



United Service Animal Users, Supporters, and Advocates

Partnering for reasoned advocacy

**The path to responsible
air travel governance:
A recent history of
service animal
recommendations**

May 2019

Bradley W. Morris, MA, CPhil & Jenine Stanley

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We intend this handbook on the recent history of service animal recommendations to aid lawmakers and regulators responsible for the governance of air travel with service animals and emotional support animals (ESAs).

Here you will find a compilation of informative documents from the last decade, including a new addition. We briefly trace their history below, before providing a table of contents.

History of data and recommendations

In 2016, the US Department of Transportation (DOT) hosted a negotiated rulemaking ("Reg Neg") process over the course of half a year. The process brought together experts and representatives from stakeholder organizations related to air travel and to service animals. The USAUSA coalition and ethos grew from this process, originating with the first document presented here.

That "post-Reg Neg" document draws on the reasoning throughout the negotiated rulemaking, detailing ten compromise positions and garnering sign-on support from a breadth and depth of organizations. It is the crux of our recommendations.

DOT then requested details about the burdens of third-party documentation requirements on users of psychiatric service dogs and ESAs, so we obliged with a survey report at the end of 2016. We followed this up with a more comprehensive "Flight Access Survey Report" in May of 2018, containing extensive feedback and analysis to help lawmakers and regulators understand the human rights perspective and practical considerations of the people with disabilities who have to live under the service animal laws.

In June of 2018, Psychiatric Service Dog Partners (PSDP) responded thoroughly to DOT's two public requests for feedback. One request was about the nature of future regulations, while the other was about how DOT planned to alter its enforcement activity in the meantime. PSDP's responses exemplify USAUSA's evidence, values, and reasoning.

Most recently, USAUSA conducted a brief survey in anticipation of a meeting with DOT in May of 2019. Given the variety of new requirements airlines have been allowed to propagate in the last couple of years, we anticipated more timely feedback would add value to a contemporary accounting of the situation.

This handbook is capped off by two documents of historical interest. One is

a white paper from PSDP, constructed originally and with addenda between March and May of 2016 in preparation for DOT's negotiated rulemaking.

The final entry, from April of 2009, is from the Psychiatric Service Dog *Society* (PSDS)—PSDP's predecessor. In it, PSDS registers community opposition to DOT's rulemaking at the time, which treats service dog users with mental-health-related disabilities worse than those with other kinds of disabilities. The same human rights issues and basic discrimination objections from a decade ago reverberate today.

The problems and warnings remain clear to those ready to listen, only having grown sharper with time and experience.

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

November 24, 2016

from USAUSA

**The following document is part of USAUSA's May 2019
compilation, "The path to responsible air travel governance:
A recent history of service animal recommendations"**

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

November 24th, 2016

United Service Animal Users, Supporters, and Advocates¹

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 comment² 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.

¹ USAUSA is an informal collaboration of diverse stakeholders.

² 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 and jenine@guidedog.org.

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§1. *Service animal characterization*

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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:

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.⁶ A **service animal** is:⁷

- 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 destination⁸
- 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:⁹

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

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)¹⁰
- 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"¹¹ 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.¹² However, their users may have similar access as

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.¹³

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.¹⁴

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

§2. *Support animal characterization*

Signatories:

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

¹³ 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

¹⁴ 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.

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

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Position:

Support animals¹⁶ 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.¹⁷ The gist is that support animals typically start as pets, dogs

¹⁶ See the earlier footnote regarding the provisional "support animal" terminology.

¹⁷ 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.¹⁸ So we are proposing going from a virtually unlimited number of species to only three.¹⁹ This represents a good-faith compromise in the face of more extreme initial views among some on both sides.²⁰

§3. Support animal containment

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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

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.

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*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.²¹

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 containers²² and must travel in such containers by default. The animal must be able to stand, turn around, sit, and lie down in the container.²³

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

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

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

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,²⁴ or otherwise requires extra space.²⁵

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.²⁶ Third, we find it highly unlikely that a passenger would

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

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

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

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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

*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, airlines²⁷ 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/attestation²⁸ in order to travel with a disability-mitigating animal.²⁹ 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
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

- 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".³⁰

(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

³⁰ 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 agents³¹. 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.³² Next, right after booking, the passenger receives electronic notice of their possible responsibilities, most likely through email.³³ The decision tree/attestation remains available for completion after booking.³⁴ 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,³⁵ 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-

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

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.³⁶

There are non-technological hurdles with many ticket agents that currently stand in the way of regulating that ticket agents implement the ideal system.³⁷ 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.³⁸ 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.³⁹ 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

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

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,⁴⁰ 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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Melanie Brunson, Blinded Veterans Association
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Sarah Mumme, Guide Dogs of Texas
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Darlene Sullivan, Canine Partners for Life
Katy Rosseland, Open Doors Organization*
Douglas Kidd, National Association of Airline Passengers
Jason Gray, Pilot Dogs

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,⁴¹ 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,⁴²

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,⁴³
- lower stigma for psychiatric service animal users, and
- have no net increase in the stigma faced by ESA users.⁴⁴

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

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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Susan M. Daniels, Leader Dogs for the Blind
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*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").⁴⁵ 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;⁴⁶ a third-party report indicates this profile retention is feasible.⁴⁷

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*

⁴⁵ See 14 CFR §382.43(d). http://www.ecfr.gov/cgi-bin/text-idx?SID=2924d7d0b28226bcc03f608e7cd86b81&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.⁴⁸

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.⁴⁹ 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).⁵⁰ 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.⁵¹

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

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 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

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.⁵² 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.⁵³

§8. *Decision tree content*

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Dan Ignazewski, Amputee Coalition
Melanie Brunson, Blinded Veterans Association
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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
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⁵² See the comments in the docket around October 6th–7th, 2016. <https://www.regulations.gov/docket?D=DOT-OST-2015-0246>

⁵³ 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*.⁵⁴

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**

⁵⁴ 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 parameters⁵⁵ 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,⁵⁶ 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

⁵⁵ 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

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

comes from a prominent training provider.⁵⁷

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).⁵⁸ Similarly, airlines have adjusted passengers' accommodation requests based on the mistaken idea that they are doing the passengers favors.⁵⁹ 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 situation⁶⁰
- 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.

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:

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.*
Samantha Crane, JD, Autistic Self Advocacy Network*
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
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:

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,⁶¹ 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,⁶² 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.⁶³

⁶¹ See Appendix E for guidance on applying the behavior standard.

⁶² 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)

⁶³ [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.⁶⁴

§10. *Miscellany*

Signatories:

Bradley W. Morris, MA, CPhil, Psychiatric Service Dog Partners*
Jenine Stanley, Guide Dog Foundation for the Blind and America's VetDogs*
Susan M. Daniels, Leader Dogs for the Blind
Sarah G. Clapp, Guide Dogs of the Desert
Dan Ignazewski, Amputee Coalition
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 Life⁶⁵
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:

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

⁶⁴ 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.

⁶⁵ 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/TTY⁶⁶ decision tree completion option.⁶⁷

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.

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

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

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.⁶⁸

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.⁶⁹

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,⁷⁰ 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.

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

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.

PawsGlobal, Inc. | 745 Atlantic Avenue, Suite 700, Boston, MA 02111 | +1 (617) 580-8801 | www.pawsglobal.com



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
Brad,

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

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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.

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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: [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.

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

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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:

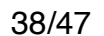
If you have a disability and plan to fly with an animal to help with your disability, under federal law [insert airline name] requires you to fill out a form. This form is available by contacting [insert airline name]: [insert URL link to airline's accommodation request form] [insert airline's phone 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.

[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."^[71]

["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

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.⁷² 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

⁷² 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.



United Service Animal Users, Supporters, and Advocates

Partnering for reasoned advocacy

2. ACAA Third-Party Documentation Requirements:

Survey of Psychiatric- Disability-Mitigating Animal Users

December 11, 2016

from USAUSA

**The following document is part of USAUSA's May 2019
compilation, "The path to responsible air travel governance:
A recent history of service animal recommendations"**

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

December 11th, 2016

United Service Animal Users, Supporters, and Advocates¹

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.

¹ 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,² 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.³ Even more such descriptions can be found in the 2009 petition from Psychiatric Service Dog Society,⁴ referenced in footnote 53 of the same comment.

§2. *Statistical context*

Over 325 million people are in the United States.⁵ 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.⁶ 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)."⁷

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*

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

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.)

- ☐ 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.⁸ 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, \$361,⁹ 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

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

⁹ 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.¹⁰

¹⁰ 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 ACAA 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 catagory of disability as mental health where that is protected by HIPPA. So it kinds 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 nerd 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 bene fits 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 ACAAA 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 be 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.

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

Sincerely,

Bradley W. Morris, MA, CPhil
Director of Government Relations
Psychiatric Service Dog Partners
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Consumer Relations Coordinator
Guide Dog Foundation for the Blind
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United Service Animal Users, Supporters, and Advocates

Partnering for reasoned advocacy

3. Flight Access Survey Report

May 22, 2018

from USAUSA

**The following document is part of USAUSA's May 2019
compilation, "The path to responsible air travel governance:
A recent history of service animal recommendations"**



United Service Animal Users, Supporters, and Advocates¹
Partnering for reasoned advocacy

Flight Access Survey Report

May 22, 2018

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

RE: DOT-OST-2018-0067 & DOT-OST-2018-0068; Survey report
regarding disability-assisting animals

Ms. Workie:

On April 4th, an attorney in your office indicated to us that your office generally crafts guidance only when either formal complaints or significant data makes it clear that such guidance is needed.² We extrapolate that DOT also prefers to have data to justify its regulation and enforcement changes. We therefore offer this Flight Access Survey Report to aid your office in developing new regulations, guidance, and enforcement priorities on several timely issues related to the use of disability-assisting animals.

Thank you for giving your consideration to this report, USAUSA's previous

¹ USAUSA is an informal collaboration of diverse stakeholders. See <https://www.psychdogpartners.org/usausa>

² Email excerpt: "With respect to whether the Department will be issuing guidance on basic economy seating programs, we traditionally decide whether or not to issue a guidance document when we receive a significant number of complaints about an issue or we have received data indicating that there is significant concern in the disability community about an airline policy or practice."



survey report ("2016 survey report"),³ and USAUSA's post-Reg Neg⁴ compromise recommendations ("2016 compromise comment")⁵. We are confident these documents not only reflect true middle-ground perspectives informed by dialogue across stakeholder types, but equally as important, they are anchored in valuing safety, disability rights, and practical considerations above narrow self-interest.

We expect this report to be revelatory for all stakeholders.

Sincerely,
Bradley W. Morris, MA, CPhil
Director of Government Relations
Psychiatric Service Dog Partners
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Jenine Stanley
Consumer Relations Coordinator
Guide Dog Foundation for the Blind
and America's VetDogs
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- 3 "ACAA Third-Party Documentation Requirements: Survey of Psychiatric-Disability-Mitigating Animal Users": <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>
- 4 "Reg Neg" refers to the Negotiated Rulemaking process conducted by DOT among stakeholder representatives known as the Advisory Committee on Accessible Air Transportation (ACCESS Advisory Committee), concluding in 2016. <https://www.transportation.gov/access-advisory-committee>
- 5 "Pre-NPRM Comment: DOT's ACAA Service Animal Regulations": <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>



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§1. *Historical context*

Here we chart where we find ourselves on the long arc of history, with a targeted purpose. In this section, our goal is to lift the lid on historically hidden biases to reveal how common preconceptions draw us into inadvertent—but very real—discrimination. We would not do this if it were not so clearly essential to understanding our survey results in the current climate. If DOT is not given the chance to understand the mistakes of the past from the perspective of the rights holders themselves, we fear the disability community will continue to bear the costs of those mistakes far into the future.

§1.a. *Backdrop*

Not very long ago at all, businesses (including airlines) would assume things about people with disabilities that would lead to discriminatory treatment. Wheelchair users might be forced to sit on a towel on an airplane seat, even in the absence of bladder or bowel issues. Someone with a deformity or unusual medical equipment might be forced to get a medical certificate to fly. Some localities even had "ugly laws" that made it legal for businesses to turn people away—or have people arrested—based on their disabilities.^{6,7}

Not all airlines or employees would discriminate in egregious ways based on disability. However, a sure fire recipe for this mistreatment is to couple still-present biases with a lack of human rights laws designed to keep those drives in check. DOT officials cannot eliminate prejudice, so their task is to rise above and craft laws that do not reinforce society's ill-considered impulses.

Such iniquitous motivations may be as backward as social Darwinism and eugenics, or as condescendingly well-intentioned as a medical (or charity) model of disability that dominates the popular imagination. In such models, people with disabilities are looked down on as objects of pity or of medical attention—objects to be handled, "fixed", or have their access controlled by third parties.^{8,9}

Any one of us can acquire a disability or face an unexpected disabling

6 <https://www.snopes.com/fact-check/ugly-laws/>

7 Beyond this, benignly unusual behavior might land a person in a filth-hole of an asylum for an indefinite stay and torturous treatment.

8 This contrasts with, for example, a social model of disability. According to such a model, most of the barriers faced by people with disabilities derive from correctable issues in society. The objects of improvement, therefore, are social or environmental factors, not the individuals with disabilities.

9 Of course, anyone facing economic or medical difficulties might appreciate access to the appropriate assistance. Assistance or accommodations differ from gatekeeping or other methods of control.



condition at any time. Regardless, it's vital DOT finally recognize a basic axiom of disability rights and the freedom of movement.¹⁰ *It is a violation of disabled individuals' human rights to make the possibility of engaging in the world hinge on gaining some official "approval".* Having a disability should not mean having to wear a special badge or obtain encumbering documentation others don't in order to travel.¹¹

It is against this backdrop that the Air Carrier Access Act was fought for and passed.¹² The crux of the ACAA is so straightforward, it is well-worth a quick review (bold emphasis added):

49 USC §41705. Discrimination against handicapped individuals
*(a) In General.—In providing air transportation, **an air carrier,***
including (subject to section 40105(b)) any foreign air carrier,
may not discriminate against an otherwise qualified
individual on the following grounds:
*(1) **the individual has a physical or mental impairment that***
substantially limits one or more major life activities.
(2) the individual has a record of such an impairment.
(3) the individual is regarded as having such an impairment.¹³

This is the legislation under which DOT is supposed to articulate disability access regulations for flying. The prime directive of such disability rights laws is to facilitate access and minimize discrimination on the basis of disability.

§1.b. *Development and regression*

David Capozzi noted at the DOT-hosted 30-year celebration of the ACAA that:¹⁴

10 See Article 13 of the United Nations' 1948 "Universal Declaration of Human Rights".

<http://www.un.org/en/universal-declaration-human-rights/index.html>

11 This is not some flippant reference to Nazi Germany, where people with disabilities were the first to go. This is a counterpunch to thinking and laws that are prevalent around the world and in the US today.

See the January 19, 2018 press release from Psychiatric Service Dog Partners, "Delta Air Lines' planned service animal policy strives to balance safety with human rights concerns, leaves room for improvement", which touches on this. The sentiments in this release received sign-on support from Sarah Grady of the Service Dog Society and Laurie Gawelko of Service Dog Express.
<https://www.psychdogpartners.org/press-releases/delta-planned-service-animal-policy-leaves-room-improvement>

12 To include a badge prohibition at 14 CFR §382.33(b)(4): https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=081e6fdb88efba024ce66cc2df66709&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_133

13 <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title49/html/USCODE-2011-title49-subtitleVII-partA-subpartII-chap417-subchapl-sec41705.htm>

14 David M. Capozzi is the Executive Director of the United States Access Board; he was involved with the construction and passing of the ACAA. The celebration was on October 13, 2016, and the quotation was taken from a panel discussion and confirmed by Brad Morris with Mr. Capozzi



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

In concert with Mr. Capozzi's claims, advocates today see the parallels between race-based civil rights struggles and disability-based civil rights struggles.¹⁵ We have not crossed a magical barrier into a golden age of enlightenment. These fights for rights did not end with the passage of the Voting Rights Act or the Air Carrier Access Act. Society is not free from prejudice and misconceptions, and it is still possible for people in power not to understand how their assumptions and models of disability are unnecessarily railroading their actions toward systematic discrimination.

Let us be frank so we have a chance to remedy some of these ills. There is hope, but the present situation is bleak for those who use animals to assist with their disabilities.

There are two general worries we will articulate: (1) DOT regulations encourage discrimination on the basis of disability type and (2) DOT appears to subscribe to outdated models of disability that facilitate creating barriers to access rather than prioritizing access for people with disabilities.

§1.c. Discrimination based on disability type

While we would like to be optimistic about future regulations, DOT's current regulations discriminate on the basis of disability type. Discriminating purely based on disability type is a way to discriminate on the basis of disability, which is fundamentally contrary to the ACAA.

The ACAA would not permit an airline to provide a wheelchair accommodation upon request to someone with gait difficulty due to multiple sclerosis (MS), but require third-party documentation from another person because their diagnosis is amyotrophic lateral sclerosis (ALS). Nor would it permit an airline to provide a required accommodation without hassle to individuals who are blind, yet require advance notice and third-party

immediately after the discussion.

15 Respectively, to better understand disability rights as civil rights, see the article by Brad Morris, "Flying with a disability: More barriers for the marginalized?", under Psychiatric Service Dog Partners' February 22, 2018 press release ("Delta 'enhancements' keep updates legal, but immoral") and see "Potential PR nightmare: how airlines choose to discriminate" to better understand the violations of civil rights virally infused in air travel.

<https://www.psychdogpartners.org/press-releases/delta-enhancements-immoral>

<https://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/pr-nightmare-airlines-choose>



documentation to provide a similar required accommodation if the passengers are deaf.

Why would we claim that DOT's ACAA regulations encourage discrimination based on disability type?^{16,17} For service animal users with *mental health-related* disabilities, the regulations allow airlines to require advance notice and a medical professional's letter to prove one's disability.

Due to these regulations, most airlines do choose to put in place significant barriers to access for persons with mental health-related disabilities who use a service animal trained for work or tasks and for public access. These same burdens are not prescribed for people with non-mental health-related disabilities who use service animals. The only difference between these categories is disability type.¹⁸

By encouraging—or even by explicitly allowing—discrimination based on disability type, DOT has fallen outside of its most basic ACAA mandate from legislators. As USAUSA's 2016 survey report clearly indicates, this state of affairs has perpetrated a mass of injustices and a mess for all sides.¹⁹

At the time (2009), a large group of psychiatric service dog users warned DOT about the deleterious effects that discriminatory and burdensome regulations would have on them.²⁰ Notwithstanding these warnings, DOT put off reconsidering the regulations until around 2016 with the Reg Neg.

The Reg Neg ultimately failed to produce a consensus on an overall package, though quite notably, compromise positions were reached on

16 See 14 CFR §382.27(c)(8) & §382.117(e):

https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=879531fcd5fd2b69262d8ab7f3dce6&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_127

https://www.ecfr.gov/cgi-bin/text-idx?SID=5aa2959003ebb44d09d6d57318a9eb9a&node=se14.4.382_1117&rgn=div8

17 As earlier referenced, the situation is alternatively described in "Potential PR nightmare: how airlines choose to discriminate": <https://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/pr-nightmare-airlines-choose>

18 Emotional support animals, or ESAs, are a different category. While under DOT, ESAs are for mental health-related disabilities (a restriction not present in HUD's FHAct ESAs), ESAs are not trained to do work or tasks to mitigate a disability. It is also not reasonable to expect ESAs to be trained to behave in flight-like environments.

19 Consider even just this statistic from page 5: "Over three out of four people surveyed [people who use a psychiatric service dog or an emotional support animal] have either not flown or have flown less because of these factors [the burdens placed on them and not on other service animal users]." <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>

20 See the petition from Psychiatric Service Dog Society. <https://www.regulations.gov/document?D=DOT-OST-2009-0093-0001>



several fronts. These positions are best represented in USAUSA's post-Reg Neg 2016 compromise comment to DOT,²¹ with the exception that most airline representatives had no predilection for human rights-centered models of disability.

§1.d. *Outdated disability models incubate fresh barriers*

The flight context differs significantly from those pondered by the Department of Justice's Title II and Title III Americans with Disabilities Act regulations.²² That being said, this difference does not justify a departure from the basic premise that in the United States, disability rights are civil rights—guaranteed not merely by nature or ethics, but by law.

The requirement to obtain a medical professional's letter to prove one's disability is a prime example of DOT regulations using an outdated medical model of disability that DOJ has eschewed and rebuked as "[...] burdensome, and contrary to the spirit, intent, and mandates of the ADA".^{23,24} Looking to present developments, we are given no reassurance

21 <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

22 These differences are perspicuously detailed in a document drafted by Psychiatric Service Dog Partners before the Reg Neg. See especially §1 of "ACAA Design Challenges & Solutions", which enumerates these considerations and details their fallout:

(1) some pets are allowed on board when people pay fees

(2) the environments of airports and cabins of airplanes in flight are more challenging than average for an animal (humans, too!)—including in terms of airport activity and stress, and airplane crowding and confinement

(3) gatekeepers (employees) are more in the position of actively verifying an animal's status

<https://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/acaadesign-challenges-solutions>

23 DOT's Congressional mandate through the ACAA does not differ significantly from DOJ's through the ADA. See 42 USC §12101(b)(1), where the simple ADA mandate is "the elimination of discrimination against individuals with disabilities". <https://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/html/USCODE-2010-title42-chap126.htm>

24 See DOJ's 2010 analysis from updating its service animal regulations ("Appendix A to Part 36—Guidance on Revisions to ADA Regulation on Nondiscrimination on the Basis of Disability by Public Accommodations and Commercial Facilities", "Section-By-Section Analysis and Response to Public Comments"):

"Some commenters suggested that a title III entity be allowed to require current documentation, no more than one year old, on letterhead from a mental health professional stating the following: (1) That the individual seeking to use the animal has a mental health-related disability; (2) that having the animal accompany the individual is necessary to the individual's mental health or treatment or to assist the person otherwise; and (3) that the person providing the assessment of the individual is a licensed mental health professional and the individual seeking to use the animal is under that individual's professional care. These commenters asserted that this will prevent abuse and ensure that individuals with legitimate needs for psychiatric service animals may use them. **The Department believes that this proposal would treat persons with psychiatric, intellectual, and other mental disabilities less favorably than persons with physical or sensory disabilities.** The proposal would also require



that DOT intends to relegate such models to the past and turn instead to a human rights-based approach.²⁵

A human rights approach to disability could allow deterrent consequences to knowingly and willfully committing fraud to obtain goods or services. It could tolerate a system where individuals verify they understand the rights and responsibilities pertaining to travel with a service animal when they intend to fly—the system can assume traveler *ignorance* if the consequences are not overly burdensome.

What a human rights approach cannot abide is a system that assumes the *guilt* of people with disabilities.

At this point, we cannot afford to mince words; too much hangs in the balance. *Requiring people with disabilities to seek, obtain, present, or carry special paperwork from a third party, as if their innocence must be proven for them to exist as others do in society, is an authoritarian violation of human rights.*²⁶

Airlines are in the midst of increasing the barriers through further third-party documentation procedures not outlined or anticipated by existing regulations on which the public could have commented. Delta²⁷ is among

persons with disabilities to obtain medical documentation and carry it with them any time they seek to engage in ordinary activities of daily life in their communities—something individuals without disabilities have not been required to do. Accordingly, **the Department has concluded that a documentation requirement of this kind would be unnecessary, burdensome, and contrary to the spirit, intent, and mandates of the ADA.**" (bold emphasis added)

While DOT and DOJ are separate entities with separate purviews, it's hard to understand how the same basic mandate could be handled from such divergent perspectives when it comes to these core issues.

<https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&r=APPENDIX&n=28y1.0.1.1.37.6.32.8.13>

- 25 See DOT's May 16, 2018 "Interim Statement of Enforcement Priorities Regarding Service Animals" and "Traveling by Air with Service Animals Advance Notice of Proposed Rulemaking (ANPRM)", respectively.

<https://www.regulations.gov/document?D=DOT-OST-2018-0067-0001>

<https://www.regulations.gov/document?D=DOT-OST-2018-0068-0001>

- 26 Our 2016 survey report, performed at the request of DOT, clearly bears out the severe impacts of the current regulations' burdens. <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>
- 27 See Delta's February 2, 2018 news release (a follow-up to an initial January release), "Delta service and support animal policy effective March 1, enhancements added": <https://news.delta.com/delta-service-and-support-animal-policy-effective-march-1-enhancements-added>

Delta's policy page is linked here: https://www.delta.com/content/www/en_US/traveling-with-us/special-travel-needs/service-animals.html



these airlines, as are United²⁸ and American²⁹. Some airlines have made it clear they would extend such barriers to all service animal users if they could.³⁰ While this is happening, DOT has taken a wait-and-see approach, challenging our crudest optimism.³¹ In an Advance Notice of Proposed Rulemaking (ANPRM), DOT considers expanding the burdens and cementing them in new regulations.³²

We are not merely frustrated, but are at times distraught that DOT is considering whether to further push discriminatory, burdensome regulations

28 See United's February 1, 2018 news release, "We update our policy around emotional support animals". Note that United does not even recognize psychiatric service animals in the release, even though United subjects users of psychiatric service animals to the same increased burdens as ESA users: <https://hub.united.com/united-emotional-support-animal-policy-2530539164.html>

United's policy page is linked here: https://www.united.com/web/en-US/content/travel/specialneeds/disabilities/assistance_animals.aspx

29 See American's May 14, 2018 news release, "American Airlines Announces Changes to Emotional Support Animal Policy", which is similar to United's in not mentioning psychiatric service animals: <http://news.aa.com/default.aspx?SectionId=5cc5ecae-6c48-4521-a1ad-480e593e4835&LanguageId=1&PressReleaseId=bd1f806b-fb0e-4a71-bac0-2888c587da1c>

American's policy page is linked here: <https://www.aa.com/i18n/travel-info/special-assistance/service-animals.jsp>

It speaks volumes to us that an airline feels emboldened in the current climate to go so far in ignoring human rights as to have a medical release for people with disabilities to sign. The language just below is on American's "Animal Sanitation Form" and "Mental Health Professional Form":

"I, (print name of customer or parent/legal guardian), consent to American Airlines collecting and processing personal information, including medical information, for use in authorizing travel with the emotional support animal named above and for the travel date(s) named above."

30 As an example beyond the many conversations at the Reg Neg, Delta attempted to extend third-party documentation and advance notice requirements to all service animal users in their initial barrier expansion. See Delta's January 19, 2018 news release, "Delta introduces enhanced requirements for customers traveling with service or support animals effective March 1", which states that "The guidelines, effective March 1, require that all customers traveling with a service or support animal show proof of health or vaccinations 48 hours in advance." Delta was soon forced to walk this plan back to only apply to the categories for which DOT allows extra burdens. <https://news.delta.com/delta-introduces-enhanced-requirements-customers-traveling-service-or-support-animals-effective>

31 See the January 19, 2018 press release from Psychiatric Service Dog Partners, "Delta Air Lines' planned service animal policy strives to balance safety with human rights concerns, leaves room for improvement", which quotes a DOT official as saying:

"The Department is aware of the new Delta Air Lines policy regarding service animals. Air travel should be safe for passengers and airline employees and accessible for all passengers. We will monitor Delta's policy to ensure that it preserves and respects the rights of individuals with disabilities who travel with service animals. Under DOT's current rules implementing the Air Carrier Access Act, airlines are required to accommodate passengers with disabilities who depend on the assistance of service animals within limits. Airlines are not required to accommodate unusual service animals, such as snakes, reptiles, ferrets, rodents, and spiders. Also, an airline may refuse to carry other animals if the airline determines there are factors precluding the animal from traveling in the cabin of the aircraft, such as the size or weight of the animal, 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, and whether the law of a foreign country that is the destination of the flight would prohibit entry of the animal. In enforcing the requirements of Federal law, the Department is committed to ensuring that our air transportation system is safe and accessible for everyone."



that rely on outdated models of disability, masked in safety concerns for all passengers. While we write of models, this is not a matter of theory. As our survey results show, this is a matter of the very real and quite dire impacts this situation has in the lives of people with disabilities.

After these interlocking years of rights reductions, DOT is faced with an historic decision. DOT officials need to decide whether to re-adopt a human rights perspective on disability access, as DOT originally adopted and as the ACAA crafters intended. The other option is to ignore the civil rights concerns and instead push for even more of a medical model of disability, continuing to violate the ACAA mandate. This is the option that incubates barriers by treating people with disabilities as guilty until proven innocent.

This is the unfortunate history and present context in which our community completed the flight access survey. We believe the results below bear this out and beg for a sea change in a way we hope DOT will hear and understand.

§2. Survey results summary

§2.a. General trends

The community of service animal users and ESA users would usually be described as anything but univocal. However, our survey reveals reliably deep dissatisfaction with DOT's regulatory approach and the direction some airlines' recent interpretations are straining the regulations. General trends in the quantitative and qualitative responses indicate the following.

On average, a person who uses an animal to assist with their disability:

- is extremely likely to see unacceptable injustice in the current ACAA regulatory approach,**
- is very likely either not to fly or to fly much less due to the costly, discriminatory burdens they face (such as various third-party documentation requirements), and**
- has very little confidence that the current approach is safe, reliably executed, or has any significant impact on**

<https://www.psychdogpartners.org/press-releases/delta-planned-service-animal-policy-leaves-room-improvement>

32 As referenced earlier: <https://www.regulations.gov/document?D=DOT-OST-2018-0068-0001>



misuse or misinterpretation of the laws.

To be clear, the data set gives the unmistakable impression that the present situation and its trajectory are bleak, failing in the ACAA's most basic objectives. There is hope, in that the data also lay breadcrumbs toward manners of remedy and paths to success.

§2.b. Quantitative summaries

The survey was advertised and widely distributed to service animal users and emotional support animal (ESA) users. The survey received 926 responses. The exact prompts and data are in sections below, but responses to each prompt are summarized here.

- Less than 5% of respondents think it would be acceptable for airlines to put up more barriers for people with one type of disability vs. another
- More than four out of five respondents value protecting access for people with disabilities more than reducing the number of people misusing the laws
- 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
- Respondents were discouraged from buying cheaper "basic economy" tickets with restrictive policies at a level of 4.3 out of 5 (where 5 is "totally discouraged"), due to their disability-related needs
- Around 95% of respondents think that for crate-free flight access, animals should be both trained and accustomed to behaving in similarly stressful public places; almost 9 out of 10



are concerned about untrained or stressed animals interfering with their animals when they fly

- Where 1 is "not at all confident" on a scale that ends at 5 with "totally confident", respondents are only confident at a level of 1.9 that airline staff members interpret disability policies accurately and appropriately

In addition to these quantitative results, by far the most commonly voiced concern in the qualitative responses (mentioned in 62%) pertains to the difficulties encountered and expected as a result of existing and anticipated barriers to travel. Following this among the popular sentiments are concerns about other animals' behavior and training (38%) and trust issues when it comes to airlines and government agencies (19%).

§2.c. Previous results

The results of our 2016 survey of psychiatric service animal users and ESA users³³ are of particular relevance next to the above figures:

- 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 required medical paperwork is \$156.77, it takes an average of 30.6 days to see a medical professional and obtain a letter, and 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.

§2.d. Implications summary

The implications of the above figures are far-reaching and detailed in the next section. However, we will summarize some of these implications here:

- Whether disability rights laws discriminate based on disability type should not depend on a public approval rating—but the public does in fact disapprove of this discrimination
- DOT must recognize the ACAA anti-discrimination mandate

³³ <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>



and prioritize access for people with disabilities over extreme burdens on them that fail in trying to stop misuse of laws

- "Basic Economy" policies de facto discriminate, but this is easily remedied with statements of exceptions for disability-related needs
- Animals need to be both trained and accustomed to behaving in flight-like environments for crate-free cabin access and others' safety
- People with disabilities aren't confident in airlines employees' execution of access laws, but there are ways all parties can improve

§3. Survey results implications

While the survey results have extensive implications, in this section we focus on the proximate consequences as they relate to concerns DOT and our community members have expressed.

§3.a. Public disapproval as the clincher against discrimination

As we detailed in §1.c., DOT's ACAA regulations encourage airlines to discriminate on the basis of disability type and airlines oblige. We believe this is fundamentally contrary to the ACAA's mandate to DOT, which is to excise discrimination on the basis of disability. Irrespective of the law, we believe this discrimination is ethically unacceptable. Our community very clearly agrees it is not acceptable for airlines to make access harder for individuals with one type of disability vs. another, at a rate of 19 out of 20 people being against this.

