability someone is allowed to use a service dog for. I feel that requiring a letter is discrimination regarding what qualifies someone to be disabled and to be able to use a service dog to mitigate their disabilities. I believe that requiring a letter is also discrimination because it allows denial to a group of people with "certain disabilities" if we/they are unable to obtain the letter.

Furthermore, it is unfair for those users of service dogs that do not have current access to medical care, money to cover the cost associated with a visit to a healthcare provider, accessible transportation and all of the other burdens (financial and otherwise) that would come with having to obtain a letter.

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Thank you for giving this report and USAUSA's recent comment your consideration.



Sincerely,

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