Airlines seem to claim, without hard data,³⁴ that the rate of law misuse among people claiming to have one type of disability is higher. *Even if* airline anecdotes were true, that would not justify extra barriers on the

³⁴ Complicating this further, it would be hard to acquire much in the way of hard data to substantiate airlines' claims of *fraud*, specifically. First, it is difficult to prove someone knowingly and willfully made misrepresentations to gain some benefit. Second, people (including airline employees) tend to work from prototypical understandings of service animals and thus easily misidentify non-prototypical service animal or ESA users as illegitimate. Third, and related to the previous point, people with or without disabilities who seek to fly with their animals can easily lack an understanding of the laws—our experience indicates most people do not even understand that having an ESA requires having a disability, let alone that DOT expects ESAs to be public access trained. This means that when an airline employee sees any such *misuse* of the laws, the employee likely may misinterpret this misuse as fraud.



basis of that disability type. That would be analogous to the Department of Justice encouraging local law enforcement agencies to systematically detain people of color without cause,³⁵ if those agencies complained that people of color presented them problems at a higher rate. The fact that we're dealing with a marginalized group of people with disabilities, rather than people of color, does not give us license to abandon basic principles of civil rights.³⁶

While the moral argument should be sufficient, it is even better when the principles are woven into popular thinking. A full 70% of Americans oppose racial profiling, and 86% of African-Americans and Hispanics oppose it.³⁷ The fact that over 95% of our survey population opposes disability-type-based discrimination should be the final, belated nail in the coffin of the current regulatory scheme, which is just as unconstitutional.³⁸

§3.b. *Prime directive vs. extreme anti-misuse measures*

The non-discrimination prime directive of the ACAA is supposed to ensure access to air travel for people with disabilities. Understandably, DOT must carry out this directive while balancing safety, disability rights, and practical considerations. Notably, DOT's prime directive is not to prevent fraud. It is a worthy goal to prevent fraud and other misuse of the laws (such as due to misunderstandings or poor procedures), but this is entirely secondary.

DOT officials are faced with a choice between advancing two sorts of systems. The first sort of system attempts to stop fraud (but doesn't seem to) by encouraging burdens that cost people with disabilities a lot of money and time, thereby discouraging them from flying to a high degree. The second sort of system is not draconian in trying to flame-throw fraud, but focuses on education to mitigate the misuse of laws—which does not unduly cost people with disabilities money or much time, and thus does not discourage them from flying.

35 If one cares to have a closer analogy, it would more specifically be like singling out darker-skinned people of color for worse treatment. While there is evidence this actually is what happens, our hope is that it is crystal clear it would be unacceptable to allow policies to back up this kind of prejudice.

36 While it should not be necessary for regulations to spell out that discrimination based on disability type is not okay, for comparison, DOJ's Title III ADA regulations actually do spell this out at 28 CFR §36.301(a): "A public accommodation shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services[...]" <https://www.ecfr.gov/cgi-bin/text-idx?SID=4d37d443ff7da5de96902e4d1b349217&mc=true&node=pt28.1.36&rgn=div5>

37 See the poll results presented and linked to in the October 14, 2014 article "Poll: 70% of Americans Oppose Racial Profiling by the Police": <https://reason.com/poll/2014/10/14/poll-70-of-americans-oppose-racial-profi>

38 See the US Constitution's "equal protection clause" in the 1868 Amendment XIV, Section 1: https://www.senate.gov/civics/constitution_item/constitution.htm



Our community is certainly concerned about fraud and misuse of the laws, since we do not want our rights abused or our animals attacked. However, preserving access for people with disabilities is clearly the larger priority. Yes, it's the ACAA's prime directive, but access is also prioritized by 82% of our community. Almost 2 out of 3 survey-takers went to the trouble to mention concerns about burdens to access in their open-ended responses.

We are aware of no evidence the current burden-stacking approach of preventing fraud has a significant positive impact. There is much evidence of its negative impact.

With a tight turnaround in 2016,³⁹ we conducted a survey and let DOT know about the severe impacts of the current regulations on the people with mental health-related disabilities singled out by the regulations. When 3 out of 4 of these people with disabilities stop or reduce their flying due to the burdens, the proof is in the pudding that the burdens are undue.

DOT officials may not understand or be able to empathize that many people with disabilities are economically disadvantaged, which makes the \$156.77 paperwork cost more significant. Parallel to this, many people with disabilities have more difficulty engaging in and recovering from what are everyday activities for others, which makes the 30.6 days to get in to see a doctor and 4.8 hours of personal time more of an impasse than they would be for others.

Given the ACAA's prime directive, we are confused that DOT would create a system wherein people with disabilities are so burdened, with one class of them further stigmatized.⁴⁰ It seems the ACAA is meant to *remove* burdens, not *add* them. We are flabbergasted that DOT writes of these burdens as if they would be bad for all other people with disabilities, but not

³⁹ DOT had Econometrica reach out to us on Wednesday, December 7, 2016 for data to feed into a regulatory impact analysis. We submitted our report on December 11th. Econometrica had written:

"[...]We're currently working to gather cost and benefit and other relevant data to be able to construct a regulatory impact analysis for an eventual proposed rulemaking by OST. Regarding the service animal provisions, [DOT officials] suggested we reach out to you to obtain information about the costs of third party documentation for service animals and/or emotional support animals. Do you have any data or other qualitative information on the costs of obtaining or maintaining third-party documentation for service animals and/or emotional support animals?"

"Would you be able to provide this information by Monday December 12th? Please let me know if you have any questions."

⁴⁰ It further confuses us that DOT does not seem to recognize that one of the most-agreed upon issues at the Reg Neg was not to treat psychiatric service animals any differently from other types of service animals. By the end, this was no longer up for debate, with the straw poll about the service animal definition instead focusing merely on whether to include cats as service animals. Documents from the fifth meeting evidence this through a lack of pointed concern on either side over the issue, since participants felt it had already been settled. <https://www.transportation.gov/office-general-counsel/negotiated-regulations/5th-meeting-sept-21-23>



for the people with disabilities who currently suffer under them.⁴¹

What we find most bizarre is that we provided clear evidence of the unacceptable burdens *already* in play, yet DOT presently considers whether to permanently add more such burdens.⁴² Respectfully, from the outside it looks like DOT's single-minded goal in this area is to chase total victory in a misguided crusade against an anecdotal "fraudster" enemy, without regard for how much this burden-stacks people with disabilities.

DOT can no longer pretend the existing burdens and the new access barriers are due and just burdens. The present survey simply reinforces the manner in which these systems *eliminate* and reduce access for people with disabilities.

Two-thirds of our community members don't think their veterinarians would be willing to sign the kind of form airlines like United would like to have,⁴³

41 We would expect DOT to be experiencing a great deal of cognitive dissonance around this disparity. On page 12 of DOT's May 16, 2018 "Interim Statement of Enforcement Priorities Regarding Service Animals", DOT says "At present, the Enforcement Office is not aware of any airline requesting information from ESA or PSA users that would make travel with those animals unduly burdensome[...]". Just earlier, on page 9, DOT had made the curious observation that users of disability-mitigating animals *other than those for mental health-related disabilities* might be harmed if subjected to the same requirements as PSA and ESA users. On page 11, DOT then echoes the sentiment that extra burdens are okay, but only for those with mental health-related disabilities:

"Thus, under existing rules, carriers may not otherwise require advance notice for passengers traveling with service animals (e.g., seeing eye dogs) other than ESAs or PSAs unless the flight segment is 8 hours or more. Requiring advance notice for service animals outside of these specific circumstances violates the Department's regulation and may significantly harm passengers with disabilities as it prevents them from making last minute travel plans that may be necessary for work or family emergencies." (9)

"As described previously, certain carriers have indicated that they need veterinary forms or behavioral attestations to determine whether a service animal, particularly a PSA and/or an ESA poses a direct threat. At the same time, we understand the disability advocates' view that these policies violate the Department's disability regulation because they impose new requirements on passengers with disabilities.

"The Enforcement Office does not intend to use its limited resources to pursue enforcement action against airlines for requiring proof of a service animal's vaccination, training, or behavior so long as the documentation is not required for passengers seeking to travel with a service animal that is not an ESA or PSA." (11)

<https://www.regulations.gov/document?D=DOT-OST-2018-0067-0001>

42 See DOT's ANPRM: <https://www.regulations.gov/document?D=DOT-OST-2018-0068-0001>

43 From United's February 1, 2018 release about their planned policy:

"The customer must also provide a health and vaccination form signed by the animal's veterinarian. The veterinarian must also affirm that there is no reason to believe that the animal will pose a direct threat to the health and safety of others on the aircraft or cause a significant disruption in service."

<https://hub.united.com/united-emotional-support-animal-policy-2530539164.html>



and they seem to be right.⁴⁴ If service animal users 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.⁴⁵ Such burdens would radiate and multiply across hundreds of thousands of flyings by service animal- and ESA-using people with disabilities each year.⁴⁶

While the population-level cost is disturbing, we remind DOT that for most people with disabilities, these burdens are enormous on the individual level. In our community, 79% of people are at least moderately discouraged from flying by being required to provide one piece of third-party documentation, with 22% being totally discouraged.⁴⁷ This data is reinforced by our 2016 survey, which found that 76% fly less or not at all due to the contemporary burdens.⁴⁸

In the present survey, if individuals have to provide *two* pieces of third-party documentation, 88% are at least moderately discouraged and 55% are *totally* discouraged from flying. **We believe this means that over half of our population will not fly with such a system as DOT is considering—a system that is supposed to guarantee access for people with disabilities.**

§3.c. "Basic Economy" *de facto* discriminates, avoidably

The initial impetus for this survey was our interaction with DOT about

44 See the March 2, 2018 release from the American Veterinary Medical Association (AVMA), "AVMA, United Airlines reach agreement on veterinary health form"—and the comments from veterinarians attached thereto: "The AVMA, with support from AVMA PLIT, flew into action when United Airlines announced a new policy requiring a veterinary signature vouching for the health, behavior and training of psychiatric service and emotional support animals (ESA) flying with United passengers.

"The AVMA reviewed United's Veterinary Health Form, which the airline said would take effect March 1, and recognized that the information it requested might not position United to make good decisions that would appropriately support the health and welfare of their animal and human passengers. The statements on the form also created potential liability risks for veterinarians attesting to them."

https://atwork.avma.org/2018/03/02/avma-united-airlines-reach-agreement-on-veterinary-health-form/?utm_source=smartbrief&utm_medium=email&utm_campaign=smartbrief-assoc-news

45 See §5.a. for our data and analyses.

46 We are extrapolating based on data from airlines and our 2016 survey report calculations, which pertained only to disability-assisting animals for mental health-related disabilities: "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)." (2) <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>

47 The integer scale in our survey is from 1 to 5, with only 1 and 5 explicitly defined as "not at all discouraged" and "totally discouraged", respectively, in response to "How much would it discourage you from flying if[...]". We consider a rating of 3 to be "moderately discouraged". The 3, 4, and 5 responses for the seventh question constitute 21.1%, 36%, and 21.8% of the answers, totaling 78.9%. Similarly for the eighth question, the numbers are 7.9%, 24.8%, and 55.2%, totaling 87.9%. See §5.a.

48 <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>



American's new "Basic Economy" fare.⁴⁹ Other airlines, such as Delta⁵⁰ and United⁵¹, have also implemented this cheaper type of fare. Basic Economy has various restrictions, such as having to board last, not having access to the overhead luggage space, and not being able to choose one's own seat without a fee.

Each of the restrictions mentioned can run somewhat contrary to ACAA regulations that accommodate service animal users.⁵² Since all fare types

49 <https://www.aa.com/i18n/travel-info/experience/seats/basic-economy.jsp>

50 https://www.delta.com/content/www/en_US/traveling-with-us/onboard-experience/basic-economy.html

51 <https://www.united.com/web/en-US/content/travel/inflight/basic-economy.aspx>

52 As we put it to DOT on August 7, 2017, the boarding and bulkhead issues are more straightforward. The issue of whether or how to accommodate service animal users in light of the overhead space restriction is a little more complicated. These tickets do not (normally) allow a passenger to use the overhead bin space. Yet the person would have the under-seat footspace for carryon luggage in non-bulkhead seats. (Service animal users are historically supposed to have the option of bulkhead or non-bulkhead seats; see 14 CFR §382.81(c), while (d) is also conceptually relevant to allowing extra space as needed, other than a whole extra seat: https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=081e6fdb88efba024ce66cc2df66709&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_181)

The question is whether a total overhead storage prohibition for this ticket would apply to a service dog user whose dog occupies the footspace, since the dog is a disability-mitigation device. Would that person be entitled to any overhead luggage space to substitute for the footspace the dog occupies?

Presumably, assistive devices and associated disability accoutrements in a bag would be exempt from the fare restrictions and be allowed in the overhead, per 2009 DOT guidance, Q&A #44 under §382.121: https://www.transportation.gov/sites/dot.gov/files/docs/FAQ_5_13_09_1.pdf So the question is about carry-on luggage that is not exclusively disability-related.

American, for example, puts the carry-on allowance for Basic Economy roughly in terms of the footspace measurements. Perhaps if the overhead space for service animal users were limited to the footspace equivalent, that would be a reasonable accommodation. This would give Basic Economy service animal users the equivalent carry-on luggage space in the same class of service as non-service animal users. The restriction to a footspace-equivalent overhead space would still be a class-of-service restriction that passengers with normal tickets do not have. (The regulation regarding class of service is 14 CFR §382.87(f): https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=081e6fdb88efba024ce66cc2df66709&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_187)

This discussion is theoretical, but one of our authors has found the enforcement to be more passively practical. An airline representative told him not to worry about the Basic Economy overhead restriction, since his party would be pre-boarding and would have plenty of space. The implication was that the airline merely does not guarantee Basic Economy ticket-holders overhead space because they are (normally) boarding last, rather than the airline actively taking any measures to prevent such passengers from using the luggage space if it's available. This laissez-faire approach is an elegant solution to what may be a merely theoretical problem, but airlines still must make it clear that there is a possible exception for people with disability-related needs so they don't opt out based on a misunderstanding.

Additional regulations relevant to making a study of this might include 14 CFR:

§382.31 — prohibits disability-related charges, yet allows charges regardless if more than one *seat* is occupied https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=081e6fdb88efba024ce66cc2df66709&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_187



are supposed to be open to people with disabilities,⁵³ we felt that airlines should clarify any disability-related exceptions to their basic economy policies. Otherwise, the lack of clarity about whether their needs will be met has the practical effect of keeping people with disabilities from accessing the same spectrum of fares available to others, constituting de facto discrimination.⁵⁴

None of the airlines' Basic Economy pages we footnoted currently mention disability-related exceptions. We urged DOT to provide guidance or regulations to airlines to compel clarification, since we presume a simple asterisk and explanation about specific disability-related policy exceptions would adequately address the problem of de facto discrimination.⁵⁵ The April 4th, 2018 DOT response in our email exchange was (in part) as follows:

With respect to whether the Department will be issuing guidance on basic economy seating programs, we traditionally decide whether or not to issue a guidance document when we receive a significant number of complaints about an issue or we have received data indicating that there is significant concern in the disability community about an airline policy or practice.

Since the initial problem is a simple one of ignorance-based fare avoidance, this is not the sort of issue we would expect to inspire formal complaints. Consequently, we're providing the data. A full 64% our

382 131

§382.93—passengers with disabilities must be allowed to pre-board if extra time is needed
https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=081e6fdbc88efba024ce66cc2df66709&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_193

§382.121(b)—airlines can't count assistive devices as carry-on https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=081e6fdbc88efba024ce66cc2df66709&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_1121

53 See 14 CFR §382.11(a)(1) and (3): https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=081e6fdbc88efba024ce66cc2df66709&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_111

54 Even experts on the regulations such as us have either hesitated or refrained from saving money on a Basic Economy fare. However, this is mostly due to a worry that the airline employees would not be versed in the regulatory exceptions and would use the Basic Economy policies as justification not to accommodate our disability-related needs. See §3.e.

55 We would expect the asterisk (or any functionally equivalent symbol) to appear next to any policy provision for *any* fare type, regardless of its name, where the policy provision may conflict with disability-related regulations or DOT guidance. At the minimum, the airline needs to note that there are disability-related exceptions. Either in the same location, or (if there's a space issue on a physical document) in another accessible document clearly specified in the original location, airlines should clarify exactly the manner in which they would make a disability-related exception (e.g., "A service animal user may choose to sit in either a bulkhead section or a non-bulkhead section without an extra fee; reserving a particular seat within either section may incur a fee.").



community indicated they would be *totally* discouraged from purchasing Basic Economy fares due to their disability-related needs, while 91% were at least moderately discouraged. This data from 919 responses clearly indicates DOT needs to take action if this de facto discrimination is to stop.

We are reminded by this that access for people with disabilities isn't only about whether those who surmount the barriers get along okay. We must also consider how people are pushed to opt out altogether because the barriers are too much for them. Barriers include the perceptions and confusion that policies and their presentation create in reasonable people.

Fortunately, a ready solution is at hand and DOT has the power to put it into effect.

§3.d. Training+ for safety and crate-free access

Almost 9 out of 10 people in our community are concerned about another animal harming or interfering with their disability-mitigating animal. Further, 95% recognize that the unusual crowding and stress of the flying environment means animals should be transported in pet carriers if they haven't been both trained and accustomed to similar environments.^{56,57} This was the second-most-common type of sentiment in the open-ended comments, in 38% of the responses.⁵⁸

Our community is obviously very concerned about whether other animals are safe to be around. We find this comes mainly from two sources: negative experiences with misbehaving animals, and the risk of such misbehavior to their own animal.

To understand this worry about the risk to one's own animal, it helps to recognize that basic risk analysis involves two major components: likelihood and severity. It is difficult to say how likely a bad encounter is when flying, but it is easy enough to understand the severities of the possible outcomes.

If a service animal is distracted from its job by an unruly animal, the service

⁵⁶ See questions 11 and 10 in §5.a.

⁵⁷ We believe it's not generally reasonable to expect ESAs to be public access trained or to have developed the appropriate psychological shock absorbers it typically takes service dogs 1–3 years of focused training to cultivate. Yet we recognize and value the needs of ESA users who are unable, unwilling, or simply not needing to train their ESAs as service animals. The best compromise we've produced regarding ESA flight access is that they be transported and contained in a pet carrier by default, but able to come out of the pet carrier (tethered) specifically for disability mitigation. See §3 of our 2016 compromise comment: <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

⁵⁸ See "Behavior & training" in §5.b.



animal may not be able to perform its service, which can endanger the person's health or safety.⁵⁹ If a service animal is actually attacked, of course it may, tragically, be killed. More likely, an attack would result in injury to either the animal's body or training, creating a temporary or permanent setback for that team. This can deprive the person of their independence or functionality for an indefinite period of time—even years—all based on one incident.

This is why many service animal users dread being around stressed, untrained animals. The likelihood of an incident may only be 1%, for example, but if it's that unlucky 1 out of 100, the severity could be devastating.

Even if animals are well-trained *per pet standards* and in familiar environments, most are unaccustomed to the hustle and bustle of an airport and the sardine-can stay of a modern flight. In a strange, stressful experience, animals without extensive psychological shock absorbers from purposeful training are not as reliably behaved as their owners might expect.

These considerations lead us to agree with our community's wisdom. For crate-free access in the airplane cabin, animals should be both trained and accustomed to flight-like environments—as we expect service animals to be.⁶⁰ Service animal users should not have to be so worried about harm to or interference with their lifelines.

§3.e. *Ways to improve confidence in airlines*

Only about 1 out of 4 community members are at least moderately confident that airline employees interpret disability laws correctly,⁶¹ with 4 out of 9 people giving the most extreme response on the other end—that they are not at all confident. On a scale of 1 to 5, with 1 being "not at all confident", the average rating is a paltry 1.9.⁶² Trust-related issues were the third-most-common type of concern in the open-ended comments, in 19% of the responses.⁶³

59 As an everyday example, see "Hestia missed an alert" from May 17, 2018 in the blog "Dr. V's Service Dog Adventures": <http://www.doctorv.xyz/2018/05/17/hester-missed-an-alert/>

60 Notably, these safety points can be considered somewhat independently of disability status. These arguments do not just apply to ESAs, but also to pets, wherever pets are allowed in the cabin (or otherwise at the airport). In our experience, most service animal users would much rather be around a well-behaved "fake" service animal (or other pet) than a poorly behaved "legitimate" service animal.

61 The integer rating scale is 1–5, where 1 is "not at all confident" and 5 is "totally confident". We interpret a rating of 3 as "moderately confident". The 3, 4, and 5 ratings are 18.1%, 6.4%, and 2.1% of the total ratings, which sum to 26.6% (approximately 1 out of 4).

62 See question 12 in §5.a.

63 See §5.b.



There are three main parties to this predicament: people with disabilities, airlines, and DOT. We will suggest options for what each might do to improve such negative perceptions.

People with disabilities: Some individuals with disabilities could be better educated about the laws. It is not uncommon to hear service animal users complain that the airlines are not following the ADA. They simply do not realize that Title III of the ADA⁶⁴ and DOJ's Title III ADA regulations⁶⁵—those laws most familiar—do not apply directly to air transportation.

In addition to individuals furthering their educational journeys, we as community and organizational leaders can continue to clarify the laws where and how we reasonably can. We and our peers can also keep consulting with airlines who would like expert or everyday user feedback on plans for new trainings or materials.

Airlines: While it's true the abysmal confidence numbers point to the need for more training, we feel as if that call has reverberated to the point of becoming background noise. We will move on to other pieces of the puzzle that are needed if our community's trust is to be won in any measure.

The first window into an alternative approach became clearer to us at the Reg Neg. We were told then that there is high turnover among airport staff due to relatively low pay. High turnover leads to a greater need for recruiting and fresh training, which costs airlines.

We do not claim to be business tycoons, but perhaps it would be better for the long haul to shift more of the airline budget into wages and benefits in hopes the recruiting and training costs would decrease. Experienced employees are likely to be more knowledgeable in providing appropriate customer service to passengers with disability-related needs (and less likely to make costly mistakes).

A bone our community has to pick with airlines is that with the current system, employees tend to be focused more on the paperwork associated with an animal, but not on enforcing behavioral policies.⁶⁶ This reluctance to

64 See 42 USC §12181(10), which carves out aircraft from "specified public transportation" and §12184, which details only the nondiscrimination provisions for "specified public transportation". Historically, it seems the reason for this exception is that the Air Carrier Access Act came before the Americans with Disabilities Act. <https://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/html/USCODE-2010-title42-chap126-subchapIII.htm>

65 See 28 CFR §36.102(a)(1) for the regulations' application to public accommodations and commercial facilities, and §36.104, which gives definitions clarifying that aircraft are not considered public accommodations or commercial facilities. <https://www.ecfr.gov/cgi-bin/text-idx?SID=512c209a1a75ff3d9cad24d8408edbed&mc=true&node=pt28.1.36&rgn=div5>

66 Hence PSDP's call of "behavior, not belongings".



engage early when there's misbehavior can lead to difficulties for everyone, as mentioned above in §3.d.

Our friendly colleagues at an airline had an idea to develop what we think of as a behavioral flowchart for team assessment and response. A "team" here is an animal and (hopefully) its handler/user. The idea is to have a straightforward, practical guide to assist employees and relieve *some* of the pressure of making subjective judgments that impact customers' journeys. The "Behavior standard guidance" in our 2016 compromise comment may serve as a useful basis for such a flowchart.⁶⁷

Beyond this, the corporate culture needs to be one in which employees are empowered when they use their best judgment and training to enforce behavior rules. Our impression from the Reg Neg is that employees are afraid to call out bad behavior because even if they are in the right, they do not feel like the airline will support them. In fact, they even fear getting reprimanded if the customer complains.

Without the right training, employee longevity, resources, and corporate culture/support, our community will continue to lack confidence that airline employees will create a safe environment and treat people with disabilities appropriately.

DOT: DOT sets the rules by which airlines and our community are supposed to play. At the moment, it seems to our community that there are complex, discriminatory, confusing laws that are difficult to implement or impotent at their purpose. The enforcement priorities invite a patchwork of airlines tailoring their own unique burdens. The system's hard divergence from the most commonly applicable service animal law fosters misunderstanding.

When possible, ACAA rules need to be straightforward, consistent, easy to implement, complete enough to minimize airline variance of burdens, and not starkly different from the rules that apply in almost every other business context.

DOT could improve things by creating a system that relies less on individual employees having to subjectively evaluate on the spot whether someone understands their rights and responsibilities and deserves disability-related animal accommodations. We also need a system that does not assume customers are experts on disability rights laws—in fact, access systems should assume the least amount of knowledge reasonable,

⁶⁷ See Appendix E: <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>



so they work for everyone.

Customer interfaces like an accommodation request form⁶⁸ should not involve a large chunk of one-size-fits-all legalese that no one will read, such as a single "attestation". Instead, they should leverage basic contemporary technology to provide an interactive, stepwise sorting procedure with response-sensitive content customers are likely to grasp, such as in a decision tree.⁶⁹

The point of the ACAA is to enable people with disabilities access to air travel, but the effect of the current regulatory approach is to severely restrict disability-mitigating-animal users from flying. Since the current system has clearly not worked, *more of the same* is a bad idea (such as more third-party documentation).

We need a new approach paradigm. The approach we've described is to assume prospective passengers are *ignorant* of the expectations and their responsibilities, rather than treating them as if they have malicious intent until proven otherwise. In designing disability rights laws, we hope DOT will join us in our answer to this question: Is it right to presume people with disabilities are innocently ignorant, or knowingly guilty?

§4. Survey methodology

In this section, we relay the details of our survey distribution and the survey content (the latter through both text and image).

§4.a. Distribution

Between April 23rd and May 8th, 2018 (15 days), we surveyed individuals who identify as service animal users or ESA users who may fly into, out of, or within the United States. We advertised the survey via social media, websites, email lists, and directly via email to approximately 46 sets of individuals associated with a diversity of disability-related groups, whom we encouraged to distribute our survey advertisement by including email and social media messages to copy and paste.

⁶⁸ "ARF", for those paying attention. See 14 CFR §382.43(d): https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=081e6fdb88efba024ce66cc2df66709&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_143

DOT is currently accepting feedback on this regulation: <https://www.regulations.gov/document?D=DOT-OST-2011-0177-0116>

⁶⁹ See §§4–6 in our 2016 compromise comment: <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>



§4.b. *Survey page content, text*

The survey was created through Google Forms⁷⁰ and embedded in a webpage on Psychiatric Service Dog Partners' website.⁷¹ In §4.c., we provide a screenshot image of the page from when the survey was open. Below, we reproduce the content of the survey page in text, including the introductory survey information and the full survey text itself.

Flight access survey

[survey advertisement graphic]

[Image description: Graphic with text. Black and white picture of service dog teams looking at the text in the middle, USAUSA paw-button logo in bottom right. Text: Do you use a SERVICE ANIMAL or ESA? Don't just stand there—take the flight access survey! DOT needs to know how updates would impact you.]

What, how, & when: We need you to help the community by taking this flight access survey and/or by sharing it. Act now—**Tuesday, May 8th, 2018** is the closing date for the survey.

Who: This survey is for you if you use an animal to assist with your disability and you may fly into, out of, or within the United States. This includes service animal users (including guide dog users, psychiatric service dog users, etc.) and emotional support animal (ESA) users.

Why: The US Department of Transportation (DOT) requested information from our community to better understand the impacts of various air travel considerations. DOT will be able to use this data to shape regulation updates, issue guidance, and keep airline policies in check.

Background: Unlike the Americans with Disabilities Act (ADA), the Air Carrier Access Act (ACAA) is the disability rights law that covers US air travel for people with disabilities. DOT writes and enforces the regulations that implement the ACAA. In a 2016 survey through USAUSA (United Service Animal Users, Supporters, and Advocates), we asked people about the cost and time taken to get medical letters

⁷⁰ <https://docs.google.com/forms/u/0/>

⁷¹ <https://www.psychdogpartners.org/usausa/flight-access-survey>



for themselves for flying, so we are not asking about that again here.

iPhone & iPad users: Use the direct survey link (immediately below) rather than the survey on this page if you're running one of the latest operating systems (iOS 10 or 11). Otherwise your device will annoyingly jump to the bottom after you give an answer, skipping the rest of the dozen or so questions.

<https://goo.gl/forms/uWb6rrrmuBCw6lLr2>

[The embedded survey form content follows. The prompts are not numbered on the form, but we number them here for convenient reference.]

Flying with a disability-assisting animal

There are about a dozen questions in this survey, all on this page.

1. Would it be acceptable for airlines to put up more barriers for people with one type of disability vs. another? An example would be making blind individuals get a doctor's letter certifying they are blind, while not making deaf individuals get a letter certifying they are deaf for the same accommodation.

Yes
No

2. When prioritizing, should disability rights laws focus on protecting access for people with disabilities more than reducing the number of people misusing the laws?

Yes
No

3. Some airlines have been considering requiring you to provide documentation from a veterinarian to allow you to travel. If you had to get an up-to-date veterinary record or veterinary health certificate for your flight, how much money do you estimate it would cost you? You can give an average, if you like. Give only a *single number* in US dollars—include the cost of any travel, appointment, and extra fees.



Your answer [open-ended answer space]

4. If you had to get an up-to-date veterinary record or veterinary health certificate, how many *days* do you estimate it would take between contacting your vet and having the paperwork in your hand? Give only a *single number*, not a range (you can estimate an average).

Your answer [open-ended answer space]

5. If you had to get an up-to-date veterinary record or veterinary health certificate, how many *hours* of your personal time do you estimate it would take? In only a *single number*, include any travel time, waiting room time, and appointment time.

Your answer [open-ended answer space]

6. If you had to guess, do you think your veterinarian would be willing to sign their name to a statement predicting whether an animal would behave in a flying environment?

Yes

No

7. "Third-party" paperwork is special documentation you get from someone else, like a doctor or veterinarian, and often requires an extra appointment and/or fee. How much would it discourage you from flying if you had to get one type of third-party paperwork and give it to the airline ahead of time?

not at all discouraged 1 2 3 4 5 totally discouraged
[integer rating]

8. How much would it discourage you from flying if you had to get *two different types* of third-party paperwork and give them to the airline ahead of time? For example, both a recent doctor's letter and a recent veterinary record or health certificate.

not at all discouraged 1 2 3 4 5 totally discouraged
[integer rating]

9. Some airlines have begun advertising cheaper "basic economy" fares, where passengers are supposed to board last, not have access to the overhead luggage space, and not



choose their own seat. How much would these policies discourage you from buying a basic economy ticket because of your disability- or animal-related needs?

not at all discouraged 1 2 3 4 5 totally discouraged
[integer rating]

10. A person might think their animal is "trained", but the animal might not be prepared to handle crowded, stressful flight environments outside of a pet carrier or crate. For crate-free access when flying, should animals be both *trained* and *accustomed* to behaving in similarly stressful public places?

Yes
No

11. Are you concerned about untrained or stressed animals interfering with or harming your animal if you fly?

Yes
No

12. How confident are you that airline staff members do or will interpret disability laws and policies accurately and appropriately?

not at all confident 1 2 3 4 5 totally confident
[integer rating]

13. Please share any other remarks that might help DOT understand the costs and burdens you might face because of ACAA regulations, DOT enforcement practices, airline policies, or airline practices.

Your answer [open-ended answer space]

§4.c. *Survey page content, image*

Below is an image of the survey webpage described above, split with the page's top on the left side and the bottom on the right.



Home - USAUSA - Flight access survey

Learn what PSDP does and doesn't do

Flight access survey

News



April 23, 2018 - It's super-important to let DOT know how you'd be affected by different flying rules. Take a share the USAUSA survey we've partnered to make. Closes Tuesday, May 8th.

Click to reveal more news items on this page...



What, how, & when: We need you to help the community by taking this flight access survey **and/or** by sharing it. Act now - **Tuesday, May 8th, 2018** is the closing date for the survey.

Who: This survey is for you if you use an animal to assist with your disability and you may fly into, out of, or within the United States. This includes service animal users (including guide dog users, psychiatric service dog users, etc.) and emotional support animal (ESA) users.

Why: The US Department of Transportation (DOT) requested information from our community to better understand the impacts of various air travel considerations. DOT will be able to use this data to shape regulation updates, issue guidance, and keep airline policies in check.

Background: Unlike the Americans with Disabilities Act (ADA), the Air Carrier Access Act (ACAA) is the disability rights law that covers US air travel for people with disabilities. DOT enforces and enforces the regulations that implement the ACAA. In a 2016 survey through USAUSA (United Service Animal Users, Supporters, and Advocates), we asked people about the cost and time taken to get medical letters for themselves for flying, so we are not asking about that again here.

iPhone & iPad users: Use the direct survey link (immediately below) rather than the survey on this page if you're running one of the latest operating systems (iOS 10 or 11). Otherwise your device will annoyingly jump to the bottom after you give an answer, skipping the rest of the dozen or so questions.

<https://go.usaformslive.com/c/61207>

Flying with a disability-assisting animal

There are about a dozen questions in this survey, all on this page.

Would it be acceptable for airlines to put up more barriers for people with one type of disability vs. another?

An example would be making blind individuals get a doctor's letter certifying they are blind, while not making deaf individuals get a letter certifying they are deaf for the same accommodation.

- ☐ Yes
☐ No

When prioritizing, should disability rights laws focus on protecting access for people with disabilities more than reducing the number of people misusing the laws?

- ☐ Yes
☐ No

Some airlines have been considering requiring you to provide documentation from a veterinarian to allow you to travel. If you had to get an up-to-date veterinary record or veterinary health certificate for your flight, how much money do you estimate it would cost you?

You can give an average, if you like. Give only a "single number" in US dollars - include the cost of any travel, appointments, and extra fees.

Your answer

If you had to get an up-to-date veterinary record or veterinary health certificate, how many "days" do you estimate it would take between contacting your vet and having the paperwork in your hand?

Give only a "single number", not a range (you can estimate an average).

Your answer

If you had to get an up-to-date veterinary record or veterinary health certificate, how many "hours" of your personal time do you estimate it would take?

In only a "single number", include any travel time, waiting room time, and appointment time.

Your answer

If you had to guess, do you think your veterinarian would be willing to sign their name to a statement predicting whether an animal would behave in a flying environment?

- ☐ Yes
☐ No

"Third-party" paperwork is special documentation you get from someone else, like a doctor or veterinarian, and often requires an extra appointment and/or fee. How much would it discourage you from flying if you had to get one type of third-party paperwork and give it to the airline ahead of time?

1 2 3 4 5
not at all discouraged ☐ ☐ ☐ ☐ ☐ totally discouraged

How much would it discourage you from flying if you had to get "two different types" of third-party paperwork and give them to the airline ahead of time?

For example, both a recent doctor's letter and a recent veterinary record or health certificate.

1 2 3 4 5
not at all discouraged ☐ ☐ ☐ ☐ ☐ totally discouraged

Some airlines have begun advertising cheaper "basic economy" fares, where passengers are supposed to board last, not have access to the overhead luggage space, and not choose their own seat. How much would these policies discourage you from buying a basic economy ticket because of your disability- or animal-related needs?

1 2 3 4 5
not at all discouraged ☐ ☐ ☐ ☐ ☐ totally discouraged

A person might think their animal is "trained", but the animal might not be prepared to handle crowded, stressful flight environments outside of a pet carrier or crate. For crate-free access when flying, should animals be both "trained" and "accustomed" to behaving in similarly stressful public places?

- ☐ Yes
☐ No

Are you concerned about untrained or stressed animals interfering with or harming your animal if you fly?

- ☐ Yes
☐ No

How confident are you that airline staff members do or will interpret disability laws and policies accurately and appropriately?

1 2 3 4 5
not at all confident ☐ ☐ ☐ ☐ ☐ totally confident

Please share any other remarks that might help DOT understand the costs and burdens you might face because of ACAA regulations, DOT enforcement practices, airline policies, or airline practices.

Your answer

SUBMIT

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Google Forms



§5. *Data and analysis*

In this final section of our survey report, we (a.) detail, analyze, and graphically present the quantitative responses, (b.) give a quantitative analysis of the qualitative responses to the final survey prompt, and (c.) reproduce that final prompt's 393 qualitative responses. At DOT's request, we are happy to set up direct access to the copious raw data for all survey prompts separately from this report.⁷²

§5.a. *Quantitative analysis of quantitative responses*

The survey received 926 responses. We performed basic analyses on quantitative responses, such as median and mean determinations, where appropriate. Further, for quantitative questions with an open-ended response field, we graphed answer sets within numerical ranges based on what appeared to best display the differences among the "natural" groupings. Our novice background in statistics makes us confident the results are transparent and no advanced analysis of statistical significance is worthwhile for our purposes.

Below we provide the data under each of the twelve quantitative questions. We note but filter out such responses as non-numerical answers to numerical questions.⁷³

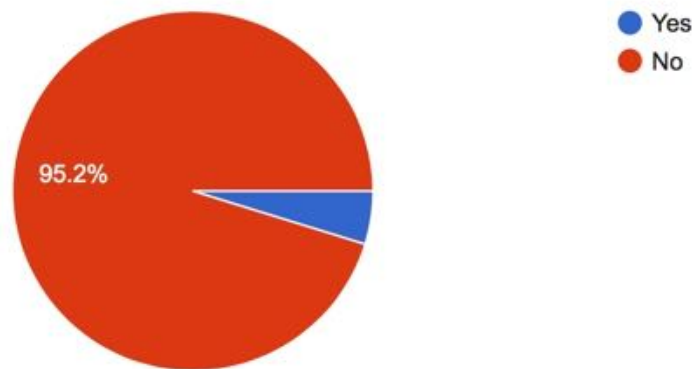
1. Would it be acceptable for airlines to put up more barriers for people with one type of disability vs. another?

922 responses

4.8% Yes (44), 95.2% No (878); *graphically represented in a pie chart below*

⁷² We are also open to sharing access to the raw data with interested researchers for further analysis.

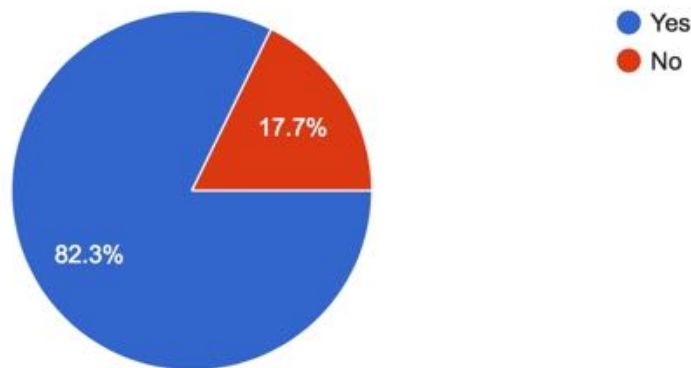
⁷³ Any range given was interpreted as the average between the endpoints. Any single figure given as a "minimum" or "maximum", or as a number with "+" after it, or a number with a "<" or ">" before it is interpreted simply as the number given (within reason). These interpretation methods were used across the open-ended quantitative questions.



2. When prioritizing, should disability rights laws focus on protecting access for people with disabilities, more than reducing the number of people misusing the laws?

913 responses

82.3% Yes (751), 17.7% No (162); *graphically represented in a pie chart below*



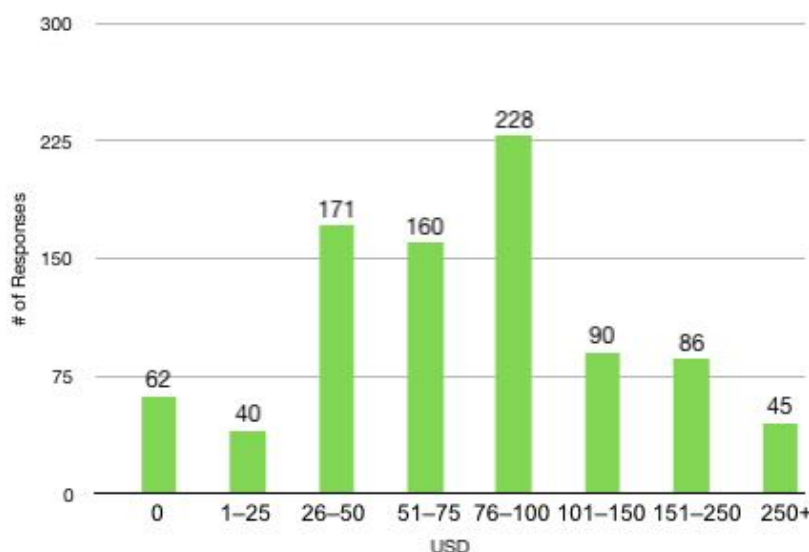
3. Some airlines have been considering requiring you to provide documentation from a veterinarian to allow you to travel. If you had to get an up-to-date veterinary record or veterinary health certificate for your flight, how much money do you estimate it would cost you?

899 responses, 882 amenable⁷⁴

⁷⁴ Seventeen responses, as follows, were not incorporated: "1005533", "?", "2-3 hours", "20057(:) 7", "3weeks", "60?252", "I do not know, but it would probably be a lot. I would suggest just bringing all



Mean: \$114.90. Median: \$80. Range: \$0–\$3,000.



The table below contains the information graphically represented in the bar graph above.

USD (\$)	0	1–25	26–50	51–75	76–100	101–150	151–250	250+
Response #	62	40	171	160	288	90	86	45

4. If you had to get an up-to-date veterinary record or veterinary health certificate, how many *days* do you estimate it would take between contacting your vet and having the paperwork in your hand?

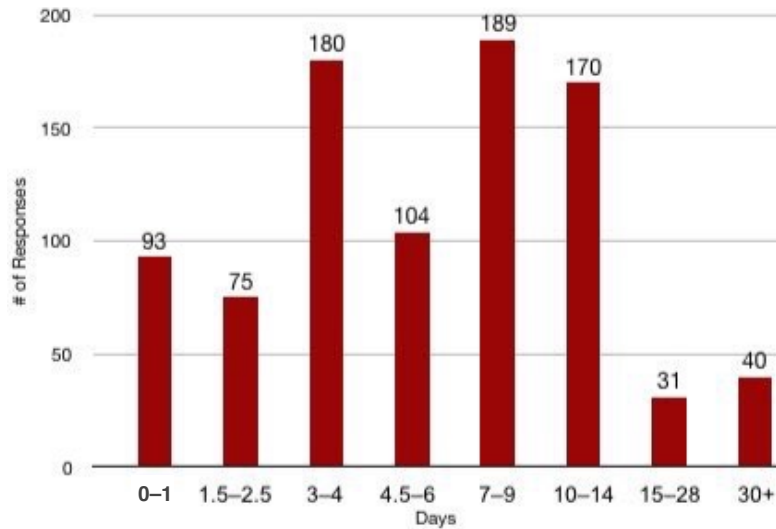
892 responses, 883 amenable⁷⁵

Mean: 8.3 days. Median: 5 days. Range: 0–352 days.⁷⁶

current records proving they have all the shots they need ", "I don't know or care--I'd pay the money to do it. Rather than a legit service dog be bit by a fake and contract some nasty disease.", "I don't know", "I have a full service dog. By federal law I should not have to do this ", "Not required by ADA", "Not sure", "Unknown" [x2], "unsure", "Unsure", "Very little if anything."

75 Nine responses, as follows, were not incorporated: "\$200.00", "Hundreds", "I do not know. Personally I keep all her shot records in one place and would not need to find them ", "I don't know ", "I have a full service dog. By federal law they should not have to present paperwork ", "Im not sure", "It should be an annual or bi-annual certification", "Unknown", "You cant ask people to quantify this. It varies by every individual vet office."

76 When responses were given in months, 30 days were used per month. When a respondent explicitly referred to a low number of hours, a small part of a day, or the same day, this was interpreted as 0.5 days. References to "business days" were ignored and the figure given was used without related interpretation.



The table below contains the information graphically represented in the bar graph above.

Days	0-1	1.5-2.5	3-4	4.5-6	7-9	10-14	15-28	30+
Response #	93	75	180	104	189	170	31	40

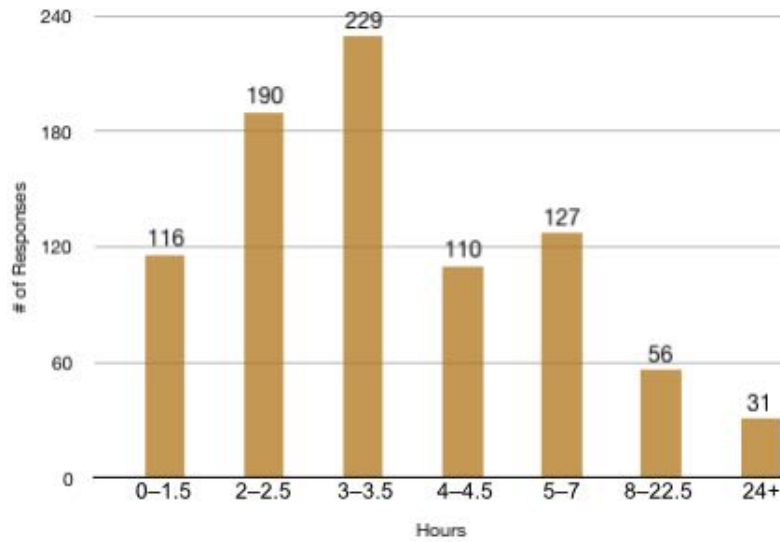
5. If you had to get an up-to-date veterinary record or veterinary health certificate, how many *hours* of your personal time do you estimate it would take?

865 responses, 859 amenable⁷⁷

Mean: 6.3 hours. Median: 3 hours. Range: 0–500 hours.⁷⁸

⁷⁷ Six responses, as follows, were not incorporated: "3300", "As I said before I personally have all my shot records in a folder and would not have to look for them", "could take all day", "I don't know", "No extra hours beyond regular appointments", "Q".

⁷⁸ While "3300" was removed as an outlier, we cannot remove all entries over 24 hours because some individuals living in rural areas must travel for veterinary care, while some with disabilities can only handle going out every so often and are unable to engage in other activities for days after an outing. Beyond removing the most extreme outlier as a possible mistake, we are not in a position to further scrutinize individuals' judgements about their relevant limitations.



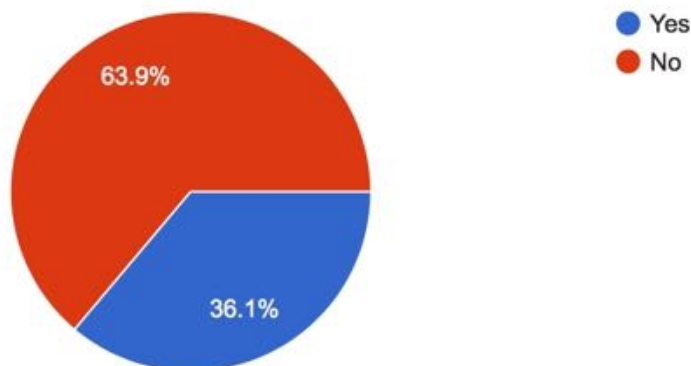
The table below contains the information graphically represented in the bar graph above.

Hours	0-1.5	2-2.5	3-3.5	4-4.5	5-7	8-22.5	24+
Response #	116	190	229	110	127	56	31

6. If you had to guess, do you think your veterinarian would be willing to sign their name to a statement predicting whether an animal would behave in a flying environment?

916 responses

63.9% Yes (585), 36.1% No (331); *graphically represented in a pie chart below*





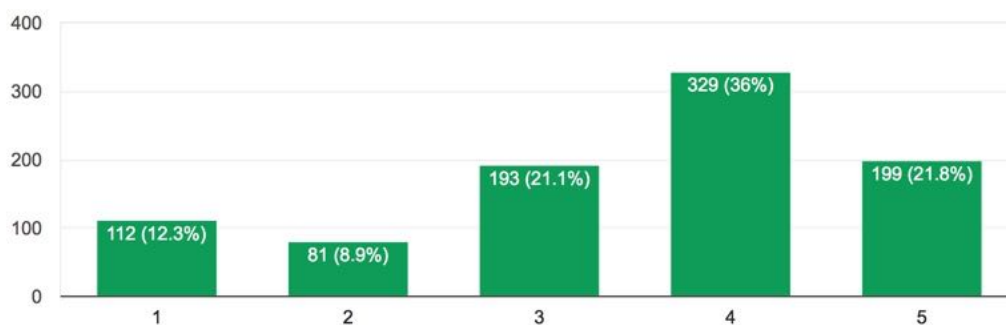
7. "Third-party" paperwork is special documentation you get from someone else, like a doctor or veterinarian, and often requires an extra appointment and/or fee. How much would it discourage you from flying if you had to get one type of third-party paperwork and give it to the airline ahead of time?

914 responses

1 = "not at all discouraged", 5 = "totally discouraged"

Mean: 3.5. Median: 4. Range: 1–5 (integers).

12.3% 1 (112), 8.9% 2 (81), 21.1% 3 (193), 36% 4 (329), 21.8% 5 (199); *graphically represented in a bar graph below*



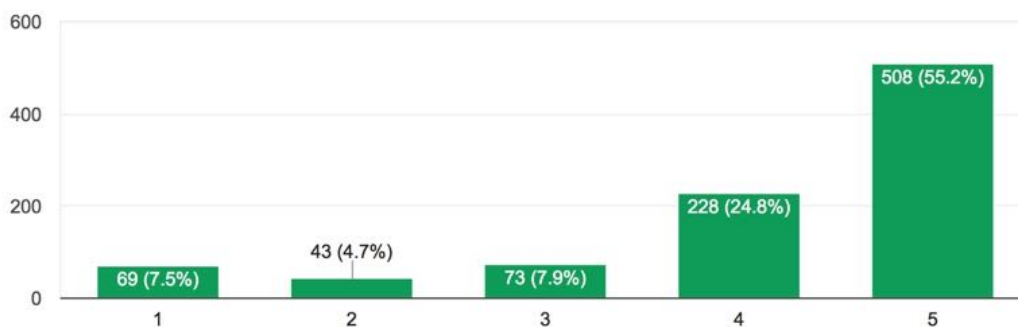
8. How much would it discourage you from flying if you had to get *two different types* of third-party paperwork and give them to the airline ahead of time?

921 responses

1 = "not at all discouraged", 5 = "totally discouraged"

Mean: 4.2. Median: 5. Range: 1–5 (integers).

7.5% 1 (69), 4.7% 2 (43), 7.9% 3 (73), 24.8% 4 (228), 55.2% 5 (508); *graphically represented in a bar graph below*





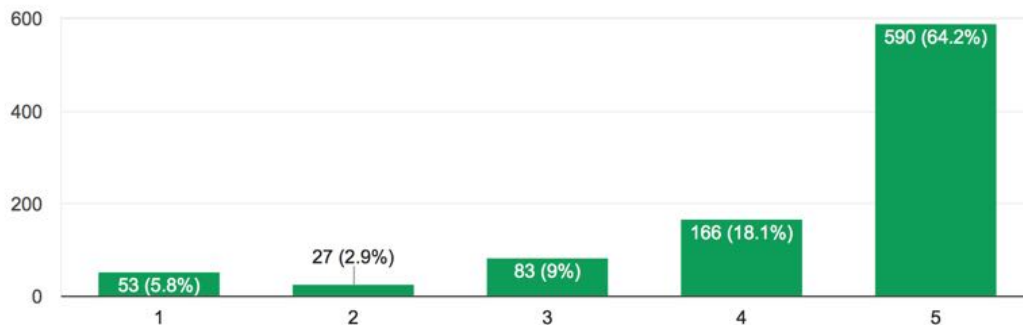
9. Some airlines have begun advertising cheaper "basic economy" fares, where passengers are supposed to board last, not have access to the overhead luggage space, and not choose their own seat. How much would these policies discourage you from buying a basic economy ticket because of your disability- or animal-related needs?

919 responses

1 = "not at all discouraged", 5 = "totally discouraged"

Mean: 4.3. Median: 5. Range: 1–5 (integers).

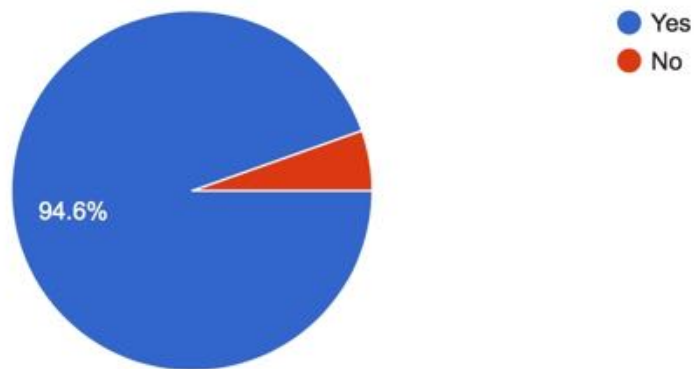
5.8% 1 (53), 2.9% 2 (27), 9% 3 (83), 18.1% 4 (166), 64.2% 5 (590); *graphically represented in a bar graph below*



10. A person might think their animal is "trained", but the animal might not be prepared to handle crowded, stressful flight environments outside of a pet carrier or crate. For crate-free access when flying, should animals be both *trained* and *accustomed* to behaving in similarly stressful public places?

921 responses

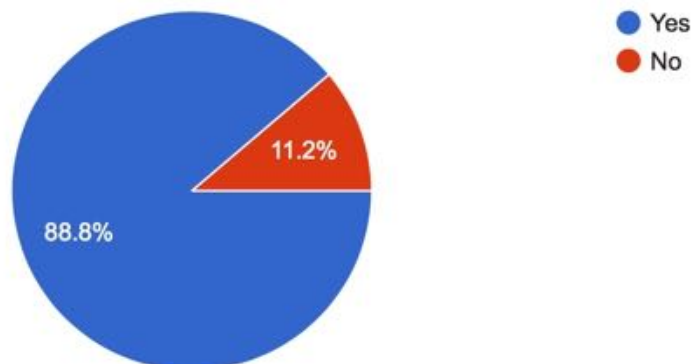
94.6% Yes (871), 5.4% No (50); *graphically represented in a pie chart below*



11. Are you concerned about untrained or stressed animals interfering with or harming your animal if you fly?

919 responses

88.8% Yes (816), 11.2% No (103); *graphically represented in a pie chart below*



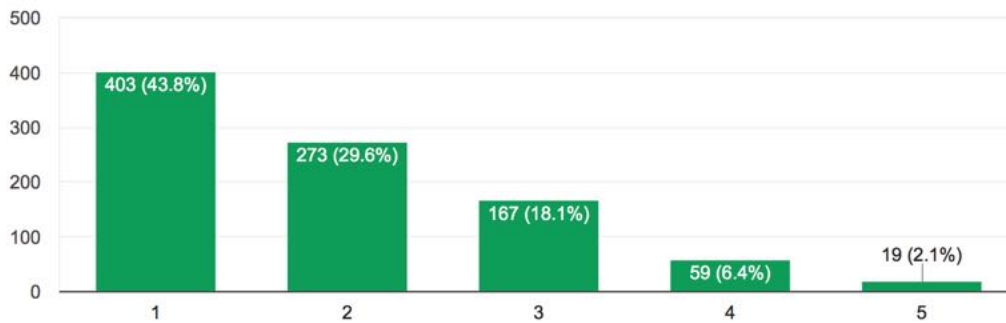
12. How confident are you that airline staff members do or will interpret disability laws and policies accurately and appropriately?

921 responses

1 = "not at all confident", 5 = "totally confident"

Mean: 1.9. Median: 2. Range: 1–5 (integers).

43.8% 1 (403), 29.6% 2 (273), 18.1% 3 (167), 6.4% 4 (59), 2.1% 5 (19); *graphically represented in a bar graph below*



§5.b. Quantitative analysis of qualitative responses

We designed the final (thirteenth) survey prompt to elicit qualitative responses of interest to DOT. The prompt was:

Please share any other remarks that might help DOT understand the costs and burdens you might face because of ACAA regulations, DOT enforcement practices, airline policies, or airline practices.

We quantitatively analyzed qualitative responses to the final survey prompt using the rubric detailed below. We produced the rubric by reviewing an initial subset of the responses, drafting a grouping of the common sentiments, testing that draft across further responses, and re-evaluating. Then we finalized the sentiment sets that fit together internally and represented the main idea clusters in the responses.

The analysis involved reviewing each comment and, for each set of sentiments in the rubric, recording in a spreadsheet whether that comment matched the set (in other words, contained at least one sentiment in the sentiment set). Since we have a miscellany category for this analysis, each response was matched with at least one sentiment set.⁷⁹ Responses could be (and were sometimes) matched with multiple sentiment sets, which means that the match percentages total exceeds 100%.

Rubric for sentiment sets

Name/description	Sentiments included
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⁷⁹ If a response contained, for example, two distinct sentiments and one fell under "Burdens" while the other did not fall under "Trust" or "Behavior & training", the response was counted under both the "Burdens" heading and the "Other" heading. If a response contained multiple distinct sentiments, each of which would only fall under the "Other" heading, "Other" was only counted once for the response.



Burdens —includes the following, which respondents view as burdens to travel:	<ul style="list-style-type: none"> • expenses • availability of doctors/veterinarians/other specialists • anxiety about rules and confrontation • separation of psychiatric service animals from other service animals
Behavior & training —includes the following, important in connection with training requirements: ⁸⁰	<ul style="list-style-type: none"> • service/psychiatric service and support animals have been attacked by untrained animals • training plays a key role in behavior • good behavior is key to access • behavior should be a primary factor in access
Trust —includes the following, relating to trust of airline staff, DOT staff, and other governmental agencies:	<ul style="list-style-type: none"> • perceptions of poorly trained airline staff • perceptions of confusion of airline/airport staff about the laws and regulations • desire for additional training for all involved • anxiety around travel based on perceived lack of training from airline staff about regulations
Other —includes topics that did not fall under any other category. Some topics include, but are not limited to:	<ul style="list-style-type: none"> • mention of Basic Economy fare, noting that people may not take advantage of such discount seating due to concerns about their service animals and rights under the ACAA • suggestions of certification schemes, training protocols, or other licensing practices • comments about seating • comments about other auxiliary aids such as wheelchairs • suggestions to mirror other civil rights laws

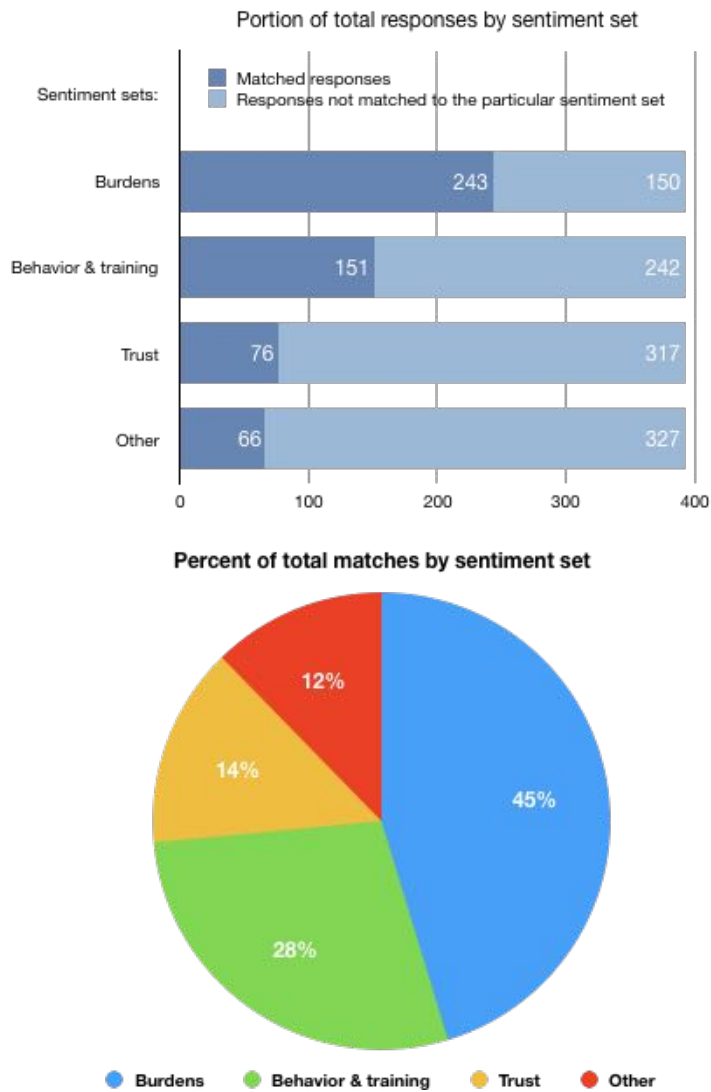
There were 393 responses to the final prompt, which we matched with our rubric's sentiment sets as follows.

Sentiment set	Matched responses	% of total responses	% of total matches (536)
Burdens	243	61.8%	45.3%
Behavior & training	151	38.4%	28.2%
Trust	76	19.3%	14.2%
Other	66	16.8%	12.3%

⁸⁰ We did not include suggestions for training or certification schemes in this category; see “Other”.



Some information in the table above is graphically represented in the horizontal stacked bar graph and pie chart below.



§5.c. Qualitative responses

This final part contains the information collected from individuals in response to the final, qualitative prompt in the survey. These comments clarify the great weight of the burdens the current and considered regulations inject in people's lives that can't be adequately conveyed by the numbers.

393 responses



[13.] Please share any other remarks that might help DOT understand the costs and burdens you might face because of ACAA regulations, DOT enforcement practices, airline policies, or airline practices.

1) I am disabled. That is a very big barrier for me when I need to travel. Any more added difficulties would be very discouraging.

2) I recently flew basic economy and I was SO NERVOUS about not being able to have anything in the overhead bin while managing a crowded seat with my service dog. I ended up leaving almost everything in checked luggage so that I would not have to deal with the issue. It was crowded and uncomfortable. And I was flying coast to coast.

I think airlines should allow a person with medical equipment to put something in the overhead bin, if their footspace is taken up by their service dogs. Lack of guidance from DOT about what would happen should a person with a disability fly basic economy, and how their disability would be accommodated (like boarding last with basic economy, but needing to pre-board with a service animal) scares people and makes them afraid to even try to purchase a basic economy seat. Most people with service dogs are afraid to fly basic economy because of the lack of guidance.

Regarding even more paperwork for flying, this is very difficult for me to handle. My therapist went through 4 drafts of a flying letter (I gave her what to write, she elaborated on her own) and told me she is not comfortable doing this again because as a therapist, she doesn't prescribe things. It took me a month of back and forth to get my therapist to write a letter.

Now imagine putting a vet certificate on top of all of that. It takes a week to get into the vet, and I don't think my vet would sign anything about my dog's behavior since they only see us once a year for checkups, and behavior in a vet office is usually quite different than behavior elsewhere. For me, my service dogs have always behaved better at the vet than elsewhere, but other peoples' service dogs might not be that lucky to only have good experiences.

Additionally, I cannot imagine a vet wanting to take on the



liability of saying an animal is well behaved enough to fly, given that they see us for so little time per year.

I have no choice but to travel for my occupation, but I am finding that more and more I am choosing very long train rides instead of flights due to all the requirements of flying with a service animal. I have already vowed that next time I need to travel to the West coast, I will take the train. The stressors of everyone asking for letters, knowing I have mental illness, generally looking down on me, and the dangers of ill behaved untrained dogs in the airport, are suffocating. The last time I flew, I saw 4 dogs in airports on the way out to the West Coast. Only one behaved as a SD should. On my way back to the East coast, I saw 7 dogs in the airports, and none of them were well behaved. The current system is wrong, and adding even more burdens is worse. I deserve the same basic rights as anyone else.

3) I believe that only trained service animals have the necessary skills to fly safely. Eliminating flight access for ESA's would solve the problem of untrained animals causing issues when flying.

4) My disability leaves me with limited energy and hours to accomplish my usual routine. Adding a vet visit, a medical visit and arranging to submit this information (which is not kept private) to the airline is onerous. Especially when airline staff across the board are working under differing education abt the current requirements.

Last time I flew, airline staff at one airport were efficient, had record of my pre-flight paperwork in the system and I was able to function. Staff at my destination airport (and thus my return airport) were NOT aware of my system paperwork, demanded hard copies of items I was told i would not need to carry, and ended up being fairly angry. This made my ability to function cognitively much less than usual.

5) Many people with service animals require specific seating and/or space to fit their animal and to avoid possible issues relating to disabilities, ie: having a panic attack from being assigned seats next to strangers

6) Jumping through hoops to have the same access as nondisabled people is unfair, unreasonable, and discriminatory



7) Before your animal flies for the first time you should be able to take your animal onto a plane so it can get used to the plane so it doesn't freak out when it flies and you should get something from the airlines saying you did that then you should be able to fly

8) Some flights are not plannable in advance, such as family emergency.

Who else has to go through this?

9) Will cost me several hundred dollars to get all required paperwork together. Please reconsider your decision.

10) If it is an ESA letters should be required. If it is a service dog - follow the ADA and respect our privacy. I have spent tons of money and time training for my multiple invisible disabilities. Letter from vet makes sense for any animal traveling.

11) I have a service dog. I'm very worried about esas. Those animals don't have training and are most likely go go after my dog or do something to give service dogs a bad rep. The general public doesn't understand the difference.

12) If current rights and laws are changed and it affects my ability to fly with my SD, then I will choose to never fly again. People with disabilities have a hard enough time dealing with access issues,

13) You need to crack down on ESAs. ESAs need to at least pass a K9 good citizens test before able to fly. Also airlines need to know a fake Service dog and have the confidence to remove it. Do not discriminate with those with those with psychiatric disabilities as psychiatric service dogs and ESAs are 100 times different.

14) Pat

15) My vet remarks how well trained etc. my service dog is every time we go in, yet I highly doubt he would take on the liability of saying my dog is safe to fly. Why should he?

It is not unusual for me to drive long distances when traveling. What am I supposed to do if there is a family emergence or I



have a health emergency and need to fly home immediately? A random vet is not going to sign the paper work and I don't have 48hrs. No able bodied person has to deal with or think about these issues, why is it okay to make disabled people's lives harder? How is that not discrimination?

Being disabled, we already deal with a lot of extra burdens and discrimination. We do not need legal discrimination on top of everything else. All the extra rules are going to do is make more money for the online groups that sell the letters and make life that much harder for those who are truly disabled.

I occasionally meet people who tell me they fly their dog as an ESA. When I mention needing to be disabled, they have no idea that is a requirement and argue it's not, that all they need is the letter. Set up a questionnaire where people have to answer they are disabled without prompting, and you will eliminate many of the people flying their pets as something else.

16) I have witnessed frequent misunderstandings (wrong information, lack of education, attitude) between airline staff and handlers, even the handlers were obviously deafblind. The idea of additional regulations (especially unnecessary or misapplied), cost and emotional/physical burden make me dread flying with my service animal. I would drive or just avoid flying- even if it meant missing a conference.

17) I have been thrown off Hawaiian airlines twice with a \$10,000 PTSD service dog due to his size and their willful discrimination. They punished me from flying on Hawaiian because I reported their misconduct to DOT twice. DOT did little to nothing to assist. As a Hawaii resident and nurse practitioner, this "back of the bus" discrimination has limited my ability to travel between islands for work and leisure.

18) It is my belief that untrained and misbehaving animals on a plane should be contained or restrained by crate and/or muzzle for the safety of those around them. I am happy for ESAs to not need a pet fee, but they are still pets and should be expected to behave like any other pet on a plane. Service dogs are trained and used to handling situations that would stress any average pet.

19) I have a full service dog that provides tasks to help my



disabilities. I have mobility issues. I should not have to provide paperwork just as someone with a wheelchair should not have to provide paperwork that there too I have a full service dog that provides tasks to help my disabilities. I have mobility issues. I should not have to provide paperwork just as someone with a wheelchair should not have to provide paperwork that they're legitimate. I do on the other hand have issues with people traveling with emotional support pets. Many of these pets are not trained and become a danger to my service dog. Although I understand disabilities very well, I am not in favor of traveling with emotional support pets as they often pose problems to legitimate service dogs.

20) I am concerned about fake documentation that anyone can purchase on the internet. There are no certificates stating a dog has been trained to accommodate my disability.

21) First the ACAA needs to be inline with ADA. As well as recognize that an ESA is not the same as a psychiatric service dog and should not be lumped together with the same restrictions. Also that a veterinarian while highly educated is not qualified to determine the temperament of a dog. A certified dog trainer or animal behaviorist are the only ones qualified to make that determination. Requiring proof of training likely would be very expensive and cost prohibitive especially to those who owner train. Because ESAs are not required to have any training, I feel that is the biggest thing that could be changed. Requiring they have proof of basic obedience training, up to date on shots and not allowed to use flexi type leashes or long lines in order to prevent any incidents. As well as further recognizing that ESAs are not service dogs and should not be lumped together with psychiatric service dogs.

22) Current regulations are restrictive as gatekeepers already will harass assistance dog users thinking they have an ESA and further education is needed for all parties. I should not have to freak out every time I fly with my medical equipment.

23) Question 2 - tough call. I usually have her last check and shots handy so this one is not so bad, however, I have had airlines require their own form and that leads to time and cost.

24) Honestly a Canine good citizen test wouldn't hurt anyone from ESAs to SDs, if Airlines started requiring them there would



be less issues with ESAs (dog ESAs). With the whole vet deal, I mean Airlines are responsible for what they transport, if they transport a diseased animal it would blow up in the news and show terribly on them and their ethics. It's a catch 22 honestly. I do believe task trained psychiatric service dogs should not need a doctor's note, but ESAs always should. It's a tough world to work around in, we're all sick and it effects us all differently, please remember this kindly.

25) Any person with a disability will likely have adequate documentation. The trouble is doctors are worried about writing a letter that could make them liable. I think any pet owner who travels with any animal, wether they are an ESA animal or not, should have their vet records on hand and with the animal. It might perhaps be easier for the DOT to offer an ESA registration process with the DOT and not the airlines. The traveler should be able to provide the DOT with necessary pet documentation and disability documentation. Removing the airlines from the ESA predicament would help the disabled traveler retain their privacy and decrease the amount of paperwork the traveler would have to do if they use different airlines for traveling or if the airline requires them to resubmit their ESA and disability information every time they fly. I have complex post traumatic stress disorder and a history of traumatic brain injury. I am on SSDI. I will absolutely not buy an economy ticket because having unpredictable and stressful situations with crowds and feeling confined makes me very anxious. I recently bought a first class ticket for a 6:00am flight because it's cheaper. I can't stand the thought of other people touching me. I have agoraphobia and I become so terrified when I am around other people, I cannot speak or move, I become frozen. Flying is hell for me. I wish it were easier for people with disabilities to have their dog registered as ESA animals. My dog had AKC obedience training, I take her out in public often, she goes to the vet a few times a year. I get treatment at a military treatment facility and it is hard to get a note for me and my dog for me to be allowed to have her with me. Doctors are worried about their liability for writing a note about a dog, as are veterinarians. If doctors only had to write a note that their patient has a diagnosis that did not violate the traveler's right to privacy, or increase the liability of the doctor, this would be best. Perhaps the DOT should have a form for patients to take to their doctors and to fill out. Also, a person on SSDI should not be required to get a note from their doctor for



accommodation as the patient is obviously disabled.

26) yes there may be fakers that slip thru the cracks but most of them can be spotted based on dog behavior before boarding IE barking and lunging at the gate. but not causing added stress because you have one type of disability vs another is worth the possibility of needing to go to the gate desk and pointing out stress/non trained behavior to flight staff. I don't always have the energy to deal with going to my doctor for a disability letter then waiting for a vet appointment for another letter for my dog then the possibility of contacting my trainer for yet another letter for my dog. not to mention that recently my uncle passed away and if i had to do all of the above in a short time it would be impossible since sometimes my doctor is booked out 2-3 weeks ahead of time.

27) Every time I try to book a flight it's a problem. Either the airline asks for paperwork that doesn't exist (like certification) or, when I actually go to board they "loose" my accommodation for bulkhead seating. Having more hoops to jump through for my legitimate, task trained service dog will mean I fly less.

28) I struggle with how to train and accustom a dog to flying without actually flying. Also, I feel teams should be automatically sat in bulkhead or similar extra leg room seats for the comfort of the dog and passengers next to them. Also, if the flight is not full, the team should be given an empty seat next to them for the safety and comfort of the dog. Many dogs that preform guide and/or mobility work are going to be larger breeds and planes are extremely tight these days.

29) I've flown numerous time with my Service Dog. Sometimes all is smooth. Other times, often on the return flight on the SAME airline I have trouble with gate attendants or flight attendants suddenly deciding he won't fit under the seat. He fit on the way.... do they REALLY think he massively grew over a 3 day weekend when he's 7 years old?

30) Life is hard enough. Reasonable access is important.

31) Traveling as a blind person accompanied only by a service dog is already very stressful. Airports are not an easy environment to sightlessly negotiate. I've been traveling alone with a service dog for over 25 years. My dogs have all behaved



impeccably. Why should I have to bear the responsibility of people who can't properly train their dog or follow the rules?

32) I think the policies are creating a lot of stress for people because the rules vary among airline companies and among disability/service dog type. I understand the reasoning behind having ESAs prove their actually assisting with a mental disability but think it is unfair to categorize PSDs differently than SDs. Both are service dogs who are highly trained to mitigate disabilities.

33) All animals that travel should have an up to date public access test by a state recognised trainer or association

34) It is cost and time prohibitive to get some of the paperwork to fly with my service dog. Some of the paperwork is impossible to get. So if I ever need to fly I won't be able to. This seems very unfair. Just because I have a disability doesn't mean I should be banned from flying!

35) I feel if you have a good working relationship with your Vet the inconvenience is minimal. Especially compared to the inconvenience and expense of having my service dog attacked, lunged at, and barked at poorly trained and acclimated animals who clearly are not ready for that type of situation, often resulting in injury or trauma to my trained service dog. I also feel requiring the health certificate and vaccine proof protects the general public from people using unhealthy dogs and those not current on vaccines against rabies and others communicable diseases.

36) Please band ESAs

37) After serving this country and giving the safety to all airlines to make money ,my husband deserve the same safety and freedom to take a fly with his SD.
No one on the wheelchair would be so scrutinize!!!And yes serious discounts would be vert helpful.

38) I have physical pain challenges, PTSD, and financial challenges.requiring extra third party paperwork could stop my access to flying. It can turn a \$600 flight into a \$900 flight. This is a huge barrier.
Also, talking to doctors, the fear of appts. Etc. and the hardship



of attending them with PTSD concerns a 3 hour event can disrupt my regular functioning for days at times or the fear can be so great it triggers flashbacks that make it too hard to go. My service dog is well trained. I have spent years bringing her behavior up to standard. I think asking veterinarians to certify behavior increases their liability. That can say when a dog is not reliable, but most do not have the behavioral training to identify those that are reliable.

39) Although a veterinarian has a relationship with an animal it does not follow that they would know enough about a particular service animal to guarantee that a dog would not act out or get nervous on a flight. Additionally, what bothers one animal may not affect another. Dogs that are 'passed off' as service animals pose the most threat to the disabled who actually need a legitimate service animal because of the user's being in an unfamiliar environment, unfamiliarity with other animals, and owners that do not know how to keep their animals under control. My vision impairment means that I cannot see animals that are aggressive toward my dog or that are misbehaving before my dog does, thus leading to possible interactions of dire consequences.

40) Something has to be done.

41) The ACAA gave airlines the tools to stop "pets in vests", but they elected to never use them and now are putting the burden for their failure on actual service dog teams. It's not our fault that the rules weren't enforced before!

42) I don't fly because TSA is a trigger for me.

43) It would be a huge help to have airlines know the difference between a psychiatric service dog and an ESA. And to know the 2 questions all businesses are supposed to ask.

44) DOT needs to train their workers at better identifying fake "registration" IDs and certifications. This is where much of our problems are

45) For me it is coming down to this, if my psychiatric disability and usage of a service animal related to that disability is going to be singled out and subject me to extra scrutiny and hurdles I'm just not going to fly. Ever. I'm not handing money to



companies who practice discrimination with policies that single out my disability type.

46) I want fewer fakes and liars and I'm okay with hoping through a few extra hoops to see that happen.

47) I don't mind having a script from my doctor and basic vaccination records such as rabies. But anything more than that is treating people with disabilities like shit.

48) Being disabled is stressful, flying is stressful, please don't make it worse.

49) Untrained ESA's do not meet the criteria or training requirements of my service animal and should not be allowed to impede my service animal and myself. A trained service animal is visible, more so than many disabilities, and an animal's training should be far more crucial to the ACAA than if 'look disabled enough'.

50) The biggest burden I have come across while flying with my Service Dog is that I have never been allowed to sit if a seat that had adequate space for my dog to properly tuck. I've never been offered a window seat to keep her out of the aisle or bulk head so she would have more space. I've always run into problems with people not knowing that there is no "registration" or "certification" for service animals. While I love air travel I avoid it at all cost because it's extremely stressful when none of the employees are properly educated.

51) I generally do not feel like there are extra costs if there is communication between handler and professional (ie... doctor or vet). One should be able to have up-to-date info at next to no cost with systems like patient portals or simply by making such requests at already scheduled with your vet or physical healthcare appointments.

52) The people of the airline should not have to know my specific disabilities for me to fly. It's a violation of privacy

53) I will be answering with a complete written letter to PSYCHIATRIC SERVICE DOG PARTNERS by E-mail
[Authors' note: As of this writing, we have not received such an email to our knowledge.]



54) As a disabled individual I am already at a financial disadvantage because of my doctors visits, adding this unnecessary financial burden is discouraging and frustrating.

55) Employees need to learn the difference between ESAs and Add. SDs are highly task trained. ESAs are glorified pets. They are not at all suited to ride in the cabin of a plane.

56) Please stop lumping psychiatric service dogs with emotional support animals. My dog does a task and has been trained significantly more than an ESA. It puts a higher burden to fly on those with psychiatric disabilities rather than physical.

57) Please quit lumping psychiatric service dogs in with was they are not the same

58) 500

59) I no longer fly because of all the problems.

60) Money to obtain documents that I don't have.

61) I have a well behaved friendly ESA golden retriever mix.

62) I would like to state that the staff members knows the laws, I know air line laws are different but if possible ask the two questions 1. Is that a dog required because of a disability and 2. What work or task does the dog preform. Now if a dog is misbehaving or barking and the owner does nothing to correct I ask that they are not allowed to fly. This could be a huge risk for me and my service dog. A dog barking or trying to attach my millions of hours and money trained dog could effect my life forever. I'm terrified of it. Please don't be scared to ask untrained dogs to leave, because you are saving peoples lives who have real service dogs.

63) More training opportunities for handlers to get dogs accustomed to flying without disrupting the process would be helpful (e.g. simulations, ability to practice going thru security)

64) The laws in place and policies by airlines cause me extra stress which makes my symptoms flare up. I more than likely will not fly often if at all because of it. I feel discriminated against



because I have a mental illness and not a physical one.

65) Should inform airlines of the laws stating “certification” or “registration” on Service Dogs and ESA’s are not recognized and commonly used by fakers who want their pet to fly free. A true handler will not be afraid to hand over a doctors letter for their dog. All dogs (service and RSA) should have basics down and behavior to where they won’t interact or disturb any other dog or person. Bunches more but running out of room.

66) Requiring service animals to get any kind of certificate or letter sets up requirements that are outside the federal law allowing the animal to work in the first place. It also allows airline and airport staff to be making decisions as to what qualifies each animal-a situation that will instigate confrontations and law suits.

67) I'm frustrated by the lack of knowledge of the current laws that individual members of Airline staff have. But I am more than a little bit frustrated by the number of people who bring poorly behaved animals into public places including onto airplanes. Dogs behaving poorly and aggressively toward a service dog can totally destroy the service dogs ability to be used in the capacity for which they were trained. Training takes a minimum of 2 years and often between 10000 and \$20,000.

I absolutely think that websites providing fake certification and registration documents need to be shut down and prosecuted. I don't understand why they are allowed to proliferate. The rule is that the person signing your letter must be your treating physician. Those fake websites do not treat the person they are writing the letter for. That right off the top is fraud. I think that if the airline is going to require paperwork 48 hours in advance of the flight, they should at least verify that it's legitimate. Requiring the paperwork to list how long the person has been in treatment with the provider who wrote the letter would probably go a long way to eliminating some of the fraud. These are simple steps that can be taken that would quickly identify a fake letter from a genuine letter.

68) Imposing extra barriers for psychiatric service dogs and yet treating ESAs (typically not trained and incapable of navigating the flight or stressors of airports and flying) is the biggest challenge to flying as a service dog handler. DOT needs to treat



Psychiatric service dogs the same as all other fully trained service dogs and recognize that ESAs are not the same and should be considered pets.

It can be extremely challenging to find a psychiatrist at times to provide necessary paperwork on short notice

69) I have not even been willing to try flying with my large (fully-trained) service dog. I need reassurance that I won't be hassled.

70) Delta has new ESA paperwork and I had no issues with having my doctor and vet fill it out. I like that the paperwork also requires me to take responsibility for my pet's actions in the gate and onboard. I do not believe Service Dogs should require the same in-depth paperwork as ESA. Too many people try to take advantage of ESA.

71) Putting psychiatric Service dogs with an ESA is unfair to those who have the to help them with their PTSD and more. Psychiatric service dogs are trained to perform a task just like all other service dogs are and are not the same as an ESA. You need to stop putting them with the ESA and treat those who have them fairly and like you treat all the other service dogs. Otherwise requires the same thing of every service dog handler and not just one type. That needs to be changed.

72) It is unfair to differentiate psychiatric service dogs from other service dogs and to consider them the same as emotional support animals. Psychiatric service animals are task trained and necessary to mitigate a disability in an individual, emotional support animals are just pets.

73) Proper education and enforcement of current laws would do more good than creating new, tighter laws. If new laws are made, they should be laws allowing legal punishments for those who commit fraud by passing off an animal as a service animal if they are not disabled or if the animal has not been trained (the burden of proof could be somewhat shared in cases where fraud is suspected, prove the person is fraudulent but the person has chance to defend themselves with proof they are not). If fraud is proven, person is fined, etc. Otherwise, no new laws are needed.



74) Psychiatric service animals ARE service animals. They go through public access training, disability task training and are considered the same across all other legislative documents. To place them with emotional support animals is discriminatory and inappropriate. All dogs should be screen better and more training should be implemented to spot fake dogs.

75) A doctor visit is \$35 with my copay and vet visit is \$55...each takes about 2 hours extra out of my time because I don't live near the vet or doctors office. That's an extra \$90 in addition to the expensive flights. I'm on a limited income. The emotional support animals are the ones giving service dogs a bad name because they are the ones without the proper 18 months to 2 years of training that a real service dog has to go through. Many who claim they have emotional support animal and all it really is is an untrained PET. It's my opinion that the airlines needs to stop allowing emotional support animals from flying in the passenger areas and only allow the real service dogs in with the passengers...this would solve all of the problems. Instead you want to make it more of a burden and punishment for us to jump through hoops because you think the answer is to make it more difficult by adding more regulations to those of us with real service dogs. Emotional support animals should fly as cargo without any additional charge.

76) I believe airlines should follow the ADA any animal that acts against the ADA should be removed from the flight and the passenger put on a do not fly list for a set amount of time scare the fakes make them think twice About risking other people

77) I believe only service animals should be permitted, for ESA's are not required to have any training, and a vet or physician cannot ascertain the animal's ability to handle a flight situation on the basis of office visits. ESA's are the biggest problem on flights. Service animals must be trained for public access as well as the tasks they perform and are therefore better capable of handling the airplane environment. In addition, airlines should be REQUIRED to accommodate the necessary room for the service animal without charging extra if an upgraded seat or bulkhead seating is needed for a larger dog or miniature horse.

78) I am a totally blind individual who is a service dog handler. I have several life-threatening illnesses as well. When I travel, I



must take tons of luggage,- not just for the service dog; but, for me as well. I am worried and concerned about fake service animals, there needs to be something straight across the board to keep the fake service animals at bay... Such as a hefty fine, etc. But there is really no way to implement this or any other punishment without a legitimate national. Certification authority. I do not mind getting vet records once a year to fly; but, there should also be a national certification... and a person should not be required to check in with an agent at the desk just because of a service animal. For me, the extra hassle is dangerous to me; as, for me, the less contact with people, the better.

79) I think that an animal that is a ESA should be required to be muzzled since they are not required to have training of any kind, they are only comfort animals. I also think that the only types of ESA animals that should be able to be not in a carrier with the person should be dogs above 10 lbs. The others should be required to be in carriers or muzzled while on the flight. That'll help with distracting service dogs from doing there job on the flight. I also think that if a person who has a ESA animal fly's with their ESA and it causes problems then they should be flagged and not allowed to fly with a ESA again.

80) no regulation will be effective unless 1. airline staff are properly educated and 2. animals who misbehave prior to boarding or takeoff are not allowed on the flight. Few veterinarians or doctors providing documentation understand what a service animal or emotional support animal actually is, but a properly socialized and trained dog will be fairly obvious.

81) The problem is arrogant dog people who think they know everything and pseudo service dog groups who try to "educate" the public and have no idea how damaging they are to the community. Educating the public without media interference is the best approach. Correct knowledge is how we help each other.

82) Please stop putting Psychiatric Service Dogs and ESAs in the same group. Psychiatric Service Dogs go through as much training as other types of service dogs so it's unfair to discriminate. Not all disabilities are visible. If someone has epilepsy, you can't see that, but those handlers don't have to provide the same pre-flight paperwork as someone with a psychiatric service dog. I'm okay with you requiring extra for



ESAs, since they're generally not trained, but this whole discriminating against people with psychiatric service dogs has to stop

83) The disabled with task-trained psychiatric service animals (NOT emotional support animals (ESA)) should not be treated differently than other types of service animals. A service animal is NOT the same as an ESA and should not be grouped into that category. They have nothing in common and it shows a lack of understanding of service animals and infringes on the rights of the disabled. I support more stringent requirements and documents for ESA as they are the ones causing problems on flights, not actual service animals (psychiatric or not).

84) My guide dog has been trained and vetted to these conditions and situations, and we have flown thousands of miles with no misbehavior on my guides part. IF the airlines actually FOLLOWED the already existing regulations in the ACAA, the issue of misbehaving animals would cease to exist. There is no need to further burden legitimate service animal handlers because of the airlines unwillingness in conforming to already existing laws.

85) My son has a trained service dog with specific tasks, but because they're considered psychiatric he and his animal are treated like people who are bringing a completely untrained animal to give them support. We spent 5 years and ~\$12,000 training this dog to his tasks, and it feels like discrimination. The policies say they're not task trained, they are and people with task trained, actual service dogs for psychiatric issues have a harder time in general being singled out, it's incredibly stressful situation and frankly discriminatory. Their disabilities are not less than a blind or deaf person.

86) Asking a veterinarian to sign a statement that a Service Animal will behave on a flight is absolutely insane! They are not going to open themselves to the liability of a lawsuit for "predicting" behavior.

87) Flying with a service dog is becoming a mine field

88) We put countless dollars and hours into training these animals so we can do things that you take for granted. Most of us would never fly unless a family member was on their



deathbed or dying. For most of us, the trip alone is a traumatic experience. To have to fight airline staff that don't understand the laws or our rights is de-humanizing. We already have to fight the general public and poorly trained staff that want to pet, talk to, or otherwise our service animal from doing its job. Please don't make it worse than it already is for us to use our right to get on an airplane to visit loved ones. Discrimination is a very real challenge that we experience daily and we don't want to be trapped on a plane with it.

89) 1. I believe further restrictions should be placed on species of animals permitted on aircraft.

2. I do not believe adding additional requirements for emotional support or service animals will change the presence of aggressive, untrained, unruly animals. Pets are still allowed on board for a fee, and I've never seen a flight attendant actually insist that said pet remain in the carrier. (Personal experience as well - many years ago, as a child, we took our pet kitten out of her carrier and the flight attendants said "we're supposed to tell you to keep her in her carrier, but she's cute!")

3. I believe in imposing mandatory evictions of animals misbehaving in airports. Your dog barked, growled, peed on the floor? Immediate dismissal by airline employees or airport staff. It's not like airports aren't flooded with cameras to prove a poorly behaved animal. Allow the owner to return to the airport without the animal in tow, regardless of service animal, emotional support, or pet status, but DO NOT hold the flight or provide them with any other unnecessary accommodation. They can have the option to standby. If someone was drunk or committing any other crime, or acting suspiciously, they would not be granted to board just to save face. We shouldn't risk or be at risk of an animal attack just because people don't want to train or leave Fluffy at home.

4. I believe requiring vaccination proof is highly immoral when it requires vaccinations that are not federally required. There are legitimate reasons to do low vaccine protocols (i.e, one of my dogs literally sprays blood for 48 hours after any vaccine), which doesn't affect the workability of an animal. Titer tests should be permitted. Some animals / states grant rabies waivers as well, so those animals should be accommodated.

By imposing more requirements (i.e, vaccines), we're only punishing disabled individuals for the crimes committed by able bodied people. We are being subjected to unnecessary charges



to acquire updated veterinary records, doctor records, and are forced to undergo more scrutiny and questioning by airline staff despite not being the ones responsible for poorly behaved animals.

We are already facing the threat of being unable to make emergency trips for those who fall under emotional support animals or psychiatric service dogs. Why should disabled patrons be prevented from accessing critical travel because of the basis of their disability or the disability device in which they use to mitigate? Should someone be denied saying goodbye to their parents or their children simply because airlines are allowed to impose such aggressive and inhumane restrictions? No other patron must wait 48 hours to be able to board a flight, therefore people with mental disabilities should not be singled out.

For me personally, I lost my health insurance because of my age. I rely on government health care which can take very long times to find available appointments. The fact remains, for most individuals, it is stressful to be able to get a doctor visit and then to require them to rewrite a letter following a specific outline. Some individuals simply do not have a doctors note (i.e, many blind patrons) to support their need for a service animal, yet they have still obtained a program trained animal (with regards to several blind individuals).

Veterinarians charge anywhere from \$50-100 for just making an appointment. Health certificates are generally \$50-135. Vaccinations, if the frivolous ones are required, may cost upwards of \$100. And then you've got to answer the question if vaccinations are considered immediately valid, or if there is a 21 day period in which you must wait prior to traveling.

If an individual doesn't drive, you must account for the cost of a taxi or ride share. Assume they don't face discrimination there, they still have to hope they're in a service area. Where I live, I do not have access to ride share companies and taxis are limited and take advantage by overcharging.

Subjecting disabled individuals to additional charges, stress, and complications because able bodied employees are too scared or too untrained to kick out misbehaving animals is just appalling.



90) It would be immensely helpful if airports or airlines provided occasional access to airports and airplanes for training purposes, so that service animals can be introduced to the unique noises/activities in those settings before an actual flight. As well-trained as an animal may be, it's hard to predict how they will respond to such an unusual environment until they have been exposed to it.

91) untrained dogs have been a huge problem! We have been barked at over a dozen times during flying. Once a dog lunged at us to the end of it's leash. My dog is a Celiac medical alert dog with over \$20,000 and 72 weeks of formal training. He is trained to absolutely NOT respond to aggression so when the dog lunged at us he looked ahead and kept walking. I know many dogs who have been severely injured and 2 even killed by these dogs being aggressive to actually trained service dogs. The other thing I would like to say about this is the ADA has a definition of disability. Many persons do not meet the criteria of disability. The person with the disability must have limitations that SIGNIFICANTLY limit one or more life areas. Merely being diagnosed does not qualify a person with a disability. I am 100% for more stricter policies on service dogs. I might also add that I am a doctor of psychotherapy and I work with many clients with SDs and I do workshops for medical and mental health professionals with use of clients using SDs.

92) The American disability act covers what is right or wrong. I had an airline ask for proof of my disability, this is not acceptable. With a disability it's bad enough to go through daily life much less prove I have a disability. Also how is a Veterinarian to know how an animal acts in public. It is obvious when seeing a well trained animal and one that is not trained.

93) Personally I would allow service dogs and disallow emotional support animals from flights. Special training is required for it to be safe and not stressful for both the animals and people.

Disabilities should be treated equally. There needs to be a way for travel to be fully accessible including in case of emergencies or without having to always pay for the upgrades to manage a flight in minimal comfort.



94) This has gotten completely out of hand.... my well trained dog has been attacked in airports.... I would rather present a letter and his CGC certificates knowing it will decrease the likelihood of him being harmed.

95) untrained dogs pose a safety risk for me and my service dog. I would like to see much stricter requirements related to control of dogs and behaviors.

96) Although I have no problem providing the paperwork for our highly trained service dogs my disabilities would be challenged with the extra time to get it.

97) The fact that psychiatric SD's need a letter and people with any other disabilities don't have to is extremely inconvenient & discriminatory. A disability is a disability, why does the airline need to know my SD is for PTSD vs a mobility issue? Simple answer they don't need to. My health conditions are my Business no one elses

98) A service dog is the ONLY animal with public access rights. While airlines have tried to accommodate persons with emotional support animals, I fully believe this is an underlying reason for the many problems we are now facing. A service dog has two or more years of training plus passing the Canine Good Citizens test and the Public Access test. It does not matter whether or not this is a "program" dog or an owner trained dog. The standard is the same.

Those of us who use a service dog keep up working with our dog to maintain their skills. We also adhere to high standards of health care for our dogs, including annual checkups, parasite prevention, vaccinations and grooming. We use quality equipment as a harness and collar and leash. This all means I can count on my dog 100% to behave in a manner of respect to those around her, be clean and well groomed, have her shots and vaccinations up to date and not cause any problems for others at the airport, in flight or at our destination. She will not growl at you or bite you or your dog. You will not get fleas from her and she will not jump on you or knock you down.

An emotional support animal can be an animal other than a dog. This results in people who bring pigs, peacocks, cats and other animals onboard. Even if emotional support animals are



restricted to dogs and cats there is still a huge potential for trouble. These animals have no training or experience out and about in public or in crowds. Just the noise of an airport or airplane engine can frighten them. They don't deserve that. And just because their human wants them to be there, the animal may want to be home. There are no health or grooming requirements, and there is no equipment requirement to secure the animal. The animal can be unwashed and stink, have fleas or ticks or worms and carry disease that can be passed to humans. The equipment can be shoddy or broken and result in the animal getting loose. This could be a cat who wails in loud protest all the way from Los Angeles to Tokyo or the toy poodle that yips and snaps and growls from New York to London.

If I have to provide third party documents so we can fly, I will need to get an appointment with my veterinarian and/or health care provider, travel at least 20 miles one way for myself and 8 miles another way for my dog. I will have to pay for the appointment at full fee for the time I spend with either medical professional. And I will need to do this all ahead of the time we are to fly. If I had to fly to North Carolina for an emergency with my son's family, there are no exceptions to these rules. If one of my parents lived that far away and became gravely ill, I could miss seeing them before they pass away.

The last time my dog and I flew was in 2013, before the changes in regulations. We had a wonderful experience. Airline and airport staff were kind and courteous. I did call ahead of time to let them know I have a service dog and there were no problems. That said, there have been numerous incidents where I have had to educate staff in stores, restaurants and hotels. One hotel I stayed at four different times within a few months, I had to go over ADA law every time I checked in. I was asked questions that should not have been asked, documents were asked for that I do not have to provide and I was asked to sign a waiver I do not have to sign. Just because business staff has been trained in the treatment of service dogs and their handlers doesn't mean we don't have problems.

I volunteer with a program that trains psychiatric service dogs for Veterans. If these dogs are not treated the same as all other service dogs there will be problems. I have read about psychiatric service dogs (psd) being required to be crated from the lobby to the gate of an airport. For a Veteran with Post



Traumatic Stress Disorder (PTSD) and panic attacks this would prevent them from flying. A service dog cannot do it's job in a crate. A Veteran or anyone using a psd who has to be singled out for checking in, provide additional documentation, going through security or boarding, with different requirements than a person with a guide dog or medical alert dog, is being discriminated against. A psychiatric service dog is really another form of medical alert dog, just like one who alerts for seizures or blood sugar changes. A psd alerts to her handler's panic attack, fear of large crowds and wanting to flee, then performs as trained to mitigate the problem. I am looking forward to retiring in a few years and traveling to Europe by plane. And I look forward to being nothing more than just another passenger who also just happens to have a dog. Thank you.

Mary Jimmerson
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99) I fly Delta because they handled my service animal the best. The other airlines scare me to use. I can't imagine stuffing my 45-pound dog under an airline seat for a couple hours. She'd do it. It's just highly uncomfortable for both of us. In security lines, "ESAs" often cause a ruckus around her, though she never reacts. I don't like having to provide paperwork, but I would if it would decrease the amount of fake service animals being touted around.

100) My service dog has been lunged at, harassed, and nearly bitten multiple times in airports and on airplanes. Airline employees need to know their rights when it comes to protecting themselves and their clients from poorly trained pets. An ESA is NOT a service animal.

101) Airlines must insure that emotional support dogs are well trained. I have been on flights where my Seeing Eye dog was almost attacked. The airline personnel did nothing. I had to basically get in the passenger's face to make sure she held her dog tightly and it continued barking. I do not feel safe traveling by air anymore due to the number of "emotional support dogs" without the training that most service animals get. I hope the airlines follow up with emotional support dogs to insure safety to all passengers.

102) Emotional Support Animals should NEVER be allowed to



fly unless in crate and remain in crate. Service Dogs are the only SD that should be allowed to fly without crates and with the handler.

103) I have flown quite a bit with my service animal and find either they are totally trained and accommodating or they don't know anything and have even mistreated us. It doesn't seem to matter the airline or geographical area. It is like a gamble by the flight. Across the board training like McDonalds finally did would solve the problem. Now we as handlers have to be equally responsible. Our service animals should be in our control and behaved at all times. Not barking and causing a scene. Yes they get frightened sometimes and have to be forgiven but after that calmed down and as useful as any medical device.

104) The focus should be taken off of those with disabilities and put on those that are abusing the system and falsifying information who do not have disabilities nor have sufficiently trained assistance animals.

105) I have been traveling for 30 years with no problems prior to emotional support dogs. They are not trained in the same way my guide ulis and it is unfair to the dog and passengers

Focus on the behavior

106) ESA need to at the least been put through an obedience class so that they know how and how not to behave. It is the ESAs that cause the problems for those like me who have a service dog. People also need to not use those retractable leashes because not only are they not controlling their dog but those leashes can injure someone when wrapped around them as well as cut into the skin of a person or dog for that matter. You also need to treat those who have a psychiatric service dog the same as the other service dog handlers because they are trained to perform tasks to help the person to mitigate their disability. I have PTSD, Anxiety and panic attacks, nightmares, high blood pressure and seizures that my service dog alerts me to and more. So just because my PTSD is my main problem doesn't mean my service dog is like an ESA because it isn't and that doesn't give the airlines the right to ask me to fill out what those with an ESA do when my psychiatric service dog is a service dog trained to mitigate my disability and not emotional support.



107) The time and \$ it would take to provide documentation from a vet or doctor could be a huge hindrance-some doctor's, especially any sort of specialty or psych doctors, typically have extremely long wait lists to be seen, even just for paperwork it may be 6 months or longer before you can get in to be seen/get paperwork, not to mention the cost of the appointment!

108) This doesn't just affect the disabled, it also affects everyone in their lives involved with booking, transporting, escorting, and handling the disabled person as well as ALREADY having to put up with hand swabbing and guaranteed TSA screenings while surrounded by people actively gawking & staring at myself, those in my party, and my service animal. It would be helpful to keep those with disabilities in temperature controlled areas and out of inclement weather and out of sunlight and not on tarmac that can burn us or our animals' feet. It would be great to train staff how to wholly ignore working animals and beneficial to teach how to not add to the stress burden we're already facing traveling.

109) I want my right to be able to travel freely, whenever I want, with no extra burdens placed on me to remain in force even though I have a service animal.

110) I feel that I am lucky in that I have a good relationship with my vet and my doctor. There comes a point when asking a vet to sign for a dog's behavior that seems inappropriate as the vet is not involved with training.

I would love to have an affordable national certification for citizenship that all service dogs should pass. Special tasks should not be considered as they are so unique.

The hardest part about travel for me is the energy I expend getting ready to travel. This is very taxing. It causes travel to start off very hard due to fatigue.

I also weigh the risk of being exposed to illness. My immune system is not compromised, but I often get sick after traveling. And I take great care with keeping hands clean.

Also, please consider expense. I have zero income today. I cannot travel. When disability pay starts, I will be on a limited income. I will be unable to jet around the world. I would like to fly to see Family in the next state from time to time.

I am grateful for the opportunity to travel with my SDiT. I would not travel without her.



Thank you

111) Psychiatric SD's should stop being lumped in with ESAs. Airlines should not be allowed to accept certifications, registrations, or IDs as proof it is a SD or ESA. Either make all SD handlers provide documentation or don't (doctor's letter, vet record, etc.). I think having ESA owners provide a letter is good, but it's hard to tell if it is legitimate or a scam therapist. ESAs should also be trained to be able to behave in public and in an airport-type setting, and that they should sign an attestation that their animal can behave and is trained. This should not be a form signed by a veterinarian (extra cost and time is not okay) as vets are not behaviorists nor have trained the animal and it would be a liability for them to sign it, and requiring a trainer or behaviorist to sign a form would be unfair as not all people have trained their animal with a trainer. Similar regulations should be put in place to those of the ADA. If an animal is uncontrolled or a danger, the airport can ask the animal be contained in a carrier, muzzled, put in cargo, and/or removed all together. Also, flexi leads should be banned from use in airports and on flights.

112) My dog is not allowed to be vaccinated due to an autoimmune disease that he might have, although there's no way for us to figure out if he does in fact have it. However, he is still protected from the illnesses he was vaccinated for as his titers came back positive less than 6 months ago. But, my vet would not be able to say that he is up to date on his vaccinations because he isn't, although he is immunized. This doesn't make my dog any less of a service dog than anyone else's service dog, so how is this fair? He is also a tiny service dog, but still very real, although some people don't take him seriously because of that. I am scared that I will no longer be able to travel by air with my service dog even though my disability requires it because of all the fakes and the paperwork that my vet won't be able to sign. Also, ESAs and PSDs need to stop being lumped together because they are NOT the same thing!

113) I choose to use my service animal because I feel that she enhances my travel experience. I should not be penalized for that choice because of someone else's poor decisions. Increased documentation requirements would severely limit my ability to fly, as the extra paperwork can be out of my budget at



times. At the same time, other people's animals have repeatedly harassed mine, both in and out of the aircraft cabin and I feel this needs to stop. Documentation, however, is not the answer. Misbehaved animals should not be permitted to board aircraft, and airline personnel should be well educated on the various aspects of service vs. emotional support animals.

114) As a blind guide dog user, I'm confident that a Veterinary record wouldn't be effective in allowing animals to fly. Veterinarians are not equipped to handle whether or not an animal has the proper behavior to fly. A service dog trainer or program is the only one with that authorization. Furthermore, Veterinary records can be difficult to get for last-minute flights which would discriminate against people with disabilities using service animals. Emotional support animals are often not trained to be in public places, and the stress caused by flying can cause the animal to act out where they otherwise would not have behavioral problems. All these factors lead me to believe that there are two options the Department of Transportation can take. First would be getting the owner of any type of emotional support or service dog to sign a document stating that they are liable for any harm the dog does to other passengers. I believe this will discourage those flying with animals not properly trained from being on planes, and help Airlines deal with the repercussions of inadequately trained animals. The second option is to help us advocate for some type of national certification Which will Implement a type of Behavioral standard. thank you for looking into this issue.

115) I do not feel that we should have to incur the cost of getting a Dr to sign paperwork. I u have insurance u have the Co pay. No insurance expensive. Someone who has a SD should show training certs. A person should be held liable for the service animal they bring on board.

116) I understand the additional requirements for an ESA, but a psychiatric service dog should be treated the same as any other service dog as they all go through the same training!

117) Service animal users like myself who use trsined service animals would not be able to fly in short notice, which would cause inconvirnce and pissible problems with work and family

118) The burden of having to get paperwork every time I asked



you to fly would be a serious hamper to my ability to travel. Because I do not drive arrangements need to be made take care of paperwork.

119) Time and expense of getting vet or other letters will prevent me from flying. It just would not be worth it.

120) There needs to be a way to protect real service animals and put a damper on fakers.

121) I do most of my service dogs' immunizations with the exception of rabies. I studied Veterinary Medicine for two years and am qualified to treat my dogs. Having to get medical clearances for my service dogs would create an undo hardship on me. I also owner train my service dogs and requiring me to obtain a third-party documentation would also create an undo hardship on me. On a recent flight I had one of my service dogs with me and there were a couple of ESA animals on board that caused a ruckus in the back of the plane. It is my firm belief that ESAs should be trained to behave appropriately during all modes of travel.

122) The base determination should be behavior in the moment. If a dog is acting unsafe and the handler unable to control the dog, they need to be asked to leave or crate the dog. Bottom line. No second chances to be reseated or warned 'control the dog or you'll be asked to leave'. Behavior in the moment is the only observable thing that across the board will increase safety, fairness and reduce undue hardship and liability risks.

123) The ADA and ACAA should mimic each other as much as possible. The cost of doing the above is minimal compared to the other expenses of having a service dog. As an example, vet fees, shots, food etcetera. If the ADA and ACAA requires the above it would discourage people passing their pet off as a service dog to save money. It would also reduce the growing problems airlines and business have

124) Regardless of what policies come to fruition the language needs to be clear, consistent and concise. All airlines flying within the US need to follow them. ALL staff from ticket agents, to TSA, to custodial, to pilots and stewards/ stewardesses need to be required to take a training AND demonstrate via written



exam, taken independently of an instructors help, that they understand the law with 90% or greater accuracy. Certificates purchased off line are to be recognized as false, as the above will have a comprehensive understanding of the ADA and any further policy. Policy must state that a party found to be falsifying records or not have a fully trained dog or miniature horse will face a fine, participate in community service 20-30 hours with a Service Dog trainer helping others to mitigate legitimate disabilities OR a fine and up to 10 days in jail with the offense becoming a permanent part of their criminal record that can not be expunged.

125) Currently disabled users of Service Dogs (not emotional support) are not all treated the same. Only psychiatric service dogs are subjected to "proof". If this is the new standard, then ALL service dogs must comply, or remove the extra burden. By definition, the requirements on psychiatric service dogs and their handlers today, are discrimination.

126) I wouldn't want to go through the hassle to ensuring I have the documentations for my service animal to fly because usually when I have these documentations, they never check them and I wouldn't want to make any last minute appointments and pay more than expected before a trip to ensure my service animal is good to fly with me on trips.

Why don't places that provide people with service dogs with a 'license to have a service animal' (similar to driving) to ensure they are allowed to have their pet in public places/on flights? This would make it harder for people who pretend to treat their pets as a service animal to get a license.

127) there are already provisions in place for poorly behaving ESA or service dogs

128) I think esa's Should have to pass a public access test such as the cgc to be allowed to board a flight. Maybe they could have an ID to say such and such dog is trained for public. Service dogs are already trained so I wouldn't change anything regarding them.

129) It's already too hard to fly. If I had to go through all the extra time and expense of getting an additional veterinarian's letter, I doubt I would be able to get it all done in time, especially



if I had to fly somewhere quickly, like to see a dying family member or to attend a funeral. My veterinarian may or may not even be willing to write a letter. She only sees my service dog in one environment, and doesn't go with me to any situation even remotely similar to an airplane or airport. My service dog is really well behaved, but how would a vet be able to vouch for his behavior in a totally different environment she's never even seen him in?

I still think it is unfair and discriminatory to require handlers of one form of service animal (psychiatric) to have to compromise their personal privacy to give a doctor's note to the airline about their incredibly stigmatized condition, while other service dog handlers can just walk through without papers. Mental illness is so stigmatized in this country that millions of people delay or avoid getting help for their potentially life threatening condition, sometimes for years! Some people actually end up completing suicide rather than getting help and letting people know they have a mental illness, in part because people have incredibly negative and inappropriate reactions to our disclosure of our mental health status. Why is it necessary for us to disclose this private information to strangers who could easily mishandle the information? It makes an already difficult and stressful time more stressful and difficult. Please consider changing this law, because it negatively impacts us every time we fly.

130) There are already two international bodies which regulate and accreditate guide dog and service dog organizations. These are the International Guide Dog Federation and Assistance Dog International. (IGDF/ADI). The Council of US Dog Guide Schools can also provide assistance to lawmakers. The Chair of the Council this year is Sandy Merrill / Guide Dogs of Texas / 210-366-4081. Please feel free to contact

131) The department of transportation is required to follow ADA laws. Not make their own laws about people with disability. If I have a guide dog trained from a REAL guide dog school an ID card is issued. The airlines scouts get a list of real schools from any guide dog organization. They all work together.

132) I starting flying with my Service Dog 10 years ago and have been fighting for equal status for my disability all these years. Now we are going backwards. Discrimination is Not how to fix the problems that the Air Carriers started by not



understanding what they were doing when these regulations were written and updated.

133) I have had different demands by security at different airports that were illegal to CURRENT regulations (my SD's collar, vest and leash were demanded and if I did not comply invasive body search to me was implied, so I was left for 30 minutes with a completely unrestrained SD, while KC, MO airport played with a flat buckle collar and leash. My SD stayed in an off-leash heel, but was shoved and kicked by passengers grabbing trays. My SD is more likely to be harmed by security dogs than ESAs. I was forced to leave my SD in line in a down at the Denver airport, with people right behind him who could kick or step on him. He was 20 ft behind me, off leash, when I was sent through the detector, until I was allowed to call him through. I haven't found a single airport except Spokane WA airport, that has screened by correct guidelines. I have tolerated this because the actual airlines I've used have followed rules correctly. Now with added fees and preferential treatment for organization dogs, which any trainer can start up an organization, so it does not mean the dog is better trained than those SDs privately trained, I have started driving. I am exploring Amtrak for my next trip if airlines continue to make traveling so stressful for actual disabled people. They do not care about the stress/safety of the disabled handler at this point.

134) Standardised IDs from IGDF accredited schools or ADI schools with a proof of public access test dates within 12 months should suffice. The real concern is the fake service dogs from non-accredited schools that the airline knows nothing about.

135) My multiple physical disabilities are invisible. I have never had to disclose my medical history to non medical strangers to fly, but the changes would bring on violation of HIPPA for many SD users.

Also, this is program SD driven. Any trainer can start a SD program, there are no training certification requirements. I teach obedience classes, I could start my own program tomorrow if I had the space. I already have experience training SDs. Just give myself a business name and certify my own graduating dogs at minimum ADA standards and tada "program SDs." Instead, I've training SDs far beyond ADA requirements, with many tasks for my own use, so my SD are Owner Trained, not



"program certified" -which the airlines do not understand proves nothing. There are VERY bad programs out there. Veterinarians are not trained to assess behavior unless they are behaviorist. You usually have to travel long distances to find a Veterinary Behaviorist. A regular vet cannot even teach dogs basic obedience. How can they determine how a dog will behave?

Most vets will not sign off on predicting behavior of a dog due to liability.

Airlines have no clue how they are designing these laws.

This punishes disabled fliers and I will find other modes of transport, even though both SDs I have had have been model fliers and model working dogs in public, the ambulance, the ER and hospital.

136) I spent over 8 hours answering Allegiant's questions and accusations!! They continued the harassment and discrimination against me and my SD's. My SD's have flown over 50 round trip flights!! They were primarily concerned about making money. The emotional distress they caused me was unacceptable. My physical disabilities require my SD's to be with me.

I understand the need for guidelines, in order to weed out the "fakers ". Making it so difficult for real SD's, is not acceptable. The expenses and stress caused by additional rules, is unacceptable.

137) The DOT should consider only allowing service animals that are from accredited service animal training programs to ensure animals are legitimate.

138) The most significant burden to me would be the allowance of emotional support animals on planes. These animals are not trained by a professional trainer 95% of the time. These are the animals that pose a significant risk to my guide dog as well as to myself and others. These animals should not fly.

139) I suggest you consider that the traveler provide a document from the organization that trained their animal as



proof of health and safety instead of from a vet. For most dogs that are trained service animals, the organization that trained them provide such documentation. This certificate/card proves both recipient and dog have passed rigorous certification tests for public safety and behavior-- including crowds, controlled behavior around other dogs, and loud noises-- as well as provide the organization with current health reports of the animal from the vet. We must pass this recertification process every year. Most vets do not provide this level of behavior and training testing. In my opinion, the documentation from the training organization is more rigorous, has more authority, than a simple report from the vet. Also, the cost is very low, only the time it takes to undergo the required test. We do not have to pay for the testing nor the certificate.

140) While the focus of disability rights should be protecting access. Nationally, there does need to be a crack down on fake service animals gaining access. I have had to weigh carefully if I can take my Seeing Eye dog to certain places based on how many untrained and unruly fake service dogs I will most likely encounter. A legitimate service dog remains under the control of the handler, not allowed to interact with other service animals and/or people without permission.

141) Having a disability makes for a tight budget and any added costs of flying could hinder my future flight plans. Folks lying to be able to bring their pet on board as a service dog should be fined heavily!!!

142) ESA animals should be banned from flying in the cabin of the plane unless they are in a carrier. They pose a threat to my guide dog. Since I am blind and can't drive, I would also have to pay extra transportation costs to get to and from the vet.

143) DOT and various airlines allow the proliferation of mental stigma in grouping psych service dogs in the same category as ESAs, i.e. limited to no access. Just because my disability is not visible does not make it any less valid. Forcing people with service animals and mental disabilities to jump through more hoops than an apparent physical disability is discrimination.

144) I do believe that all uncrationed dogs should be trained and accustomed to very stressful public environments prior to flying.



145) Many airline employees do not know the ADA laws, sometimes cause time delay to research and added stress, sometimes charge for service dog equipment, sometimes make me cry for all of the questioning. A Dr. Letter should be good for 5 years. Disability generally doesn't change or should be listed as temporary. Also, I am happy to supply a letter of training and able to handle airplane stress, but who signs this? Especially if I do a lot of self trainig. Lately flying is awful due to airline staff.

146) My primary concern is in the event of an emergency, if someone does not typically carry an up-to-date veterinary record with them at all times, a policy requiring all or some service dog handlers to first procure that paperwork, then submit it to airline personnel, and then finally wait to learn whether it was deemed sufficient by airline personnel could seriously interfere with a handler's ability to travel. One day could mean the difference between a handler arriving in time to comfort a dying family member and arriving only after that person is gone. I think, if veterinary records or attestations of suitability to fly are to be required, there must be exceptions made for extraordinary circumstances. I also foresee a problem with veterinarians being reluctant to state that a particular animal will behave while on an airplane. I do not believe vets often have much knowledge of their animal patients' temperaments outside of the office exam rooms -- a dog who cowers in fear at the vet may behave beautifully on a flight, while an outgoing, easygoing dog in the office may become terrorized once a plane takes off from the tarmac.

147) Disabled individuals should have to provide proof of vaccinations for the safety of others flying, and the pets in question should be able to handle the situation or should fly crated (namely ESAs, who may not be trained to accept these situations), but handlers should not be required to obtain additional documentation for working dogs. You wouldn't charge an individual \$100+ and require a Drs note to bring their wheelchair with them, so why is it acceptable ask a service dog/esa handler to get a drs &/or vets note that will cost \$100+ to bring their own working dog/medical equipment? A letter signed by a vet or doctor saying the pet is of sound temperament to fly would be okay if the handler would not be charged for it, but charging a person additional fees(in the way of out of pocket vet/dr appts) to bring medical equipment is unacceptable.



148) Lack of training

149) If you require a doctors note for one type of disability it is fair to require it for all of them but doctors need to sign that they have read and understand the law and liability for lying and a rabies vaccination is already mandated, a vet is only responsible for the dog's health not training and emotional support animals should be given free carry on or cargo services since they aren't trained to handle the stress.

150) Airlines and associated groups should create user friendly and convenient tools for efficient effective travel that is accommodating to all who need it thereby minimizing the extra burdens.

151) The persons who use a “trained” service animal as well as the general public should not have to worry about “untrained” animals being brought on planes. Therefore, it is hard to prioritize either or protection for the disability community that use “trained” service animals and making sure that “fraudulent” service animals aren’t allowed. It’s not black and white. Even “trained” service dogs can have an accident in flight no matter how diligent the disabled partner has been to prepare the dog for the trip. Just like us they get upset stomachs etc. That is why even if the dog is well behaved things do happen. We just don’t want “untrained” dogs to come on board and cause our dog trouble or hurt anyone and that includes our dogs. Enough is enough. We need to do something about these “so called service dogs” that aren’t trained but are “pets” instead. I don’t know if I’ve helped but I hope so.

152) I feel that some people are not understanding of people who have service and Esa animals and therefore are not as supportive to us, and I feel that they make us pay more than the average person because of our service and Esa animals that are trying to help us.

153) While I understand esas being used as fake service dogs is an issue, I don't think the issue is common enough to make an already disabled person go through more challenges than we already face.



154) People using animals for comfort are not taking into consideration that other people have allergies to animals are afraid of animals. Service dogs are defined by the ADA and are a value to their quality of life. Service dogs are trained for certain tasks. Comfort or emotional support dogs not trained for these task but to help needy people cop with life. A short time of speciation during a flight is a small inconvenience to pay for the consideration of the rest of the passengers

155) I realize it would be *highly* inconvenient but I would recommend that, just as there are training flights for other skills & knowledge, it would be extremely beneficial for *all* airline personnel (incl gate persons) to role play a person with disabilities, with a service dog, & with an emotional support animal. That is truly the **only** way to understand the major & minor challenges people with special needs incur. "You can only make decisions for someone (or about someone) **after** you've walked a mile in their shoes."

156) The additional cost for obtaining documentation would be a financial burden, along with additional personal time needed to obtain the documentation. More training and education of airline personnel and also of the public is needed so that people understand the difference between an assistance dog trained to mitigate a disability and an emotional support animal who merely only provides comfort and may not be trained at all. I am fearful for the safety of my Hearing Dog whenever we fly and there are also emotional support animals onboard as well. Because I have no idea that the emotional support animal has been trained and is socialized enough to be around assistance dogs. I rely on my Hearing Dog to help me hear sounds I cannot and I am responsible for her safety and well being at all times. Please don't make it harder for those who are partnered with a well-socialized, trained and healthy assistance dog to be able to fly. Any rules or regulations should not be so stringent that it creates any kind of burden for a disabled person. We have our assistance dog to help us be independent, please don't make it harder for us. However, I do think that allowing ESAs the same ability to fly in the cabin, they do need more regulations and assurances to the airlines by whatever means, that their person absolutely must have them onboard to help their partner. The airlines should most certainly ascertain that the dog in question is indeed able and capable of flying and needed by their partner. Too many people are taking



advantage of the lax rules in order to allow their pets to fly in the cabin by saying it is an assistance dog and/or an ESA. I also would like the DOT, the airlines and whatever agency needs to be involved, to get more in line with following the DOT regulations for assistance dogs and only allow dogs to fly in the cabin, and NOT to allow any other kinds of animals. Miniature horses are also mentioned in the ADA/DOT regulations. It is disruptive to all when a pig, goat, snake, or any other kind of animal is allowed on a plane.

157) Please do not punish the legitimate Service Dog users in an effort to deter the "fakers". Please do not burden persons with disabilities in an effort to punish lawless persons. Thank you for please understanding that persons with disabilities already face a multitude of challenges before they even arrive at the airport.

158) If ESD are allowed to fly they should have the same training as SD

159) Ever since the ESA peacock and the ESA that but the child incidents and airlines have started putting more restrictions on service dogs flying I have been very anxious about flying a friend recently wanted me to fly out to help her drive back to our home state and the whole idea had me thinking of other travel alternatives because flying with a service dog is already such a pain since the incidents. Unless I have to travel over seas i will be looking for other ways to travel

160) I have no issue documenting my SD. I do have an issue with untrained dogs messing with my \$20,000 dog

161) Muzzles for ESAs as a safety precaution to avoid anyone getting bitten. Legitimate trained service dogs (of any age) will never ever bite someone, even if they harassed the dog or the owner and they deserved it. ESAs are pets and are not required to have any training, and are not public access trained. Therefore they are statistically significantly more likely to panic in a crowded environment like a plane. Muzzles are typically associated with negative things but they are a very positive and useful tool for almost any situation when used properly.

162) If flights attendants are given power to remove service animals for acting a certain way, they need extensive training in



reading and interpretation of canine behavior and not flight attendants can be hired who have a fear of dogs, period. You cannot have any personal prejudice in the decision regarding canine behavior. Period.

163) esa's need training to be able to fly. Not training your animal puts legit service dog handlers at risk.

164) My concerns are realistically about the airline personnel. If a Service Dog yawns, shifts its body or makes so much as a peep, it doesn't mean that the dog is agitated to the point of needing to be thrown off a flight as has happened in reality. Airline personnel really, REALLY need education on laws AND behavior possibilities of any SD of ANY breed. Service Dogs are DOGS, not ROBOTS.

165) The cost impact most of us on disability incomes . I think that these regulations are needed . I do not believe therapy animals should be allowed unless fully trained by a certified trainer. The burden I see is that there is really no place for me and my service dog to sit comfortably and safely for the duration of a trip . I think that the policies the airlines have are important to protect the passengers and crew. I believe with responsible meetings on both sides there can be a fair resolution . I believe that there is a solution to ease the burden on both sides of the argument .

166) If I were to have to provide this 48 hours or more in advance of a flight.. how would i do that in the case of an emergency when vet clinics are not always open, or your preferred veterinarian in a multi vet practice may not be available.?

167) What good are my access rights if my dog and I keep getting attacked?

168) Right now it's getting to be more and more difficult to fly. I just bought a ticket for a vacation, and they ask you about seats. The seats that have enough room for my German Shepherd are about \$30-50 more each flight. Airlines always had seats available years ago for those with service dogs, but now most of those are gone unless you want to pay \$200 more on top of your airline ticket. My dog is extremely well behaved, and we have flown many times. There are more regulations you



can put in place to punish those that act up rather than making it more difficult for those individuals who have well trained dogs.

169) I don't mind providing proof of rabies as most states require animals to be up to date on the rabies vaccine. All other vaccinations are optional and should bare no weight on whether an accompanying animal, whether they are a service dog, psychiatric service dog, or emotional support animal, be permitted to fly. Requiring a veterinarian to sign off on an animal's expected behavior is faulty, while not something I have approached my veterinarian about, it's something I would question on whether the veterinarian would sign though due to liability reasons. The law, as written, is not poorly written, it is the airlines that have failed to enforce their own protections under the law that has allowed fake service animals, psychiatric service animals, and emotional support animals to become problematic. The airlines are pushing for tighter restrictions but if they had enforced their own protections as currently granted by the law there would be nowhere near the problems that we are seeing now. There should be a strong focus in training all airline personnel on the current law, if the law is changed there still needs to be the same focus on training airline personnel to understand the law and what protections are afforded to both the airline and the disabled passenger.

170) Airlines do not comprehend laws of service animals because they lump ptsd with emotional support animals when the law clearly states that a service animal has to be trained to preform tasks the person can not do. An emotional support animal does not need the same rigorous training as someone using a service animal

171) My partner and I have a PSD/Medical tasking SD and an ESA between us both. There are certain airlines we have blacklisted due to unfair treatment of our disabilities. While I think something needs to change in regards to ESAs flying (maybe requiring ESAs obtain a CGC) I think it's disgusting how people are treated with a task trained PSD. We will be watching the new airline laws closely and are not afraid of never using an airline again and going with Amtrak even if it means making the travel time longer.

172) I haven't flown in the last year and a half because of the



issues with access for my mobility dog. Airline personnel assume the worst. I have started taking the train instead of flying. There has to be a better answer.

I would like to clarify my answers relate to fully trained service dogs only. I do not believe ESAs should have the same access rights at all and would fully support additional paperwork requirements for ESAs.

173) We are all concerned about safety and unruly animals. But we are not the problem. I suggest that instead of making further barriers, the ACAA be amended with harsh monetary penalties if it is found AFTER an incident and resulting investigation, that a person misrepresented their animal as safe for public access. Heavily advertise the penalties. Make people confirm it when they book. This should help deter casual disability fakers looking to save a few bucks by upping the risk they feel.

Further, for emotional support canines only (not psych service dogs), it would be a good idea to partner with the AKC and require ESAs to have a Canine Good Citizen certificate. This would be proof, from a reputable third party, of minimum training achieved to behave in public. The tests are readily available in most areas. Please negotiate a reduced rate for low income fliers, and ability to send video of the dog completing a test for those in remote areas.

Finally, for non-canine ESAs, require that the animals fly in cargo if they can't fit in a carrier in the cabin. Require a carrier to accompany the handlers in the cabin if possible, only to be used if the non-canine becomes unruly.

Remember, whether handlers are faking a disability or not doesn't matter in terms of safety, as long as the animals behave. Please keep that in mind while policy making, as these rules can easily hang the guilty and innocent together. Thanks.

174) Proper service dogs are trained for many situations including flying. If your dog has never even heard the sound of a plane before i dont suggest flying with your animal

175) I think we need to crack down on the amount of untrained animals. How to do that I'm not sure but every animal, Service Dog or ESA, and person should be safe. If an animal is causing



a disruption the animal should be removed.

176) In the past, I have had difficulty reserving a bulkhead seat. I prefer this option so my service dog (large dog-golden retriever) has enough space. I think individuals pay for bulkhead who do NOT have a disability should be made aware that they may be relocated (and reimbursed) if a service dog or similar ends up on the same flight.

177) I think it is perfectly acceptable to ask for my general doctor's letter, veterinary health certificate, and even proof of training. I have flown with my service animal many times and do not mind providing these generic documents that I keep on hand. However, my last flight asked me to fill out their own airline paperwork, and that was truly a burden. I had to make doctor's appointments just for this paperwork. Upon arriving at the airport, this airline interrogated me and treated me as lesser because I have a psychiatric service animal. It did not matter that he has over 12 trained tasks and is with me 24/7. They treated us like he was an ESA. Please treat service animals with trained tasks AS service animals. Please protect our rights and privacy and time. ESA's are the ones that should be more regulated. Thank you for your consideration of our opinions.

178) My legitimate, task and obedience trained service dog has been nearly attacked by multiple emotional support animals in the airport. I would like to see ESAs more strictly regulated or even eliminated from the ACAA. The ACAA needs to be amended to not recognize certifications and ID cards available online as proof an animal is a service animal. Fully trained psychiatric service dogs also need to be recognized as equal to other service dogs, not emotional support animals. I have a mobility service dog, and while I would not like to have to get proof from a veterinarian that my dog can fly, I will do so if it will eliminate fake service dogs and ESAs.

179) PSDs and ESAs are completely different animals and the fact that PSDs are constantly bundled with ESAs is not only annoying but a hassle for PSD handlers. ESAs should be required to be held to the same training standard as service dogs if they are allowed to fly in the cabin with their owners.

180) My vet knows my dog has been training to be my service



dog since she was 7 months old. She will be 3 come June and I also carry a written prescription for my service dog from my doctor as well as a card with my trainers info showing she is my service dog. In a few months my trainer will be helping me with working to help my dog succeed in the airport as well as the airplane

181) The biggest changes need the priority over ESA and Medical alert Service dogs. In this day in age anyone can get an ESA. And ESA is not the lifeline between life and death for a handler. However a lot of Trained Service Dogs are. When an airline representative tells you I'm sorry your Service Dog can not fly with due to size and the amount of ESAs on the flight and they typically only allow lap size dogs to fly in cabin. There needs to be a change. If I have to fly which I don't all that much after this incident. My Service dog and I should be accommodated just as much if not more than those with an ESA. My dog is an alert he accompanies me everywhere. And ESA is not supposed to accompany everywhere. My Dog is my life line. And if an airline can not accommodate us then why should I bother to give them my money

182) Veterinarians don't always know a dog is a service dog. They aren't at all qualified to say anything in regard to their behavior because they see them for a short amount of time and in a unique situation. Having all of these documentation requirements makes it not possible for someone to travel for sudden and unexpected things like deaths in the family, medical procedures, or any situation where they book a flight with less than two weeks to get all of the documentation. It is an undue burden to put on people with disabilities and having to pay all of the extra fees is a large burden most cannot afford.

183) ESA should be in crate the entire time. ESA animals should be in last row of airplane and far away from all certified SD. They should not be allowed to be front rows. ESA are not trained nor can they behave like SD.

184) I understand wanting more regulation, but as a passenger I would prefer something like rules to remove ill mannered dogs or restrict ESA dogs rather than making it harder for me to travel. Add enough paperwork and I'd rather drive or take a train than deal with an airline. Flying is already difficult as a handler,



don't worsen it, improve it

185) Anytime I travel I also have to deal with explaining about my disability to airline personal, TSA, and other people involved with flying I either have been detained, treated like a total idiot, or ignored my requests. If the airlines request more information about me or my SD when flying I will go back to driving to my destination. The cost associated with flying is high enough, add to that the request to get proof of medical need or SD proof makes me wonder who would get this paperwork, who would be responsible to keep it safe, and if I have to hand over to the airline before my flight what assurance do I have that all parties would communicate and when I arrived I would have access?

186) Adding a health cert is ridiculous. No other animal flying in the cabin needs it. Vet record confirming vaccines, sure. That's a one time thing for each vaccine and doesn't require an appointment every time I fly. While dogs should be trained and accustomed to the environment I don't think any documentation would be fair to confirm this. A vet only sees the dog in a very isolated incidence and them certifying the behavior is pointless. Also. The dog doesn't have to be perfect. But it should be quiet, not urinating or defecating, and certainly not a risk to those around it. But as long as the dog minds it's business it is a non issue. Also question 2 does not warrant a yes or no response. I'm all for reducing people abusing the system but don't make it unfairly hard on those who actually need the system.

187) Extra paperwork for psychiatric service dogs is unnecessary. They're just as important as a diabetic dog or guide dog for blind people.

188) Traveling by air is already extremely stressful due to my mobility/pain disability and current airline regulations for all passengers. I don't mind carrying my service dog's health records with me but having to submit them ahead of time is asking too much. I am also against ESA's being allowed on flights without being crated as most are just pets who are totally untrained. I am forced to worry about the safety of my Service Dog. I recently had a conversation with a psychotherapist at an airport and we both agreed there are other alternatives for people who become anxious when flying.

189) My highly trained Service Dog has ever been an issue or a



problem when traveling. We have, however, encountered numerous other animals that clearly weren't well trained, behaved or controlled when we travel. It's clear that there are passengers who do not have the temperament or training of a proper handler.

190) Though the ACAA policies are different they need to be made aware of what constitutes a SD under the ADA, namely that they are trained for PUBLIC ACCESS. Since my (and many other people's) disabilities are invisible we put under undue & unfair scrutiny. Our dogs are not any less trained then seeing eye dogs. Also they need to focus on the *person* not the dog. I am a disabled person & my dog is a tool much like a walker, etc. Working dogs are easy to distinguish because they are used as such. We also don't carry fake "registration" papers as the ADA has no official registry. There are many ways to educate workers about SDs, but starting with the basics: look at the person first & their need for access, the dog is medical "equipment" necessary to help the disabled person be able to navigate the world in a way comparable to someone without a disability. This is not the complete picture, but it is a good starting point.

191) Untrained animals pose a serious risk to not only the safety of my service dog, but to my health. Those with ESA's supported by a legitimate doctors note should, at minimum, complet the AKC CGC or similar. In flying, they should be held to the same high standards as service dogs if they are going to be allowed to fly.

192) I have flown frequently with my service dog. It has been my experience that every time I must check into the airport for s flight, and every leg of my flight is a crap shoot. Employees of the airline and TSA personnel all have a wide range of knowledge, which is mostly lack of knowledge, regarding the laws for service dog travel. In addition, even though I call the special accessible assistance line several days prior to flying, more often than not, there are issues when I arrive at the airport. Most have no idea what a CRO is and because my legitimate service dog is not a lab or golden, I am often subject to more scrutiny despite my dog's impeccable public access skills. Once TSA begins screening, and they see my dog calmly going through the check, all is well. Flight attendants praise her excellent behavior.



I feel that dogs behaving badly, be it a dog presented as a service dog but I'll behaved or a comfort dog, with little training, do not belong on any flight. It does a huge disservice to those of us with legitimate service animals. It distracts and causes harm to ourselves and our service animals. The DOT needs to train all personnel on what a service dog looks like in their behavior. In addition, increased training for personnel which educates about the differences between service animals, therapy animals, comfort animals and information about how to spot a fake. It is often not that difficult. It is also important to ensure those with invisible disabilities are not unfairly regulated (such as Psychiatric Service Dogs). I do feel strongly that persons traveling with legitimate and well-trained service animals should not be subjected to greater regulation. I also feel that until those in charge, are better educated as to what to look for and when to say no. That is where the effort should go.

I understand that many people find the cost of a health certificate and the timeline for such are not fair. I like to have my dog checked in case my pup gets sick or injured on our trip. That is my choice. I do not think it should mandated but evidence of vaccines should be. There are times when there is a need for immediate travel and I don't have time to get a health check. I always carry proof of vaccination or titer waiver. That should be sufficient.

193) Due to the region in which I live as well as my disabilities, it would a cause substantial burdon as well as a significant amount of money for me to be able to fly with my service dog if I had to get a health screening and paperwork, etc, for my dog.

My service dog assists me with PTSD and other disabilities caused by the PTSD. Therefore he is a psychiatric service dog. I find it deplorable that my very well-trained animal who enables me to live my life normally through his various alerts, responses, and other trained tasks is lumped into being called an ESA by the ACAA and airline policies.

ESAs require no training. My dog has been training to assist me his entire life. I don't travel with my dog because planes make me nervous. I travel with my dog, as well as have him accompany me EVERYWHERE because I could not otherwise function. Thanks to his alerts and tasks, my disability is manageable and I can kili my life. There's a huge problem in implying my dog is not actually a service dog because my



disability is less physical than others.

194) For some of us, it involves our care givers also to help in the process.

195) We will not fly because we fear for the safety of my service dog.

196) I think that they need to require documentation for all flying with any type of sd or not require anything at all. Psychiatric service dogs should not be included with ESAs. ESAs should require a letter but ALL SD should be held to the same standard as far as documentation is concerned.

197) Every time I try to book a flight it's a problem. Either the airline asks for paperwork that doesn't exist (like certification) or, when I actually go to board they "loose" my accommodation for bulkhead seating. Having more hoops to jump through for my legitimate, task trained service dog will mean I fly less.

198) I don't believe untrained ESA should be allowed in the cabin unless they are crated or possibly muzzled with a basket muzzle (or similiar). My service dog has been attacked previously by an ESA. Thankfully, not while flying, but it is part of the reason I do not fly.

199) Ask for certificate of dog's training. Those lacking it have a fake service dog and are committing a misdemeanor or felony, depending on state.

200) I want to be able to catch a flight like everyone else and not be delayed by extra requirements just because of my disability. Traveling shouldn't have extra barriers.

201) I live on an island, so I have no choice but to fly when leaving the island. The island is rabies free, so I already have to get and maintain a lot of paperwork in order to return home.

202) With allotted time limit to get certifications that last for 6month or a year would be ok. But if a family emergency happens sometimes getting that information as quickly as needing to leave for a family member dying is not as easily. I personally carry records and my doctors notes with me majority of the time just incase.



203) Added time & cost will make flying far less likely. Fear of my trained assistance dog being attacked makes travel more stressful. Untrained ES Animals should be banned. Access for trained assistance dogs should be guaranteed.

204) For people living on fixed income, ex. disability, saving for a plane ticket is cost prohibitive enough. Having to get extra 'paperwork' for a working service dog, is costly as well. Not to mention how long the health certificates are good for after receiving them. It's a small window.

205) This survey is worded very biased.

206) Employees of airlines need to be educated about service animals.

207) Added veterinarian and doctor costs just to fly would be out of the question for me. I'm already on a fixed income and flying is expensive enough already. I wouldn't be able to afford to fly with any added expenses.

208) First - I am very appreciative that you are asking for input from service dog handlers. I realize the situation of pets in vests has become a critical issue and I'm happy that you are including service dog handlers s in the conversation.

I flew for the first time a few months ago on Southwest and it was an excellent experience. They let me board first, had me sit in the bulkhead and gave me time to get settled. It was a huge relief because I wasn't sure what to expect.

My biggest concern about the questioning process is the embarrassment of having to disclose my medical condition to strangers. I'm happy to confirm that he is a service dog and his purpose is to work as an alert dog, but nothing more. I know they are not supposed to ask about my condition when trying to verify his legitimacy but there is still quite a bit of confusion about the difference. I would like to see more training for all airline staff on what the differences are between a service dog and an emotional support animal and what they can and cannot discuss with the handlers. Needing a service dog is hard enough - being berated in public by uneducated airline staff is unacceptable.



The idea of needing some kind of medical clearance seems unrelated to the concept of how a dog will behave in a crowded situation or on a plane. A vet can document that a dog is healthy, but usually has no idea how they will react in a stressful situation. It seems this is a barrier designed to slow down those who are violating the intent of the service dog by making everyone go through additional steps. I'm guessing the idea is that if they are faking it they won't do the extra paperwork. But that puts the additional responsibilities and costs on those of us with legitimate service animals, without any kind of confirmation that it will solve the problem of out of control animals.

If requiring a veterinary certificate is the final decision it needs to have a timeline attached. Asking a handler to go to the vet for an updated form each time they fly could quickly become a significant financial burden. Another challenge would be those who need to fly on short notice and may not be able to get into the vet within a day or two. My vet usually books his appointments two weeks out and would not consider a "flight exam" to be an emergency.

I would be fine with being asked to show some kind of proof of behavior using the AKC Good Citizenship Test or the Public Access Test. However those tests can be cost prohibitive and require finding someone who is authorized to proctor the exams so owner certified exams would need to be accepted. Sadly it still wouldn't stop the pets in vests epidemic, but at least the fake service dog would be well behaved.

I would also be a supporter of the airlines requiring some kind of liability contract for anyone flying with an animal. While no dog can be 100% reliable at all times, the chances of a trained service dog attacking a passenger or other animal are much lower than a that of a pet. If it does happen the liability should rest with the owner, not the airlines

thank you!

209) I'm not confident at all that airline personnel are aware of the difference between my legitimate ADA covered service animal (hearing) and a non-ADA covered ESA. As a handler, I am regularly tested to make sure that I can handle my service dog out in public and must renew our license every 3 years to



maintain that privilege.

210) More opportunity for segregation & discrimination due to being disabled to occur. Difficult to get appointment with medical professional, vet, etc. - have to have interpreter so it takes even longer if you can find someone to interpret - can take up to 2 weeks to get interpreter. Would not be able to fly at all :(

211) I'm for emotional support animals being able to fly for free ONLY in a carrier

212) I am not any more concerned with another animal interfering with my Service Dog than I am other passengers interfering with him.

213) Get rid of access for Emotional Support Animals and make Psychiatric Service Dogs regular Service Dogs.

214) We are an Active Duty Army family with a daughter that has a severe form of epilepsy. Her dog literally saves her life. There are currently enough hoops to jump through. Flying is hard enough with a SD and all the expenses that accompany having a SD & it is discouraging how much it already is & adding more restrictions might cause access issues financially. We fly internationally

215) Most of the airport/airline employees are completely uneducated about what an actual service animal is and what the correct laws are pertaining to them

216) While health certificates are standard paperwork for all forms of travel, requiring extra forms from vet or Dr for service animals is absurd. The current requirement of doctor notes for psychiatric service animals is discrimination.

ESAs should be restrained and or contained in some effective manner or handled like other pets.

As a disabled human paired with a miniature horse for mobility assistance, I find my air travel almost eliminated, a sad change from my younger years traveling with my airline employed father.



With the problems caused by untrained and often unsocialized ESAs and uncaring or uneducated in air staff, I'm frankly afraid to expose my partner to such a dangerous mode of transportation, and the extra stress and expenses to clear my living medical equipment doesn't make us any safer.

217) I will not be treated like a second class citizen just because I'm disabled and I use a service dog.

218) Fakes are truly getting in the way. Also make them understand that certifications are not real/required.

219) Shots are mostly for true dogs protection. I find that largely useless, and something pet owners need anyways, so it doesn't really differentiate them from a pet or SD.

AKC Canine Good Citizen test is \$25, and is a MUCH better indicator of a dogs ability to handle the stress and rigors of air travel.

We have spent thousands of dollars, and years prepping to travel, and what largely holds us back is the fear of fake and untrained teams endangering our real SD.

220) I currently have a daughter living in Montana, whereas I live in Oklahoma. She is expecting a baby this summer and I need to fly with my SD to be there to help her family. Her due date is uncertain and may vary as much as weeks. How can I make reservations and fly there in an emergency if I have to obtain paperwork to submit ahead of time? This type of requirement would make it impossible! Please consider carefully the difficulties caused in such an event!

221) Psychiatric service dogs need to be treated as equals to mobility and medical alert service dogs. They are task trained to mitigate the handlers disability and should not be classified similar to ESA's

222) My service dog curls up and falls asleep the moment I sit down on a plane and has done so since his first flight. Every ESA I have come into contact with is not trained enough to be in public let alone on a plane. ESA's put my dogs safety and my own in jeopardy by being unruly and their owners not having control of them.

223) Over the summer I purchased a last minute ticket to fly to



another state the next day. If I had to provide current vet records and a current doctors note, I would not have been able to book a last minute flight.

224) ESA should have to be crated or muzzled when flying.. Unless they can prove they have passed at least a CGC(preferably a CGCU) or a public access test. I wouldn't mind having the same requirements for a service dog.

225) I struggle with how to train and accustom a dog to flying without actually flying. Also, I feel teams should be automatically sat in bulkhead or similar extra leg room seats for the comfort of the dog and passengers next to them. Also, if the flight is not full, the team should be given an empty seat next to them for the safety and comfort of the dog. Many dogs that preform guide and/or mobility work are going to be larger breeds and planes are extremely tight these days.

226) While nothing is going to keep me from traveling domestically and internationally with my service dog, it would indeed be a burden to have to get a health certificate for every domestic trip (especially short ones, like the one-night trip I recently took); getting the international veterinary paperwork done has been burden enough over the years! A doctor's letter is not necessary since doctors don't know if a dog is a service dog, emotional support pet, or regular pet. I do believe that the emotional support animal part should be either completely done away with or it should only allow small pets that are confined in a carrier at all times in both the airport and airplane, just like other pets many flights allow. Scientific research has shown that emotional support animals are not a necessity because inanimate objects, such as toys, give the same emotional support to people; multiple studies across the globe have confirmed this over the years.

227) If people can prevent ill behaved animals from flying, I believe it would make it easier for service dogs and ESAs to fly. I graduated college because I could fly with my dog back and forth between college, and because money was at a premium, the extra paperwork might make it more expensive. He was a shih tzu who wasn't task trained, but could easily handle making through security, a pat down, and then leaving service dog teams alone. He kept me company, got me out of my apartment regularly, and when I would have flashbacks or other hyper



vigilance symptoms, he would help calm me down and be able to sleep. I couldn't afford the 75 dollar pet fee to fly with him, and because of ESA laws, I got to keep him with me at college. He was small enough that a crate would've been possible, and that might have been a good compromise for him to be at my feet in a crate, although he did fine riding on my lap.

That said, I understand how ESAs are making it more difficult for legitimate service dogs to fly. I've flown with both service dogs and an ESA, and both were valuable. I think requiring a behavior certificate from a third party, whether that's a trainer, a vet, or someone else, would be a good step. Especially if it was free or relatively easy to obtain such a certificate. Even just taking a dog to a local animal shelter and having the staff test to make sure that the dog isn't dog reactive, at the very least.

228) Please do not lump Psych service dogs and ESA's together. Requiring different rules for only 1 type of service dog vs all the others is discrimination.

229) Please make the rules stronger so those that travel with legit SD are protected from those that are bringing untamed dogs on flights.

230) You have to crack down on those that abuse the law for their own gain. Laws without enforcement are worthless and won't help anything

231) Disabled people already have a difficult time traveling when you have to remember all of your medical supplies, etc. Then add in an important service dog and traveling gets more difficult. Adding all of these costs and burdens would be just that, a burden-financially, time wise, it would mean traveling around to get the forms and appointments, also, the wear and tear on the car, gas for car, etc. all of those listed make it a huge waste of resources, but the disabled already have less resources than those not disabled.

232) I am very concerned that the ACAA lumps ESAs and psychiatric service dogs together as one category separate from other service dogs. Psychiatric service dogs are NOT ESAs. Asking for a letter disclosing a mental health diagnosis for a service dog to fly is blatantly discriminatory when the airline does not ask the nature of any other type of disability.



Step 1 is for ACAA to properly categorize psych service dogs as trained service dogs the same way the ADA does. Perhaps ESAs should require training to fly. Requiring some proof of training on all dogs that fly is less discriminatory than requiring a person to disclose that they have a mental health diagnosis. I am also super concerned that since ESAs and psych service dogs are wrongly categorized as the same thing by ACAA that new legislation to ban ESAs could wind up banning psych service dogs as well. I have written to the representatives proposing these laws and have writing to the DOJ about my concerns.

233) staff should know the ada laws better. and also do not put a psd in the same group as a esa .

234) Requiring extra work would be a huge burden. Air travel is already expensive and the added expense would make it impossible. A veterinarian is not competent to assess behavior, that is not what they are trained for. Are other people required to have certificates proving that they will not be in distress from flying? I have been on planes where people do disruptive things, like threatening to open the door mid flight. Requiring more of people with disabilities is not the answer. Making it easier and less stressful for everyone would be a better solution. Airlines taking better care of pets and charging people without disabilities less would lead to less people “faking “. It is not right to impose greater restrictions and requirements on those of us less able to afford it. Better educating the airlines and the public is a better solution.

235) I had to go through a very elaborate process in order to bring my seizure alert dog on a cruise. If I hadn't already committed to going with my entire family, I would have just not gone, which is extremely unfortunate. I don't want to have the same, ridiculous circumstances on airlines as well because I enjoy traveling and I deserve the right to travel with my seizure alert dog without going through an insane verification process.

236) Veterinarians are not behaviorists and could not “guess” how an animal would behave on a plane based on a routine vet examination. That is the worst idea I've seen presented.

237) The importance of verifying training and temperament is completely overlooked in all aspects of the service dog world.



All service dogs should have to be evaluated by an ADI accredited organization and pass their public access test as well as a temperament test. I am on a Teenager Service Dog page and these kids know the law but have no problem with ethics issues as long as it falls in the law. For instance someone was just posting about their dog that has growled at a tall man and a running child. Their dog has never bit so they will be continuing PA even though several people said to pull from PA and work with a trainer. If people can't afford to work with a trainer or get these basic documents then a service dog should not be an option. Much like other medical equipment which is not affordable to many. If anything the right to have a service dog should come with basic requirements since others could be harmed. I also believe that with a doctors note and certification from ADI there should be a government ID given out. Much like a handicapped placard for the car. All of these things would make me feel much more comfortable taking my SD into public.

238) I think only services dogs should be allowed to fly, and never ESA. I think no other animals such as cats, pigs peacocks monkeys or spiders should fly in the cabin.

239) I am deaf and I'm having a hard time even getting information about the individual airlines' policy changes. I already have to deal with airline representatives repeatedly hanging up on my relay calls when I'm just trying to purchase a ticket. I can't imagine they'll be any more professional when I call to try and clarify these new policies.

Compared to the "general public" I have more trouble navigating airports and ensuring that I'm afforded equal communication access while traveling. For instance, if there's a problem with online scheduling or check-in I spend a disproportionate amount of time getting it sorted out compared to my hearing peers. In the past, I've resorted to having a hearing friend call airlines for me. She's able to accomplish in a matter of minutes what it takes me at least an hour to get resolved.

The air travel process is already a hugely difficult ordeal for many people with disabilities, these new policies just make it that much harder for us to get access to the same services everyone else takes for granted.



240) Unplanned, emergent travel would not be possible. Airline personnel need to be trained in the behaviors and actions of a trained service animal, be confident in the law and have the back up from their superiors when a person is attempting to fly with an untrained service animal.

241) I haven't encountered any real inconveniences in 8 years.

242) Airline staff absolutely MUST know the difference between ESAs and legitimate service dogs. ESAs should NOT be allowed to fly unless crated.

243) When flying with my service dog, there were 4 other dogs (not trained at ALL) on my flight. One was an ESA so no training is required, but the other three were wearing the scan "service dog IDs". They barked and lunged at my dog (who was sleeping) the entire flight.

244) I just recently (within the last week) flew with Delta airlines. While I had the appropriate paperwork from my veterinarian showing that the dog had all of her vaccinations, they tried to refuse the paper and not allow me on my flight because they wanted a signature from my vet. This paperwork did have my vets letterhead and contact information on it. It caused me extreme stress and to be late to board my flight. If these new policies are going to be changed to a new law, there needs to be a very specific outline of what type of paperwork for vaccinations that will be accepted.

245) My trained service dog trumps ANY ESA and we should NOT have to endure more red tape because of those people who feel entitled!!

246) Please start limiting access for esa animals on planes. I have a trained service dog, and I would hate to fly and have the issues with an unruly dog on a plane. I have heard plenty of stories from a friend who is a frequent flyer.

247) N/a

248) A vet will not sign a paper on an animals behavior, they are not a dog trainer or behaviorist. Requiring a person to then go to an animal or behaviorist to prove their dog is trained will cost at least another \$100 if they can find one that wants to test



the dog.

249) I'm worried about untrained pets that are being passed off as "ESA"s harming my service dog. ESA should have more paperwork to fly and should have training as well. Service Dogs should have less hoops to jump through to fly. It's obvious the difference between ESA and a Service dog, anyone at a gate could tell a well behaved Service Dog against a pet/ESA.

250) I think it is important to weed out fake service dogs. I was once at a Weight Watchers meeting when someone's fake as but another customer. One of the problems with adding more requirements to fly though is that it hits disabled people disproportionately hard. We often don't have the energy to traipse around getting paper work. Maybe a one-time submission?

251) I don't think a doctor's letter or veterinary certificate would help the problem. I think that handler's should have to provide credible training assurances. I carry my trainer's contact information with me and a copy of my service dog's Public Access Test.

252) It costs enough to fly as it is, and extra expenses for a disabled person traveling with a trained service dog should not be added. Most disabled people live on a fixed income. For some it is very low.

253) you Do not have to choose between protecting disability access vs discouragingly fakes. This isn't that hard. Just use the ADS guidelines. Stop reinventing the wheel. This whole thing is stupid.

254) The second question really is more of a maybe. Yes the disabled person and their dog should be protected, but there should be a balance between that and the protection of the public against untrained pets having access.

255) Registries are crap, do not let those lying harpies continue profiting by "certifying" fake SDs. The best test of the validity and ability of a SD is the owner's knowledge of the law and their comportment before the flight. We already carry shot records. Enforce the ADA, restrict ACAA ESAs to crates.



256) My biggest concern is untrained ESAs next is staff that don't know how to handle SDs. I have no problem needing a AKC CGC test needed but requiring a retest or anything like that every time I fly would be a BIG turn off. Health certificate are easy to get and I have no problem providing, thou it is an extra cost and maybe hard for some people. A Vet can not tell animal behavior. That is a job for a dog trainer or behaviorist.

257) I don't have health insurance currently so I can't see a doctor to get notes. My vet I think would very easily sign off on paperwork saying my dog is healthy but if it specifically says it's for like proof of a service dog I don't think they would due to that liability if I were lying or something was to happen. Also the vet is not qualified to sign off on if my dog will behave in an airport, she has not seen my dog in public other than her office in which she is nervous and she behaves perfectly in general public.

258) Health certificates are not undue burden. Totally acceptable.

259) I am a vet tech. My vet completely disagrees with forcing her to sign if the dog is well behaved. Dogs don't act the same way in public or at home compared to the vet. She only sees these dogs for 20-40 minutes

260) Fakers need to be stopped but not at the expense of people with disabilities that need their service dog. Travelling is stressful enough don't make it harder.

261) I support bringing the ACAA in line with the ADA and permitting only trained Service Animals, not emotional support pets. ESAs are not allowed in other public settings because they require no training and generally don't have any training, and it makes no sense that they are permitted in as stressful and enclosed am environment as an airplane.

262) I believe that problems should be addressed on a case by case basis, and if there is a problem with a certain animal, THEY should be restricted, and not everyone else.

Living with a disability is difficult enough without extra regulations and expense involved in carrying out a simple life activity such as travel (which healthy folks take for granted).



Also, when people acquire a disability, they often lose their regular source of income and are living on reduced funds. Extra expenses such as those proposed may prohibit travel for many people with disabilities who depend upon their Service Animals.

263) It is difficult enough to be disabled, and even more difficult to need service equipment (including a Service Dog)... without having to defend myself and my SD from the public and from gaining access to things that normally-abled people use daily without thought. Please make access easier, instead of installing more regulations to add even more difficulty to an already overwhelming situation.

264) Its discrimination that i have to jump through so many hoops, including a letter from my treating physician on why i need my animal and to have that letter updated yearly. Its also discouraging that people that have no disabilities can get such a letter and fly with their untrained animal. Just because they dont want fluffy to fly in cargo.

Their has to be a better way of determining whether its a real service animal or an ESA... i also believe ESA who fly should be trained basic obedience and be potty trained 100% And be non aggressive towards people or other animals like a service dog is trained.

265) The prices for health certificates, not everyone can afford them; especially if you're on a fixed income like myself.

266) Too much regulation will only make things worse

267) I think the policies are creating a lot of stress for people because the rules vary among airline companies and among disability/service dog type. I understand the reasoning behind having ESAs prove their actually assisting with a mental disability but thinknit is unfair to categorize PSDs differently than SDs. Both are service dogs who are highly trained to mitigate disabilities.

268) Why are the restrictions on the disabled person...why are we not punishing the abusers

269) Those of us with service animals are already looked down on in the community in many situations so it would be nice if people could stop making flying more difficult ad it is already



stressful on us

270) In my experience with flying, staff doesn't seem to know the difference between ESAs and Service Animals. I feel that more education is probably in order.

271) All these answers depend on the amount of trips the service animal has taken. An animal in training will be different than a seasoned animal but still needs the training time all the same. A vet might think a dog will perform perfectly well on a plane but in all honesty he has no way of knowing for sure because things happen

272) If you make a policy that applies to 1 person, it needs to be applied to every person flying.

273) I have a service dog. I have and will continue to invest in her training and get bills. The additional cost is a part of my responsibility. If someone is upset over the time and cost, possibly they're not true service dogs. You don't just have a dog and take him with you because you want too. There is a responsibility as an owner to train and handle the dog responsibly if it is going to be around other people, dogs and in stressful circumstances. I would say those who need the dog don't have a problem providing what is necessary to accommodate safety for all.

274) It shouldn't be harder for disabled people to fly. It's hard enough being disabled as it is. Enforce the laws already in place and kick out unruly dogs.

275) I've flown numerous times with my Service Dog. Sometimes all is smooth. Other times, often on the return flight on the SAME airline I have trouble with gate attendants or flight attendants suddenly deciding he won't fit under the seat. He fit on the way.... do they REALLY think he massively grew over a 3 day weekend when he's 7 years old?

276) The acaa needs to align their definition of a service animal to that of the ada. Esa should not have access to fly. They are not trained to handle the environment.

277) Forcing disabled individuals to jump through hoops to bring their medical equipment on airplanes is blatant



discrimination.

278) The abuse of individuals who claim their dog is a service dog or take their dog out of their carrier during flight, adds another level of stress and burden to those of us who are truly disabled and require our certified service dogs to function in a public environment.

279) Do not group Psychiatric Service dogs and ESAs together. Use the ADA SD standards for dogs. Stop calling them service animals. ESAs and psych SDs are different!

280) My vet doesn't think their liability coverage allows them to make claims about whether an animal would behave on an airplane. It's an unreasonable shift of liability to vets, who only see their patients in the confines of the exam room.

281) Psychiatric service dogs are the same as seeing eye dogs. Classifying them with an ESA is wrong and is a burden. ESAs SHOULD have more documentation but you're discriminating based on the type of disability which is wrong.

282) I am a long time service dog handler, I have had multiple service dogs attacked in the airport by untrained dogs so I understand concerns. However requiring me as a handler of a trained service dog to provide additional documentation would likely cost me several hundred dollars a year which would make it financially non viable for me to fly. This would limit not only work related opportunities but also family and medical obligations. I am absolutely sure that my vet would not be willing to sign off on any sort of temperament/training evaluation for my service dog to fly because the question came up at our last visit.

283) You are discriminating against us just because we have a disability. If I had an oxygen tank or a wheelchair would you ask me for all this documentation? What about small children who might disrupt a flight? Do they need a note from their Dr saying they will behave?

284) Travelers should be able to provide training. Is a certified program and not just from someone online.

285) What I don't understand is how most airlines classify



psychiatric service dogs as ESA's. ESA's have no training where as a psychiatric service dogs have just as much training as any other type of service dog . Airlines should not allow comfort dogs ESA's or any other untrained animal on board an airplane.

286) There are many untrained ESA's and "fake" SD's that could interfere with people who need their animals. Something needs to be changed. Because of all the untrained animals I am worried about flying with my SD. Not because he wouldn't behave but because I don't want to risk him being hurt by an aggressive animal. I have been to the airport recently and have seen tons of dogs everywhere, barking at people and each other and all around showing stressed and aggressive behavior. Esa's Should be crated till on the flight in my opinion as they don't have any training requirements and it's honestly a liability. Service dogs HAVE to be trained to be a SD so theoretically there shouldn't be an issue with true SD's.

287) Twice I've had to travel with less than 24 hours notice for a death or end of life choice. I would have to decline if vet paperwork was required for my task trained service dog.

288) I travel with a German Shepherd as my medical assistance dog. Many times airline accommodations are made with smaller dogs in mind. Large dogs should be well accomodated. Also, every airport should have a place for dogs to eliminate close to plane exits. There's no bathroom for them on the plane and they've waited too long to make use of a restroom on the otherside of the airport if one even exists at all.

289) As a professional trainer as well as a PTSD service dog handler, I would think asking for training records or proof of training would be beneficial before allowing a dog uncrated or unmuzzled in the plane

290) I think it's a shame that it may come to this but everyone should be safe while flying.

291) Do away with ESAs completely

292) A service animal is totally different than that of an Emotional Support Animal. They should not have the same privileges. I have a Service Dog, and I'm spending hundreds of



dollars on training alone, let alone vetting and care. I work daily on training in all sorts of situations like busy buildings. I have to so that I have a dog that can handle that kind of thing. An emotional support animal needs no training at all so could absolutely cause havoc on flights. They should not be allowed to roam free or even leashed in a small cabin of a plane.

293) Ideally, because of my disability, I need accommodation to make flying with a disability and with a service animal easier while still protecting my team from fake service teams/pets or temperamental emotional support animals that could completely destroy my dog's working career. I am heartbroken to see stressed or untrained animals badly harming the general public, while my animal has been trained over the span of about 1,000 hours regarding how to act appropriately in public. Real service teams do not need discrimination about what their disability is. We need the rigorous training our dogs have been through to be recognizable, recorded, and measured to eliminate abuse of these laws from people with untrained animals who intend to take advantage of a broken law. It is not a veterinarian's job to recognize or assess dog training. Please do not make things more difficult for the disabled because of those who have no respect for a true service animal. Keep the public and our dogs safe by ensuring that emotional support animal also either need training or should not have access to the general public.

294) It would like to see the ESA designation discontinued... if a dog is for a psychiatric disorder then the owner should pay to have it trained and take the appropriate amount of time to train w the dog. PTSD Service Dogs are not ESA's.

295) Please regulate somehow. Fakes and untrained ESAs make it so dangerous for people like me to travel. My SD is for blood pressure alert and she missed an alert in an airport because an ESA or fake service dog tried to attack and bite her. I wasn't seriously injured, but I'm now scared to fly alone.

296) Making sure airlines understand that ID cards/certifications/registration does NOT serve as proof of legitimacy under the ADA. Also making sure animals are not disruptive (Barking/aggression/defecating) in airports or on flights.

297) I was flying with my psychiatric service dog. My dog does



medical alerts and mobility work as well but I consider him mostly psychiatric since I have a letter from my mental health doctor. The airline I originally booked a ticket with just started requiring veterinary paperwork. I was flying back home from a different state and all my veterinarians were back home and they would not sign the papers over the phone. I had to search veterinarians in the small town I was living in and had 5 days to submit the paperwork. Most of the veterinarians were unsure about the new process and did not want to sign the paperwork. I finally found a veterinarian who said he would sign the paper work but during the appointment he refused to do so. He said the wording "dog does not pose a safety risk to the public" scared him and since he just met my dog that day he did not want to be responsible if my dog harmed someone. He wanted my dog to be evaluated by his trainer. The trainer, vet and my schedule did not work out well and could not find a time to meet as I am a busy college student. I would have to skip class to meet with the trainer and vet. I had already had to pay for the vet appointment (not cheap) and would also have to pay for the trainer. The trainer cost the same amount as buying another flight ticket so I bought one that did not require the vet paperwork. This whole process was very stressful and caused my medical issues to act up. The flight agents on the phone were not helpful as the policy was new. Thankfully all went well during the flight. After I bought the new ticket I found out that the airline changed its wording on their policy (literally the day after the vet appointment) but it was already too late for me I just went with a different airline.

298) THERE ARE ELEMENTS OF TRAVEL THAT ARE NOT POSSIBLE TO PREPARE FOR WITHOUT, ACTUALLY, TRAVELLING. I TEACH OPERATING AUTOMATIC, AND PUSH PAD DOORS, WHERE THEY EXIST. THE SAME, WITH ELEVATORS, AND WHEELCHAIR LIFTS. YOU CAN ONLY PRACTICE TAKEOFFS, AND LANDINGS, BY GETTING ON A PLANE. AS A TRAINER, AND A DISABLED PERSON, I HAVE TO DO MY BEST, TO TRAIN FOR PUBLIC LIFE, AND, I HAVE TO PREPARE TO HANDLE IT, WHEN THINGS DON'T GO ACCORDING TO PLAN. FOR ME, THIS MEANS BRINGING A MUZZLE, IN CASE MY DOG IS OVERWHELMED BY THE ENVIRONMENT, AND BRINGING CLEAN-UP MATERIALS, IN CASE OF AN UNEXPECTED PHYSICAL REACTION. I'VE NEVER NEEDED EITHER, BUT, I *AM* RESPONSIBLE FOR MY PARTNER. UNFORTUNATELY, WE HAVE BEEN



ATTACKED, BY UNTRAINED PETS, MASQUERADING AS SERVICE DOGS, AND, WE HAVE BEEN ACCOSTED, BY THE UNFRIENDLY PUBLIC. WE WOULD LIKE TO BE SAFER, BUT, I'M CONCERNED, THAT "PROVING" OUR PARTNERSHIP, WILL MAKE OUR TRAVELS HARDER, NOT EASIER. TO MY KNOWLEDGE, NOBODY HAS EVER HELD OUR ATTACKERS ACCOUNTABLE, FOR THEIR ACTIONS. IT WOULD BE GREAT, IF THERE WAS A CONSEQUENCE, FOR MISBEHAVIOR. A CONSEQUENCE SEVERE ENOUGH TO DISSUADE THE NEXT PRETENDERS, FROM TAKING THE RISK. FORCING US TO GO FROM OFFICE, TO OFFICE, TO "PROVE" OUR SKILL, IS LIKELY TO MAKE OUR LIFE HARDER, AND COST US MONEY THAT WE CAN ILL AFFORD. I DOUBT MOST DOCTORS, OR VETS, WANT THE ADDED RESPONSIBILITY, OF DECIDING "WHO IS", AND "WHO AIN'T. "

299) Our service dogs are getting attacked

300) Due to multiple disabilities which can range daily on there level of debilitating aspects I feel that I would have many issues making multiple doctors and veterinarian appointments before flights especially if it was a last minute flight due to health issues or death.

301) When you make it difficult for citizens with disabilities to bring their medical equipment (including service dogs) onto flights, you make it difficult for people with disabilities to have normal lives. My suggestion is to follow the ADA and if any animal is acting aggressive, out of control, or urinating and defecating (like a service dog should not) they should be asked to leave.

302) If i take time off work to go to the vet with researched info to ask the vet to write and sign so many vets will be afraid to sign in light of people being sue happy and go after vets that sign the paper.

303) All rulings need to be concise and easily understood!

304) It would be a heavy burden, financially, emotionally and physically if I don't have ready access to purchasing airline tickets and getting on a flight as and when I need to. It would impact my business/income, my health if I have to spend



additional time and effort prior to taking s flight, and my ability to function independently and contribute positively to community and society.

305) Disabled people have enough trouble getting doctors to print paperwork on time, and a veterinarian has a limited scope of an animals outside behaviour so I don't think they would make very good judges of training.

306) It has become so complicated to fly with a service animal I will no longer fly at all.

307) Emotional support animals are not service animals. They require no training. I have had my Mobility Assistance Great Dane Attacked by an ESA. The ADA laws already state that ESAs dont have public access. Proving my dog healthy isn't a problem I am fine with that. But people faking the service animals are a problem. I shouldn't have to answer questions about my disability in order to travel.

308) Emotional support animals need to be banned from flying.

Psychiatric service dogs ARE NOT EMOTIONAL SUPPORT ANIMALS. They are legitimate service dogs covered under ADA.

Staff needs to get the training and enforce the laws by banning animals not trained, not housebroken, and not on leash. Also anyone with a huge dog needs to approve seating ahead of time.

My service dog is small and is an excellent flyer. I worry someone's fake pet is going to ruin our hard work.

309) Getting a note from my doctor not only puts stress on me but on my body. All the time and effort I have to put into it because I need to fly? Is unreasonable. Last minute things happen, how do you expect me (disabled person) to run and get paper work just so I can fly with my service animal??

310) Stop lumping PSDs and ESAs together. This is discriminatory towards those with psychiatric disabilities.

311) Having tighter or more descriptive regulations actually



does protect access for everyone. Because the laws are so loose, it is causing those of us with actual disabilities to be turned away from stores, approached with skepticism, or harassed. If the laws weren't so frequently bent, we wouldn't have to spend every day defending our right to have life saving medical equipment.

312) When I'm in grad school, I won't have a choice on what's booked for (non-negotiable) conferences and I won't have free time. If I cannot be reliable because my service dog cannot come with me to help with the crowds, then I will just get kicked out of grad for my disability again.

313) I recently had an incident where a woman tried to pass off her emotional support animal as a service dog. It lunged over my mother's legs and bit my dog in the face. Nothing was done by the airlines or the DOT when I submitted the report. Veterinary costs for the injury were paid by me as the airlines won't give me owners info

314) It is incredibly discriminatory to require one disability to prove that they are disabled and so require the use of a service dog and not others. By law in order to have a service dog one must by law be disabled. If you are going to require a note for one, require a note from all. It is also wrong to require one type of service dog user to reveal to airport personnel the type or nature of their disability and not others. Airport and airplane personnel should be better educated about what a legitimate service dog looks like and, if the status of a service dog is in question, trained to ask the 2 questions permitted by the ADA (is your dog a service dog required because of a disability, what tasks is your dog trained to perform). Fake service dogs are a problem but I feel like the fake and untrained ESA epidemic is a bigger problem. The ACAA should require ESA's to be dogs only and eliminate the animal aspect of what will be permitted on a plane. The ADA has already done this. ESA's should also be required to have some level of training in order to fly outside of a carrier inside the cabin of a plane and be held financially responsible should their dog harm another passenger or another animal.

315) I understand the need to prevent service dog imposters, but as a person with a real disability that is invisible to the eye and a "real" service dog, the biggest challenge I face is



discrimination and an uneducated public.

316) Emotional support dogs are not service dogs. Service dogs do not require paperwork.

317) I have had the opportunity to fly multiple times this year (for vacations, visits, etc) and have turned them all down due to fears about how I and my service dog will be treated. I would rather deal with a days worth of train travel than take a 3 hour flight.

318) Just stop making it so hard I just a flight in peace without all the paperwork

319) There needs to be a larger, accessible door/isle located near bulk head seating where there is extra space needed for those traveling with a disability and/or with their service dog and there needs to be a lock down system in the floor of that area so people who are not able to transfer can remain in their chairs. This will eliminate mishandling of people with disabilities as well as damage to or loss of their chairs, that are their legs, in baggage.

320) I fly with my expensive and certified service dog all the time. I would like to see stiff enforcement of people who have these fake service dogs or ESA. It seems anyone can get a stupid letter from their therapist giving them rights to a ESA on flights. These animals are not well trained and often create a big issue with my well mannered service dog.

321) I would no longer be able to fly on short term notice or purchase a ticket at the airport like every other person can... Basically making me a 2nd class citizen....

322) My personal opinion as a person who has a service dog is that all service dogs should be allowed on flights due to their necessity and in-depth training to behave in public. However, I believe the biggest problem lies with the emotional support animals because they are not required to have any training whatsoever. I would say that in order to have ESA animals on the flight, they must either be in a cage or have proof that they have undergone the extensive training like a service do and will behave themselves on the flight. That way Everyone who needs their animals will be able to have them as long as they are well



behaved.

323) I'm a college student, and sometimes I need to make emergency flights to go back home with my family. How can I do that when I have to spend hundreds of dollars and hours of my time just so I can travel like any other citizen? I have a trained service dog, not 50 carry on bags.

324) Requires myself to take time off much need work, puts unnecessary stress on my disability, and puts my service dog at risk because he is labeled as an inferior "psychological service dog" under the same treatment as ESAs. He is a SERVICE DOG, not the same as an ESA just because of his tasks not being mobility

325) Often airline staff are not well versed in laws & procedures, nor do they remove/deny animals that are not under control and pose a threat.

326) The extra restrictions on a psychiatric service dog (not an emotional support animal aka glorified pet) that has been trained the same as a service dog for any other type of disability are blatant discrimination and make it much harder for people to fly, especially on short notice such as for an emergency such as death in the family. The added costs simply for being disabled and having a certain type of medical equipment also are ridiculous. Airlines etc don't charge more for an O2 tank, a cane, or a wheelchair. The passenger isn't required to spend excess time and money for documentation to bring them on board. Stop harassing service dog handlers, especially if their dog is obviously under control.

327) Traveling with an ESA requires planning. In cases of emergency, it's important that airlines work with us when time is critical.

328) I doubt I will have the room to type everything I would like to say, so I'll keep it as brief as I can.

I am a SD trainer. (I also have my own SD, but that's a different rant.) The short version of my job is that I train dogs, fly them to their handlers and then work with the team until they're solid.

When I fly with a dog, I notify the person I'm booking with. I



check in at the desk instead of the kiosk. I have current vaccination letters and other paperwork ready to show. Every single person I've done this with has looked utterly confused. I've been told, "You don't need to do this, just go." I may not need to, but I should HAVE to.

Proof of current vaccines to fly? That's a no-brainer. You want a nonvaccinated dog to bite someone on an airplane? Being disabled doesn't give you the right to put other people at risk. Also, if I have to have a health certificate for a dog to ship it cargo, why shouldn't I have to in order for it to fly with me? The business I work for includes 6 veterinarians. Health certificates just aren't that great for showing much of anything but current rabies. I'm not arguing for the need for them to fly, but current vaccinations should be a must.

Also, the first time any of my dogs sees an airplane is on that flight because there are so few airports/airlines that allow any sort of pre-flight training opportunities. If a dog travels well in a car or bus, that's great, but it's not an airplane. It's not the crowded airport with tons of stressed out people trying to get to their flights.

Giving trainers and handlers access to properly prepare the dogs would be amazing. Then they could simply choose to "test" at the end of the training session and get a pass/fail, thereby allowing them to fly or not fly in the future. It doesn't need to be some in-depth thing.

1. Was the dog responsive to commands from the handler?
2. Was the dog aggressive?
3. Did the dog void its bladder on the plane?
4. Did the dog appear to be in physical distress?

Problem solved with a great program to aid PR for the airlines (Imagine those cute pictures in the headlines!) and a lot less stressed out people.

329) I think you should focus more on making strict policy on service animals. I honestly don't feel like it's anyone's business what my doctor says about my disability and I have a hard time believing that a vet will sign a piece of paper saying any dog will behave. Animals can be unpredictable even professionally trained service animals can have bad days. What gives you the right to invade my privacy and demand a letter from my



physician defining my need for a service animal or the nature of my disability. It's no one's business but mine. The way the laws are set up now yes there are way too many fakes who endanger teams that are legit. However there needs to be a middle ground to have an acceptable solution. Allowing every nutter that says it's a service animal on a plane obviously isn't working however neither is getting my medical information. So there really does need to be a middle ground there.

330) I think psychiatric service dogs should not require additional paperwork and that many folks seem to confuse ESAs and PSDs. I am just fine with ESAs having some additional paperwork.

331) I would be willing to get a one time doctor note confirming my need for a service dog (SD) or Emotional service animal (ESA). I would be willing to submit that at the time I purchase my ticket. (I would prefer to only have to submit it once per airline and then they add it to my profile.) I would be willing to go through a basic obedience and SD/ESA certification process. For example- the State of Ohio has identified people who can watch you work with your dog and certify the dog's behavior meets minimum criteria for a service dog. I would be willing to produce documentation of my dog's vaccination OR antibody titer records. I would be willing to a requirement to prove rabies vaccination is current. All of these things would also help protect my dog and other travelers from "fake" SD/ESA. I do NOT want the regulations to require other vaccinations, as each owner should be allowed to determine which vaccinations are appropriate for their dog with their veterinarian. I do NOT want to be required to get a veterinarian health type certificate within so many days of my flight. If the certificate had to be within 45 days or less of travel, I travel so frequently that I'd be at my vet's office every month asking for a new certificate. If the vet certificate could be good for a year, that might be OK since a service dog should have at least a yearly exam. Since I fly for work, they pay for my airline ticket but would not pay for vet fees. I do NOT want added language about "accustomed" to flying as that would create a catch 22. When self-training my service dog, I called several area airports to ask if any would let me go thru security (even early morning or late evening when they might be less busy), so I could have a training experience. None would allow it. How is someone supposed to get their dog accustomed to flying if there is no



way to have access to that environment? How could anyone prove their dog has been accustomed to a flight without having ever been on one? I could see airlines asking for proof that your dog has been on x number of previous flights, but how could I be allowed on my first flight with a new dog if he/she needs proof of an experience flying? This would be an almost impossible barrier to flying with my SD or ESA.

332) While I sincerely hope cutting down on fake service dogs is doable, it is not fair to put the burden of fake SDs onto those of us with real SDs. Maybe there could be a kiosk at the airport to do a quick 45 second assessment or a fine for SDs who misbehave enough to cause (stress or damage)?

333) I have had both pleasant and unpleasant experiences using air travel accompanied by a service animal. As a service animal user, I feel that allowing untrained/unsocialized animals in the cabin butts legitimate teams at risk.

334) The discounted seats discriminate against disabled persons who cannot afford the more expensive seat but need the space for our medical equipment!! Also we must board first to get our dogs safely boarded and settled before others board

335) SD give people Independence and freedom. Don't let changes to policies take that away for disabled travelers.

336) It seems a lot of the problems have been with ESA, not Service Dogs.

337) Leave trained Service dogs alone, but scrap the ESA's. They're too unpredictable and too much of a problem.

338) My vet cost for a letter is low because she is already very familiar with my dog. If it required a visit it would go up dramatically. As these letters are more often required, the time and cost will increase. Some vets may opt out completely due to concern over liability. Vets provide health care, not behavioral evaluation. She can certify if my dog is healthy enough to fly but not how it will behave. Just how do I test my service dog in a plane until I'm in one?

339) I dont understand why I'm being treated as a second class citizen. I feel my rights have been taken away from me.



340) I believe all airlines should be having the same policies for going and returning flights. Delta and south western are not on the same page going and returning flights at all! Delta, you call ahead, have your papers then sit you as far away from everyone. On return, the steward don't like how the drs letter is written and won't let you board. I have a large service dog. Last seat, no leg room and she sat on my lap. Big boxer!!! For 3 hours!!!!!!

341) Treating visible disability service dogs and invisible disability service dogs differently is disgraceful. I have a service dog for a psychiatric disability. He is NOT an ESA dog. Airlines need to understand that hidden disabilities are difficult enough without having to jump through extra hoops. Yes there are people to take advantage of the law, but there always will be. Punishing a service dog owner with extra fees, more paperwork, and a general suspicion they are cheating the system is cruel and unfair. It is no different than profiling by race.

342) Weddings, funerals, Dr. appointments, family visits and emergencies, vacations; any needed traveling is hindered or stopped because of discrimination. And in psychiatric cases, triggers episodes and sadly affects lives.

343) The stress and act of flying/ traveling is already worse persons with a disability, why would DOT even consider discriminating and making this worse!? For some travelers, that's why they they have a Service or ESA dog! Plus the added cost of a vet check, when we already know our animal is up to date on everything! The time off work, or arranging a ride for those that can't drive, it all adds up to unfair discrimination against persons with disabilities.

344) I believe ESA should have to prove that their dog is accustomed to public environments

345) While I understand the need to stop "fake" animals being allowed to fly, it is an undue burden to have to provide "documentation" to prove that my SD is real. Anyone who has a clue can see that not only is she highly trained, but she provides mobility services for me. That, and that alone should be the acceptance criterion, just like ADA. I have spent a ton of money



training and caring for my SD. She takes good care of me, so I take good care of her. By the way, we have service dog certification from The Wounded Warriors Project, AKC Good Canine Citizen certification and we are certified as a Therapy Dog Team through Bright and Beautiful.

346) Yes, service dog fraud is a HUGE problem and needs to be addressed, but disabled people still need to be able to access their accommodation(s) (wheelchairs, canes, service dogs, pacemakers, etc.) without a lot of fuss.

This is why I'm hoping the United States begins to have an official service dog certification process like we're seeing in other countries. Obviously precautions will need to be made to accommodate owner-trainers, non-visible disabilities, and the like, but I think it will prevent service fraud and make life easier for service dog handlers overall.

347) Some persons with disabilities have problems getting all of this extra paper etc.

348) The closest airport is over an hour away, if I have to turn in paperwork before the flight, that's MORE cost, time, and travel I have to undertake, and I don't drive due to my disability. I'm assuming that this paperwork can't be turned in hours in advance, but must be days in advance, that means I'd have to take a taxi, both ways, which isn't cheap. Flying is a luxury not a requirement. I can get around without flying, if I'm going to have to jump through even more hoops now than ever.

349) You are killing us.

350) You are inhuman

351) Animals should be trained for this kind of work, ESA are not service dogs and should not be on planes. Psychiatric service dogs do very different work. People have to disclose thier disability to get state and federal funding, handicap parking tags, etc. why are we not working harder to ensure not only ADA, but also decreasing the ease with which people are impersonating a person with a disability?

352) As I would be flying into the US from Canada, if US regulations/practices/policies are not communicated properly to



airline, airport, and customs personnel, I believe I would face extra questions regarding any service animal or ESA I would fly with. My disability affects communication. Having to deal with multiple sets of personnel, who may not understand service animal/ESA-related rights and laws, would tax my communication issues even further. DOT, airline, and ACAA regulations and practices affect citizens of multiple nations. All must be on the same page and have staff trained appropriately regarding service animals and ESAs.

353) Something that could be obtained by visiting a doctor might be okay but it should not have to be renewed. Adopting a 'dog only' policy similar to current ADA standards would be good, no one needs their emotional support kangaroo in an airplane passenger cabin.

354) The current regulations are unacceptable, there needs to be no more ESAs, no need to travel with them. People live without them everywhere else, or at the bare minimum make esa travel in carriers too if they need them that much wherever they're going. It is getting out of hand and it's a mockery of real service dogs. I understand not everyone feels the same way, and that's OK; but this is my opinion. Psychiatric service dogs, hearing, guide, mobility, etc. are all acceptable, but the dog should be TRAINED.

355) Psychiatric service dogs should not be treated like emotional support animals. PSD's are task trained and are legitimately service dogs.

356) The extra stress of having to run around and get approved just to fly.

357) If i had to fly out due to an emergency, i do not have reliable transportation or extra funds to travel to and frm vet on a last minute request. Currently we use an animal clinic that travels to our area and they do not give out "health certificates". We also do not vaccinate after age 6 and now use titer results as verification for immunity to diseases. Is this acceptable?

358) Because I am disabled, it takes a lot more for me to get out of the house and go to the vet. Something that may take only an hour or two and a phone call or two can take me several days to accomplish because I have to break everything down in



very small increments. My resources to get things done are very limited so getting a vet appointment in and making phone calls to be able to travel means I am going to have to give up things somewhere else. That always means sacrificing something in my standard routine such as health care or meals, or having to take more medication. There is no such thing as "just" a letter from the vet. It impacts everything in my life for several days.

359) ESAs and PSDs absolutely need to be in different categories!

360) Punishing the disabled because people can't follow rules is unfair, but ensuring the safety of everybody must be top priority.

361) Invisible disabilities that require use of a service dog should not be required to provide more proof than those whose disability is visibly apparent just because so many people misuse the ESA and SD laws on aircraft.

362) With the proposed new policies, I would have to take time off of work and risk losing my job to do so to get the necessary paper work. Getting my dog vetted is difficult and expensive enough. Having to go get paperwork and extra vet checks would have a huge financial burden.

363) My psychiatric service dog is still a service dog. Why do I have to provide paperwork when other handlers don't?

364) We need regulation on service animals of all types. They need to be trained in at least basic obedience and certified about public interactions. People need to have a doctor's letter about their need for a service animal. I'm sick of folks who lie to keep their untrained animals in public spaces. They are dangers to my trained and certified service animal.

365) Psychiatric disability is so incredibly stigmatized, and the extra requirements for psychiatric service dogs uphold and reinforce that stigma through overt discrimination. It's the only area where I can be legally discriminated against for having PTSD. It's burdensome and humiliating to be required to provide documentation when someone with a physical disability, even if not apparent to others, has no such requirement. It implies that people with psychiatric disabilities are frauds. It's infuriating and makes me not want to fly, or to just lie and say



that my service dog is for a physical disability, so that I'm not volunteering to be discriminated against.

366) A veterinarian should not and cannot be responsible for an animal's behavior.

367) Align with ADA— consistency & properly trained staff!!!

368) Stop making things more difficult and expensive for people who are disabled. Life is hard enough for us as it is. An airline that was welcoming to service dog handlers would absolutely get my business, even if I had to pay a little more.

369) Delta has taken over 4 months to alert me personally of the change in their policies, and only did so after I opened a case with them myself to ask what updated info I needed to provide. My psychiatric disability is treated very differently from other disabilities, even though I have a trained service dog that performs tasks, NOT just an ESA.

370) I think as long as dogs flying in cargo is dangerous, people will continue to abuse the ACAA laws. I don't see any problem with requiring veterinary health certificates because your animal should be up to date on veterinary care anyway. I don't think it is fair ask a vet for a behavioral assessment though. I don't think many vets would be comfortable speaking for a dog's behavior when they are not animal behaviorists. I also believe that flight attendants should stop side eyeing all animals that are well behaved on the flight. If my dog isn't bothering anyone, drop the attitude. I'm following the law.

371) I just stopped being homeless this month. I prioritize my dog's wellbeing over my own but I can't afford vet visits for my dog OR doctors visits for myself. It's just out of my price range when I'm struggling to survive with my disability.

372) This is such crap!!! People with real disabilities are being taken advantage of by bad behaving ESA's

373) Please go over the public access standards for service dogs. Fake SD's usually won't meet these standards.

374) I disagree with legislation that groups ESAs and psychiatric service dogs together because they are very



different levels of training. Requiring proof of disability may be reasonable, but a customized letter is not. Showing an insurance form or a copy of a patient chart with diagnosis listed would be a much easier way to “prove” disability, though a diagnosis does not necessarily equal a disability and does not document the dog’s training level. Allowing flyers with service dogs to keep their documentation on file for a set period of time could also be helpful, so they are not scrambling to get documents for a last-minute flight if they are within that time frame. For proof of training, the AKC offers a variety of obedience tests that any service dog and ESA should be able to pass. It is not expensive to be evaluated for those certifications and offers standardized proof of training.

375) all of these costs and burdens are tax deductible since a real service animal is required.

376) We’ve flown with my sons service dog several times. It’s easy to spot the fakes, it’s just that nothing is done about it.

377) I believe that this will add upwards of 1 to 2 grand in training as well as more money for more doctors appointments and time spent going through extra steps to get ready for likely an already stressful trip. It will isolate the people who are already very isolated. It also means that service members spouses who have service animals will have even more paperwork and hoops to jump through just to travel with their spouse. This also could be an invasion of privacy into a disabled persons already very hard and public life.

378) I think any animal that flies crate free needs to be an actual Service Animal and NOT an ESA. Also, anyone with an actual Service Animal should be willing to pay nominal fees to get Health Certificates for their SD and have CGC certification for their SD.

379) Service dogs should be allowed to fly. Emotional support animals should not be allowed. A SD can be providing services to their handler whether physical or psychological issues. An emotional support dog simply helps the flyer. The distinction needs to be made clear.

380) I’ve flown with several airlines at this point and 2 of them not only violated my rights but tried to tell me that wasn’t



something they had to do. But based on the DOT air travel policies for service animals they did have to provide those accommodations because of my service animals size and my disability (and they were available when I called ahead early).

381) I believe that ESA's should have to have paperwork and proof of training to prevent them from acting out in cabin. I fear for my Service dog when flying, and on Friday I flew with a fake service dog that was out of control next to us, and could have easily attacked my service animal

382) It discourages me from flying because it's so much extra work and hassle.

383) Disabled people are usually on a small fixed income have saved to take a trip & getting a lot of documents will add at least another \$200.00 to their trip making in likely impossible for them.. If there were a single certification for the dog that would be good for a few years it would take a weight off us financially. Any dog acting frightened, barking, lunging at people or out of control should not be allowed to board.. They are the fake dangerous animals & we don't like being attacked by them...

384) I go to a low-cost vet, so they are only open once a month. I would be willing to get paperwork if it helps to cut down on fake service animals, however I do not think discriminating against people with different disabilities is a wise move. Whether they have autism, PTSD, or are blind, I think everyone should have to provide paperwork on their service dog, if anyone does. The reason I believe this is because I have seen many fake "service dogs" used by people with obvious disabilities. These are actually ESAs, which are usually untrained, distract real service dogs, and set a bad image for those who have put in the time and money to train a service dog. By requiring paperwork from everyone, instances of fake "service dogs" should immediately drop. Also, I would not suggest accepting paperwork from online 3rd parties who sell "certificates". Anyone can buy these online, so these type of certificates shouldn't be trusted.

385) It will be difficult to find a balance, but I fear taking my service dog on flights due to the number of fakes. One fake could ruin my SD costing thousands and years of time.



386) You guys need to get informed with the actual people who have disabilities advising you.

387) If there are more than one animal on the plane, accommodate the passengers and separate the animals

388) Just because a year passes on my doctors notes and prescription dates doesn't mean my disability magically went away. It's a pain to have to get new letters from my vet, my psychiatrist, my therapist, and my SD trainer every year with just a different date.

389) Psychiatric service animals and emotional support animals are not the same thing. I think it is unjust to group them in the same category when there are clear differences.

390) I'm completely against grouping together ESAs and PSDs. One (PSD) is a highly trained dog that mitigates a disability. The other (ESA) is nothing more than an untrained pet with no guarantee on how it behaves in public. It's discrimination to separate physical disabilities from mental / invisible disabilities.

391) I have flown with my well trained psychiatric service dog and he is very well behaved. My therapist still does not fully understand he is more than an ESA and she always writes prescription for ESA, regardless of whether he is an ESA or psychiatric service dog, he is public access trained which is what should matter. I am totally against confining ESA to crates if they are trained, and I have never encountered any issue while flying with him or any other animal. Thank you for your time,
Sincerely,
Marie

392) I fly with a legally certified and registered Canadian guide dog and don't believe Emotional support animals should be afforded the same rights. Guide dogs undergo years of training to ensure their temperament and training before being granted access to public spaces.

393) As long as the policy of requiring documentation isn't a surprise, I would be 100% for it -- as the handler of a true service dog, it frustrates me that people abuse disability accommodations to bring their pets. Getting a service dog cost



me several thousand dollars atop normal pet costs, as well as countless training hours, and I don't mind proving certification. Flying is something I have to plan well in advance anyway. That said, I absolutely do not want to block anyone with a legitimate disability from flying with a needed service dog.



United Service Animal Users, Supporters, and Advocates

Partnering for reasoned advocacy

4. Enforcement Priorities Comment

June 3, 2018

from PSDP

**The following document is part of USAUSA's May 2019
compilation, "The path to responsible air travel governance:
A recent history of service animal recommendations"**



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Enforcement Priorities Comment

June 3, 2018

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

RE: DOT-OST-2018-0067; Comment on Statement of Interim Enforcement
Priorities Regarding Service Animals

Ms. Workie:

We write this comment in the context of having recently submitted a 926-response 2018 survey report in a partnership under the aegis of United Service Animal Users, Supporters, and Advocates (USAUSA).¹ Much of the justification and backstory for what we write here is in that report ("2018 survey report"), as well as USAUSA's previous survey report ("2016 survey report"),² and USAUSA's post-Reg Neg³ compromise recommendations ("2016 compromise comment").⁴

Before we examine the individual topics in DOT's Statement of Interim Enforcement Priorities Regarding Service Animals ("SIEP"),⁵ we provide a much-needed frame of reference that clarifies the burden of proof for increasing access barriers and decreasing rights for people with disabilities.

¹ See USAUSA's 2018 "Flight Access Survey Report", available through our public submission to DOT in PDF and .docx formats: <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0020>

² "ACAA Third-Party Documentation Requirements: Survey of Psychiatric-Disability-Mitigating Animal Users", available through our public submission to DOT in PDF and .doc formats: <https://www.regulations.gov/document?D=DOT-OST-2015-0246-0296>

³ "Reg Neg" refers to the Negotiated Rulemaking process conducted by DOT among stakeholder representatives known as the Advisory Committee on Accessible Air Transportation (ACCESS Advisory Committee), concluding in 2016. <https://www.transportation.gov/access-advisory-committee>

⁴ "Pre-NPRM Comment: DOT's ACAA Service Animal Regulations", available through our public submission to DOT in PDF and .doc formats: <https://www.regulations.gov/document?D=DOT-OST-2015-0246-0290>

⁵ <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0019>

Our comment's contents otherwise follow the SIEP organization, as parsed below:

- §1. *Overview of statistics and the burden of proof before rights are reduced*
 - §1.a. *Behavior*
 - §1.b. *Misuse*
- §2. *Service animals—species and number*
- §3. *Advance notice*
- §4. *Proof that an animal is a service animal*
- §5. *Check-in requirements*
- §6. *Documentation*
 - §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*
 - §6.d. *Barriers as mere deterrents, not for health and safety*
- §7. *Containing emotional support animals in the cabin*

§1. *Overview of statistics and the burden of proof before rights are reduced*

A government agency that is tasked with enforcing civil rights should maintain those rights by default. If a party wishes to increase burdens on people with disabilities or otherwise reduce disability rights, the burden of proof for this rights-reduction should lie with that party, not on those trying to stem the egress of their rights.⁶

We have seen no hard data justifying the rights-reductions DOT is allowing.⁷ There *is* clear evidence that the old and new burdens substantially and systematically limit flight access for people with disabilities.⁸ The situation would be backward and misadministered if those

⁶ This refereeing principle is even more important when the rights holders have very little power compared to the rights takers. DOT is the main body rights holders depend on to balance the power differential between individuals with disabilities and the airline corporations providing services upon which the individuals rely. Your office made it clear to us in an April 4th email that DOT prefers to adopt an evidence-based approach to crafting guidance. Here is an excerpt from that email: "With respect to whether the Department will be issuing guidance on basic economy seating programs, we traditionally decide whether or not to issue a guidance document when we receive a significant number of complaints about an issue or we have received data indicating that there is significant concern in the disability community about an airline policy or practice."

⁷ In the SIEP Background section, after explaining how the ACAA requires access for service animal users, DOT notes "[...]the Department recognizes that airlines have a responsibility to ensure the health, safety, and welfare of all of its passengers and employees. In enforcing the requirements of Federal law, the Department is committed to ensuring that our air transportation system is safe and accessible for everyone." If DOT were to allow reduced access for service animal users, it seems this would have to be clearly justified on such bases as those mentioned—health and safety—so mere evidence of increased travel is not sufficient. Yet we await relevant evidence as access is nonetheless reduced.

⁸ See USAUSA's 2018 Flight Access Survey Report: <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

in power could defeat discrimination-revealing data with a pre-emptive strike of little more than sensational anecdotes of individuals' wrongdoings.

Since DOT has already allowed airlines to add new types of burdens without the usual opportunity of public comment, it is worse even than a serious misjudgment of the burden of proof. DOT has allowed airlines to subvert the normal course of justice.⁹ We find it difficult to believe there is, all of a sudden, an emergency that justifies the allowance of significant new burdens—especially in the face of the forthcoming regulation update.¹⁰ If anything, the data indicate a crisis that merits the reduction of burdens.

There are two distinct issues in play here for adequate statistical study of individuals' actions.¹¹ First, there are animal-related behavior issues, which directly present problems for safe and unimpeded access for people with disabilities. Second, there are issues of misuse of the laws—both in terms of fraud and of misuse of the laws based on ignorance. Such issues within this category distractingly flag our moral disgust, but crucially signal the need for education, respectively.

The second category, misuse, can be indirectly tied to the first, since (we imagine) both ignorant and deceitful uses of access laws are more likely to facilitate behavior issues than an honest, knowledgeable approach. However, it is unclear especially how this second set of issues could justify the erection of significant front-end access barriers for people with disabilities, rather than targeting the actual, identifiable culprits.¹² Before diving into SIEP-tailored questions of prevention and remediation, let's get a bit clearer on the sorts of statistics that would be helpful and that wouldn't.¹³

§1.a. *Behavior*

The number of individual behavioral incidents related to service animals *may* be going up, but it is unclear whether the *incidence* (rate) of these

⁹ We are forced to wonder: Why does DOT only ask airlines for data to justify their policies after allowing such rights-reducing policies to be put into effect? This allows airlines to severely increase burdens on people with disabilities by corporate fiat, without being subject to any serious oversight. If airlines are empowered to cow DOT into using regulations such as 14 CFR §382.117(f) to justify practically any new type of systematic barrier (against the ACAA's prime directive), people with disabilities will be forced to consider recovery of their rights by judicial means. https://www.ecfr.gov/cgi-bin/text-idx?SID=5aa2959003ebbb44d09d6d57318a9eb9a&node=se14.4.382_1117&rgn=div8

¹⁰ <https://www.regulations.gov/docket?D=DOT-OST-2018-0068>

¹¹ Here we write of the sort of data needed as evidence for the argument that airlines should be allowed to reduce civil rights for people with disabilities wanting to fly. Our survey reports already provide weighty evidence for an overall contrary argument.

¹² See especially §1 of USAUSA's 2018 survey report, calling for DOT to value human rights when it comes to disability access.

¹³ §3.a. of the 2018 survey report touches on the essential point that statistics should often be only a secondary consideration when it comes to ensuring disability rights.

occurrences is varying significantly. The number of flights in the US is on the rise,^{14,15} while statistics regarding animal-related incidents are both opaque¹⁶ and in such low numbers that statistical significance is hard to come by. As a start, the relevant rate for DOT to consider is the incidence of negative service animal- or ESA-related events per service animal or ESA flying.¹⁷ DOT must look beyond absolute numbers related to service animals and not miss the forest for the trees.

This relevant rate would be for events in which a purported service animal or ESA presented a significant behavioral problem, or in which the accompanying passenger presented a significant behavioral/control problem that was related to their animal. This should not include a prominent statistic from some airlines, which is incidents related to the paperwork burdens DOT currently allows. Such reports indicate more of a problem with the regulations than they do with the passengers or animals subjected to those regulations.

§1.b. *Misuse*

Airlines cannot claim the number of service animal and ESA flyings is dramatically on the rise, then assume this must mean fraud is on the rise. What is most relevant on this front is whether the *rate* of fraud (or general ACAA misuse) is on the rise.

An easy explanation for the rise in animal use for disability mitigation is the dramatic increase in public awareness in recent years, resulting in more people with disabilities taking action to use animals to help them live their lives. This awareness and resulting rise in use should be seen as a good thing overall.¹⁸ We need not imagine a fraudster hiding behind every tree.

It is easy, with the current system, for a shadowy ignorance to follow the

¹⁴ See the Bureau of Transportation Statistics (BTS) release BTS 16-18, "2017 Traffic Data for U.S Airlines and Foreign Airlines U.S. Flights": <https://www.bts.gov/newsroom/2017-traffic-data-us-airlines-and-foreign-airlines-us-flights>

¹⁵ The current BTS "U.S Air Carrier Traffic Statistics" are searchable: <https://www.transtats.bts.gov/TRAFFIC/>

¹⁶ Airlines' data collection methods are not always clear, but a prime example of the muddled use of airlines statistics is that airlines generally lump together psychiatric service animals (PSAs) and emotional support animals (ESAs). These are very different entities, since PSAs are supposed to have much more training and public exposure than ESAs. By collecting data on PSAs and ESAs in one indiscernible grouping, airlines lose the ability to claim they have data showing problems with PSAs and ESAs—as opposed to just with ESAs, for example.

¹⁷ This is similar to how DOT should consider the rate of (pet) animal cargo deaths per animal trip, since some airlines carry many more animals per year than others, making their absolute losses higher even if their rate of loss were much lower.

¹⁸ See the January 31, 2018 article by Brad Morris in USA Today, "More animals on airplanes are good" (the newspaper altered the author's title and its resultant meaning): <https://www.usatoday.com/story/opinion/2018/01/31/opposing-view-overall-animals-airplanes-good/109987262/>

public's casual understandings of service animals and ESAs. Without an access system that bears an educational light, we would not be surprised were the well-intentioned misuse to continue. However, we have neither clear evidence of the rate of fraud nor the rate of other misuse. As far as we know, there is no airline that can keep track of this (or tries to).

Instead, during the Reg Neg we were shown numbers related to paperwork issues in general. Such numbers could represent anything from, for example, a non-disabled pet owner unquestionably forging paperwork, to a psychiatric service dog user's documentation being one day out of date. Anything beyond a catch-all number for this variety of issues was in anecdotal form.

Surely, airlines could provide better evidence for their case if this were such a large problem. This would involve devoting more resources to investigating claims or verifying paperwork. However, the weakness of airlines' evidence of misuse seems to show us two things. First, if they haven't put their money where their mouths are (to create targeted evidence-gathering systems), it must not be an elephantine problem so much as it is a gadfly. Second, the whole idea of a paperwork-based access system might have us pointed down a muddled rabbit hole in its approach. Instead, we should think seriously of turning right round and considering how the system should value human rights as opposed to playing fraudster whack-a-mole with increasing mounds of third-party paperwork.

We are not looking to reformulate the regulations here, though. Our perspective on the SIEP is that—as an *interim* protocol¹⁹—DOT should not significantly alter the present access system, unless DOT were to lean toward greater rights and access. DOT should not dispose of rights by allowing new barriers, unless there were an enormous and public body of evidence that clearly carries the burden of proof. In the absence of the public having the ability to examine and critique any such body of evidence, new access barriers simply cannot have sufficient justification.

§2. *Service animals—species and number*

The plan from DOT's Enforcement Office under the species and number heading appears reasonable on its face.²⁰ The plan also does not strike us

¹⁹ Our perspective values the prevention of sudden upheaval, and so we may advocate for an immediately applicable interim policy in a way that differs quite significantly from the type of system we prefer for the long term.

²⁰ "The Enforcement Office intends to exercise its enforcement discretion by focusing its resources on ensuring that U.S. carriers continue to accept the most commonly used service animals (i.e., dogs,

as a significant departure from the previous enforcement principles in this area, based on Reg Neg discussions.

We wish to highlight that during this interim period, DOT should remain open to evaluating the non-prototypical situations on a case-by-case basis, as DOT notes it will when it comes to species beyond dogs, cats, and miniature horses. It is a virtue to remain open to reasonable uses of the law that exceed our personal imaginings.

§3. *Advance notice*

There is overwhelming momentum for the discrimination against psychiatric service animal users to stop. If users of service animals for all other disability types are protected from an access barrier, it is plain-faced discrimination not to shield those with mental health-related disabilities from that same barrier.²¹ In support of this sentiment, we provided evidence through a 2016 survey report²² and 2018 survey report,²³ as well as lodged protests throughout the Reg Neg and gained coalition support through our

cats, and miniature horses) for travel. While the Enforcement Office will focus on ensuring the transport of commonly used service animals such as dogs, cats and miniature horses by U.S. carriers, it may take enforcement action against U.S. carriers for failing to transport other service animals on a case-by-case basis. Airlines are expected to continue to comply with the existing service animal requirement which allows U.S. airlines to deny transport only to certain unusual service animals such as snakes, other reptiles, ferrets, rodents and spiders. The Enforcement Office believes that the public interest will be better served by this exercise of its enforcement discretion because dogs, cats, and miniature horses are the most commonly used service animals.

"The Department's service animal regulation does not indicate whether airlines must allow passengers to travel with more than one service animal. In the past, the Enforcement Office has informed airlines that they will not be subject to enforcement action if they limit passengers to transporting three service animals. The Enforcement Office continues to recognize that a passenger may require more than one task trained service animal. Multiple task trained service animals may be needed to the extent that they are trained to perform different tasks, or in cases where an individual trained service animal must rest and cannot perform tasks for the passenger for extended periods. On the other hand, it is less clear that passengers require more than one ESA for travel or at the passenger's destination. Accordingly, as a matter of discretion, the Enforcement Office does not intend to take action if airlines limit passengers to transporting one ESA. Additionally, the Enforcement Office does not intend to take action if airlines limit passengers to transporting a total of three service animals." <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0019>

²¹ It seems from the SIEP that DOT might recognize this, yet be held captive by current regulations for the moment. DOT strangely claims that advance notice requirements would harm non-PSA service animal users, yet they are okay for PSA and ESA users: "Thus, under existing rules, carriers may not otherwise require advance notice for passengers traveling with service animals (e.g., seeing eye dogs) other than ESAs or PSAs unless the flight segment is 8 hours or more. Requiring advance notice for service animals outside of these specific circumstances violates the Department's regulation and may significantly harm passengers with disabilities as it prevents them from making last minute travel plans that may be necessary for work or family emergencies." <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0019>

²² <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>

²³ <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

2016 compromise comment.²⁴

While we believe that justice delayed is justice denied—and justice for our community has *long* been denied—it does not seem reasonable to expect airlines to majorly alter their access protocols in the short term, before new rules are crafted with sufficient lead time.²⁵ Therefore, in a show of fair-mindedness, we are not pushing for any alteration in DOT's proposed interim enforcement plan when it comes to advance notice.

§4. *Proof that an animal is a service animal*

In the SIEP, DOT writes:

*Airlines have pointed out to the Department that accepting identification cards, harnesses, or tags as the sole evidence that an animal is a service animal is problematic because service animal paraphernalia are sold online and may be obtained by unscrupulous individuals so their pets can fly in the aircraft cabin as service animals. However, the Department's disability regulation makes clear that these protections are for individuals with disabilities.[...]While airlines are required to accept items such as vests and harnesses as evidence of a service animal's status, it would be reasonable for airlines to also request the passenger's credible verbal assurance to ensure the passenger is an individual with a disability who has a need for that service animal.*²⁶

We find this position eminently reasonable. Beyond the initial determination of service animal status, we also note that it is a team's *behavior*, *not belongings* that should be the focus.²⁷

Some airline representatives do not seem to be aware that not only do many owner-trainer service animal users rely on gear purchased online in order to outfit their service animals as they see fit, but so do those who obtain their service animals from programs. Some program-provided gear

²⁴ <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

²⁵ We say this about airlines as a whole through gritted teeth, since some of the major airlines have in fact already majorly altered their access protocols recently by adding new barriers with 1–2 months' notice to passengers. Presumably, they do so under the theory that 14 CFR §382.117(f) allows them to try out whatever barriers they please on users of psychiatric service animals and ESAs.

²⁶ <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0019>

²⁷ As well, we highlight that no identifying piece of gear should be required for access. Some dogs are much more comfortable working without a harness or vest, and in practice ID cards serve mainly to misdirect attention that should be focused more on behavior.

is either uncomfortable for the individual dog, doesn't work well for the user's personal needs, is outdated and suboptimal, or is simply at striking odds with the user's good taste.²⁸

We alert DOT to these factors to ensure DOT has more than a superficial understanding of the circumstances. This may prevent DOT from suffering a false belief, such as that handing program-associated companies the only market share for service animal gear would be any kind of useful solution at all. Denying service animal users access to the best gear the market has to offer would only hurt those who want to follow the rules, while the committed fraudsters would always find a way (much as shopper demand makes counterfeit high-end purses readily available).

§5. Check-in requirements

We applaud DOT's recognition in the SIEP that the ACAA's anti-discrimination order applies to checking in. DOT writes:

For these reasons, and considering the prohibition against discrimination in the ACAA, the Enforcement Office intends to act should an airline require that a passenger with a service animal check-in at the ticket counter, thereby denying those passengers the same benefits that are available to other passengers.

At the time of this writing, Delta provides an example of violating this principle.²⁹ We do not think it is an acceptable workaround for airlines like Delta not to require the actual check-in at the ticket counter, but to instruct passengers with service animals to be otherwise "verified" at the ticket counter. We urge DOT to consider ticket counter "verification" to be functionally equivalent to ticket counter check-in when it comes to anti-discrimination enforcement.

§6. Documentation

²⁸ For a better understanding of this issue, see PSDP's October 6, 2014 article, "There Are No Fake Vests": <https://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/fake-vests>

²⁹ On the first page of Delta's "Emotional Support/Psychiatric Service Animal Request" forms, instruction #4 is "Visit the airport check-in counter, where your request will be verified at the airport by a Delta Representative". <https://www.delta.com/content/dam/delta-www/pdfs/policy/EmotionalSupportAnimal-RequiredForms.pdf>

Other Delta passengers do not have to be "verified" at the check-in counter.
https://www.delta.com/content/www/en_US/traveling-with-us/check-in/options.html

Stakeholders of all types universally complain that **the current access system based on third-party documentation doesn't work**.³⁰ We've provided ample evidence **the system significantly harms access** for people with disabilities.³¹ Yet **airlines are redoubling with more of the same kind of barriers that have harmed and haven't helped**, and DOT appears unbothered by this subversion of the most basic ACAA mandate.³²

§6.a. Burdens must first meet the burden of proof

Adding more burdens to people with disabilities serves mainly to discourage access.³³ A new analysis of multi-year USAUSA survey data shows that almost 2 out of 3 people mention the weight of the burdens in their open-ended responses.³⁴ The access reduction is so surprisingly large that it could not possibly be offset by any amount of fraud reduction.³⁵ Of

³⁰ It is no glib embellishment to say this, but instead an expert report about prevailing views based on the Reg Neg and any variety of public and personal comments from a diversity of stakeholder types.

³¹ See our 2016 survey report and 2018 survey report, respectively:

<https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>

<https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

³² Generally, that mandate is not to allow discrimination on the basis of disability. Discriminating on the basis of disability type, such as allowing barriers for users of psychiatric service animals that are not allowed for users of other types of service animals, is a straightforward violation of this mandate. From 49 USC §41705: "[...]an air carrier[...]may not discriminate against an otherwise qualified individual on the following grounds:[...] the individual has a physical or mental impairment that substantially limits one or more major life activities." <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title49/html/USCODE-2011-title49-subtitleVII-partA-subpartii-chap417-subchapI-sec41705.htm>

³³ See §3.b. of the 2018 survey report, on "Prime directive vs. extreme anti-misuse measures". <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

³⁴ This analysis is mainly thanks to Jenine Stanley and covers the qualitative responses from the 2016 survey report and the 2018 survey report. In the 2016 responses from users of psychiatric service animals and ESAs, 33 out of 36 (92%) mentioned at least one aspect relating to the burdens. In the 2018 responses from users of all types of service animals and ESAs, 243 out of 393 (62%) mentioned burdens. Overall, 276 out of 429 (64%) mentioned burdens. For the qualitative data, see each survey report; for the analysis method, refer to §5.b. of the 2018 survey report. The 2016 responses are captured by the following categories, each of which falls under the "Burdens" category in the 2018 survey report (except "Other"; there were only three responses that matched "Other" but no burden category):

18/36 (50%) Burdens based on documentation: comments include references to financial and time costs, not having insurance, not being able to find a doctor to write the letter, costs of having a disability triggered by any of the aforementioned

23/36 (64%) Disability Stigma: comments include direct references to feeling stigmatized by being classified as having a PSA, unfair or discriminatory treatment or practices surrounding PSAs

7/36 (19%) No Longer Flying: comments that state the person is no longer choosing or able to fly because of having a PSA

8/36 (22%) Other: comments referencing other aspects of travel such as size of animal, other civil rights issues, other types of disability-based discrimination, etc.

³⁵ At least 3 out of 4 don't fly or fly less due to the access burdens. See §4 and §5 in the 2016 survey

course we could eliminate *all* fraud by eliminating *all* access, but the point of the ACAA is to ensure access, not to slash fraud by any means possible.

Beyond this, we have no evidence to suggest third-party documentation requirements reduce fraud at all. Quite the contrary, airline protests of fraud have shot up since these requirements were instituted. One might draw the conclusion that relying on third-party paperwork for access simply creates a more straightforward fraud pipeline, wherein the paperwork is seen as a golden ticket for unimpeded access rather than having to worry about actual animal training, behavior, or education.

One way to narrow the question before us is to ask whether DOT should stop airlines from adding more third-party documentation burdens, such as veterinary/vaccination paperwork.³⁶ Clearly, our answer is "no", and it is not simply because they are "new requirements".³⁷ This is the kind of burden that runs contrary to the ACAA mandate and there is no evidence they do anything but severely damage access for people with disabilities.³⁸

DOT officials' explanation is not at all that the new burdens from airlines are *justified*. Instead, it seems DOT just isn't going to treat them like they're *unjustified*—or consider them to be in need of any significant evidentiary justification whatsoever.³⁹ We have articulated that the burden of proof

report, plus the data in §5.a. of the 2018 survey report (ibid. above).

<https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>

³⁶ Presumably this would happen by DOT announcing its intention to take enforcement action in such cases. We are not going to get bogged down here by discussing various iterations of passenger (non-third-party) attestations. Our overall view is that significant new burdens should wait for the rulemaking. Our preferences regarding a decision tree at that point are detailed in the 2016 compromise comment. <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

³⁷ As DOT says, "[...]we understand the disability advocates' view that these policies violate the Department's disability regulation because they impose new requirements on passengers with disabilities." <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0019>

³⁸ §3.b. of our 2018 survey report elaborates, but we will note we're shocked and angered at statements from DOT in the SIEP such as "At present, the Enforcement Office is not aware of any airline requesting information from ESA or PSA users that would make travel with those animals unduly burdensome or effectively impossible (e.g., requiring veterinarians to directly guarantee or certify that an animal will behave appropriately onboard an aircraft)." When our 2016 survey report presented the discovery that 3 out of 4 users of psychiatric service animals and ESAs reduced or eliminated their flying as a result of the contemporary burdens targeting them, we thought DOT could not possibly claim there was no undue burden—the proof was in the pudding, and it was pudding DOT requested from us. Now that our 2018 survey report further substantiates this, with much larger numbers and by showing that the new burdens are even more disastrous for disability access, we are simply aghast that DOT could publish such a sentiment. How many people with disabilities must a rule stop from flying before DOT officials think a barrier is undue? And what evidence is there that any of the barriers were due in the first place? The present calculus must be deficient in some way. <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

³⁹ The apparent lack of concern from DOT is exhibited in this paragraph from the SIEP: "The Enforcement Office does not intend to use its limited resources to pursue enforcement action against airlines for requiring proof of a service animal's vaccination, training, or behavior so long as the

should rest with the rights-takers *before* taking civil rights away from people with disabilities,⁴⁰ and we hope DOT will see this is the only way to safeguard disability rights from being trampled.

Even though DOT has not yet sought interim justification to approve of the airlines' burden-stacking, we can still examine whether the reasoning airlines provide bears scrutiny. If it does not, it is DOT's duty to stop the new burdens.

§6.b. *Gesturing absently at justification is unsatisfactory*

DOT reports what our airline contacts have told us: "[...]certain carriers have indicated that they need veterinary forms or behavioral attestations to determine whether a service animal, particularly a PSA and/or an ESA poses a direct threat."^{41,42}

documentation is not required for passengers seeking to travel with a service animal that is not an ESA or PSA. Under section 382.27, carriers may not require advance notice to obtain services or accommodations, except under circumstances specifically permitted by rule. As noted above, however, under DOT's rule, airlines are permitted to ask for up to 48 hours' advance notice for passengers using PSAs and ESAs. 14 CFR 382.27(c)(8). The Department permits airlines to require 48 hours' advance notice of a passenger wishing to travel with an ESA or PSA in order to provide the carrier the necessary time to assess the passenger's documentation. As such, the Enforcement Office does not intend to use its limited resources to pursue enforcement action against airlines for requiring proof of a service animal's vaccination, training, or behavior for passengers seeking to travel with an ESA or PSA. At present, the Enforcement Office is not aware of any airline requesting information from ESA or PSA users that would make travel with those animals unduly burdensome or effectively impossible (e.g., requiring veterinarians to directly guarantee or certify that an animal will behave appropriately onboard an aircraft). The Enforcement Office will continue to monitor the types of information sought by ESA and PSA users, however." <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0019>

⁴⁰ See §1 above.

⁴¹ <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0019>

⁴² DOT gestures in its current ANPRM toward what we believe everyone had previously assumed about 14 CFR §382.117(f)—that the evaluation of direct threats to health or safety was intended to be based on individualized, in-person observations by airline personnel, rather than a license for airlines to lay down blanket burdens across classes of people with disabilities. See DOT's ANPRM, footnote 54: "An airline may refuse transportation of a service animal if the animal would pose a direct threat to the health or safety of others. However, the Department's regulation does not clearly specify whether airlines must make this direct threat assessment on an individualized case-by-case basis. The DOT guidance document referenced in the regulation does suggest that the direct threat should be individualized as it states that the analysis should be based on observable actions". <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

It is clear to us that DOT's direct threat analysis explanation in its 2008 guidance prohibits using a "direct threat" concern as a reason to prejudicially block access to groups of people with disabilities: "If the carrier's reason for excluding a passenger on the basis of safety is that the individual's disability creates a safety problem, the carrier's decision must be based on a "direct threat" analysis. This concept, grounded in the Americans with Disabilities Act, calls on carriers to make an individualized assessment (e.g., as opposed to a generalization or stereotype about what a person with a given disability can or can't do) of the safety threat the person is thought to pose. In doing so, the carrier must take into account the nature, duration and severity of the risk; the probability that the potential harm will actually occur; and whether reasonable mitigating measures can reduce the risk to the point where the individual no longer poses a direct threat. In using its authority to make a direct threat determination and exclude a passenger, a carrier must not act inconsistently with other provisions of Part 382. Direct threat determinations must not be used as a sort of de facto exception to

Veterinarians are not in a position to predict how an animal would behave in a flight environment, nor do they want to.^{43,44} Veterinarians can give information about vaccinations and the appearance of parasitic critters such as fleas. However, we have not once heard of fleas being a major problem—or a minor one—on airplanes. We *have* heard of rare, heavily sensationalized reports of dog bites, though with no statistics to aid us.

Clearly, a form from a veterinarian does not prevent a dog from biting. We have been told by DOT⁴⁵ and airlines⁴⁶ that airlines now want people with disabilities to acquire, submit, and carry these forms in case their animal bites someone (and breaks the skin, presumably). It's hard for us to see how such a rare occurrence could justify requiring hundreds of thousands of people with disabilities to each spend \$115 and 6 hours of personal time on average to surmount a new set of barriers.⁴⁷

Let's strain credulity and pretend those barriers are not an overwhelming problem. We may now ask whether the forms would help in any way.

§6.c. Let's be rabid about the facts

The principle concern airlines offered in connection with veterinary forms seems to involve rabies. It is a zoonotic disease (transmissible to humans) and could increase the likelihood of aggressive behavior. Here we engage in a basic investigation of the matter that anyone else could have done

specific requirements of this Part (e.g., the prohibition on number limits)." Even if this were somehow twisted into allowing veterinary forms, airlines have not engaged even in any half-hearted attempt to justify the forms based on a risk assessment and risk mitigation analysis. We believe these processes would quickly fail for the reasons elaborated in our present comment.

<https://www.federalregister.gov/d/08-1228/p-305>

⁴³ The comments from veterinarians on the article "AVMA, United Airlines reach agreement on veterinary health form" indicate that many veterinarians (1) do not understand the world of service animals and ESAs and (2) are not willing to sign airline forms. The article's 3/8/18 revision itself hints at this reluctance: "The AVMA[...] flew into action when United Airlines announced a new policy requiring a veterinary signature vouching for the health, behavior and training of psychiatric service and emotional support animals (ESA) flying with United passengers."

"The AVMA reviewed United's Veterinary Health Form[...] and recognized that the information it requested might not position United to make good decisions that would appropriately support the health and welfare of their animal and human passengers. The statements on the form also created potential liability risks for veterinarians attesting to them."

https://atwork.avma.org/2018/03/02/avma-united-airlines-reach-agreement-on-veterinary-health-form/?utm_source=smartbrief&utm_medium=email&utm_campaign=smartbrief-assoc-news

⁴⁴ See §3.b. of the 2018 survey report for detail on this topic. <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

⁴⁵ At a February 6, 2018 meeting in DOT's DC headquarters.

⁴⁶ In phone calls between January and April, 2018.

⁴⁷ See §2.b. of the 2018 survey report. <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

before instituting new burdens.⁴⁸

Each year between 2011 and 2015 (in the US) there were between 59 and 89 cases of rabies reported in dogs, averaging 74 per year.⁴⁹ In 2012, there were 69,926,000 dogs in the US.⁵⁰ This means the incidence of rabies over the course of the entire year was 0.0001%, or one in a million. Since an animal is only able to transmit rabies for a period of "several days" after an incubation period and before it is "obvious to even an untrained observer" that there's a problem,⁵¹ a generous estimate is that any given dog is likely to have rabies at a rate of 0.000002% for any given day out of the year (1 in 50 million).⁵² It is plain why domestic dogs are not even considered to be a significant source of rabies anymore.⁵³

Rabies is transmitted through saliva via a bite into the muscle from a rabid animal. An animal cared for enough to be a service animal (or claimed to be one) is probably much less likely to have rabies than animals that are less cared for and left where one could not know whether they've been bitten. They are also more likely to have standard veterinary care, including a rabies vaccine or titer test.⁵⁴ When an animal is known to have been bitten by another and has not been vaccinated, it is standard for there to be monitoring or a quarantine.⁵⁵

If the point of the vaccination form is to protect the public from rabies, that argument falls apart at the briefest glance at this data. Rabies is a fear-inducing disease since it involves animal bites and is fatal without treatment, yet only 1–3 people are reported to have rabies each year in the US.⁵⁶

Since rabies is so rare, whether to treat a human bitten by a dog is not the

⁴⁸ At least as far as the citations go. We also consulted with an ER doctor at a prestigious university hospital, a local veterinarian, a PhD biologist, a former veterinary technician, a supervisor at a law enforcement agency with a major airport in its jurisdiction, an emergency dispatch supervisor, and PSDP board member Heather Walker, who has worked as an Emergency Services Dispatcher for a sheriff's department since 2002.

⁴⁹ From CDC's "The Burden of Rabies" article infographic.

<https://www.cdc.gov/features/dsrabies/index.html>

⁵⁰ From AVMA's "U.S. Pet Ownership Statistics".

<https://www.avma.org/KB/Resources/Statistics/Pages/Market-research-statistics-US-pet-ownership.aspx>

⁵¹ See CDC's "The Path of the Rabies Virus" <https://www.cdc.gov/rabies/transmission/body.html>

⁵² We interpret CDC's "several days" as 7 days, or 1 week, and so divide the earlier incidence by 52.

⁵³ From the CDC's "Human Rabies": "[...]domestic dogs[...]are no longer considered a rabies reservoir in the United States." https://www.cdc.gov/rabies/location/usa/surveillance/human_rabies.html

⁵⁴ Some dogs have bad reactions to vaccines, so instead of needlessly re-injecting the vaccine, owners will choose to have a titer test performed to see whether the dog has retained sufficient antibodies.

⁵⁵ "Cats, dogs, and ferrets that have not gotten their rabies shots and are bitten by an animal may have to be quarantined for six months or euthanized." <https://www.cdc.gov/features/dsrabies/index.html>

⁵⁶ From the CDC's "Human Rabies". https://www.cdc.gov/rabies/location/usa/surveillance/human_rabies.html

foregone result of a conversation with a doctor.⁵⁷ It's unlikely even that postexposure prophylaxis would be needed.⁵⁸ If it were needed, we have been fortunate that since the 1980s, the prophylactic protocol has been much easier and less painful—this means that even if the biting animal's vaccination status can't be verified, it does not portend a torturous ordeal.⁵⁹

We belabor the facts to emphasize that people with disabilities deserve the courtesy of basic fact-checking and sufficient reasoning before burdens are forced on them. This applies beyond the specific example of rabies vaccination verification or any veterinary forms.

§6.d. *Barriers as mere deterrents, not for health and safety*

Airlines are resistant to sharing passenger information, so it does not seem like that is the point of the forms. Forms may be forged or an animal may acquire rabies after the form is completed, so it's not possible for the airline to use the forms to provide any guarantees to any passengers.

If there is a serious animal bite, we cannot see how the form would be of significant help. If airlines are concerned about passenger health or the need for law enforcement involvement, they can call ahead so the proper response is waiting at the airport.

We have heard the protest from some airlines that the baseline law enforcement response to airports is extreme, and too excessive for a dog bite. However, a person (or dog) bitten in the air deserves the same minimum level of law enforcement, medical care, and animal control involvement as a person bitten anywhere else. It is unjust to deny that level of basic response and care due to an airline not wanting to bother the authorities, or the authorities not wanting to be bothered.

⁵⁷ From the CDC's "When should I seek medical attention?": "See your doctor for attention for any trauma due to an animal attack before considering the need for rabies vaccination. Your doctor, possibly in consultation with your state or local health department, will decide if you need a rabies vaccination. Decisions to start vaccination, known as postexposure prophylaxis (PEP), will be based on your type of exposure and the animal you were exposed to, as well as laboratory and surveillance information for the geographic area where the exposure occurred."

<https://www.cdc.gov/rabies/exposure/index.html>

⁵⁸ From CDC's "Domestic Animals" section on rabies exposure: "If you were bitten by a cat, dog, or ferret that appeared healthy at the time you were bitten, it can be confined by its owner for 10 days and observed. No anti-rabies prophylaxis is needed. No person in the United States has ever contracted rabies from a dog, cat or ferret held in quarantine for 10 days."

<https://www.cdc.gov/rabies/exposure/animals/domestic.html>

⁵⁹ "In the United States, postexposure prophylaxis consists of a regimen of one dose of immune globulin and four doses of rabies vaccine over a 14-day period. Rabies immune globulin and the first dose of rabies vaccine should be given by your health care provider as soon as possible after exposure. Additional doses of rabies vaccine should be given on days 3, 7, and 14 after the first vaccination. Current vaccines are relatively painless and are given in your arm, like a flu or tetanus vaccine." *ibid.* See also articles such as "What's it like: To get a rabies shot".

<https://newsok.com/article/3862071/whats-it-like-to-get-a-rabies-shot>

Of course, a vaccination form—whether shared with the bitten party or not—in no way removes the obligation to provide the appropriate response. If the response has to be excessive because the incident was during a flight or at the airport, then so be it, because excessive is better than nothing when some response is required.

What, after all this, is the purpose of the form? It cannot ensure the animal is safe; getting a vaccine does not make an animal safe.

The main purpose of the new vaccination forms appears to be simply creating a new barrier for passengers with disabilities, in hopes that a barrier for the sake of barriers will have a deterrent effect on fraud. The ACAA is supposed to remove barriers to access, not oversee their gratuitous multiplication.

Ultimately, we must weigh the burdens to hundreds of thousands of passengers with disabilities vs. any supposed benefit to requiring these forms in the extremely rare cases of skin-breaking animal bites. It is difficult to see any specific benefit to the forms, while it is very easy to spot their quite significant and undue burdens.

§7. Containing emotional support animals in the cabin

Interim enforcement priorities should not upend major underpinnings of the current system before we have new regulations, even if that upending would theoretically align with our long-term predilections. We are all for requiring that service animals and emotional support animals (ESAs) be tethered (harnessed/leashed)—if not contained in a pet carrier and with reasonable exceptions, such as those that are disability-based.⁶⁰ That is common practice and common sense, which we believe would not be a

⁶⁰ See the behavior standard in §1 of our 2016 compromise comment. <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf> Here, as there, we 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. https://www.ecfr.gov/cgi-bin/retrieveECFR?%20gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&n=28y1.0.1.1.37&r=PART#se28.1.36_1302

shock for anyone.^{61,62}

In order to maintain ESA access in some form,⁶³ we originated the idea during the Reg Neg of allowing airlines to require that ESAs be contained in pet carriers by default.⁶⁴ We remain supportive of this overall idea for a regulation update.⁶⁵ However, the practical difficulties of actually implementing this under the current regulations would be too severe to make this a responsible allowance for the interim.

We are grateful DOT now recognizes there is a significant difference between ESAs and psychiatric service animals, as well as understanding some of the nature and consequences of that difference.⁶⁶ On the other hand, airline personnel at all ranks still tend not to distinguish ESAs from psychiatric service animals, as most airlines' treatment of the two groups has followed current regulations and been the same.⁶⁷ Airlines have therefore had no impetus to disentangle the two concepts and it would require extensive training to expect accurately different handling.

⁶¹ We note in the same breath both that some handlers drop a shorter leash or harness when their service dogs curl up under the seat and that longer, hands-free leashes do not require a constant grip for constant tethering. As far as the details are concerned, our guiding principles are responsible handler behavior and reasonable enforcement.

⁶² In fact, this is already some airlines' policy, which seems to violate DOT's SIEP interpretation of 14 CFR §382.117 as it still pertains to service animals. ("The Enforcement Office then interpreted section 382.117 as prohibiting an airline from requiring service animals to be harnessed in the cabin, and requiring airlines to transport service animals in the cabin free of restraining devices while accompanying users at their seats in accordance with applicable safety requirements since there appeared to be no safety reason to do so.") For airline policy examples, see Delta's "Trained Service Animal Request" form or "Emotional Support/Psychiatric Service Animal Request" form, each of which say: "Service animals must be leashed or otherwise restrained by carrier or tether and remain under the control of their owner for the duration of the flight". <https://www.delta.com/content/dam/delta-www/pdfs/policy/TrainedServiceAnimal-RequiredForms.pdf> <https://www.delta.com/content/dam/delta-www/pdfs/policy/EmotionalSupportAnimal-RequiredForms.pdf>

Also see American's "Service and emotional support animals" page: "Emotional support and service animals must be[...]tethered by leash and / or harness and under your control at all times." <https://www.aa.com/i18n/travel-info/special-assistance/service-animals.jsp>

⁶³ Much of our community would just as soon see ESA access eliminated, but we pursued and continue to pursue the most reasonable compromise we could.

⁶⁴ We *very highly recommend* DOT revisit §2, ESA 1 in "Service Animal Advocate Positions and Reasoning" from September 15, 2016. We took pains there to lay out what would work, what wouldn't, and why. <https://www.transportation.gov/office-general-counsel/negotiated-regulations/service-animals---advocate-position-and-reasoning>

⁶⁵ See §3.d. in our 2018 survey report. <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

⁶⁶ "We recognize the possibility that ESAs may pose greater in-cabin safety risks because they may not have undergone the same level of training as other service animals (including PSAs)." <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0019> We elaborate that service animals undergo work or task training, public access training, and are generally quite accustomed to working in a variety of public environments and so have accrued substantial psychological shock absorbers. Any one of these characteristics would be unexpected in the average ESA.

⁶⁷ Southwest is a notable exception. See their "Assistance Animal" entry, which does not currently distinguish psychiatric service animals from any other type of service animal: <https://www.southwest.com/html/customer-service/unique-travel-needs/customers-with-disabilities-pol.html>

Suddenly allowing more restrictive policies for ESA users will lead to trouble not just for the fact that airline employees likely will continue to conflate ESAs and psychiatric service animals, nor only for ESA users needing to adjust to even more restrictions. Similar to how airline employees now try to subject service animal users of the non-psychiatric sort to ESA-user treatment, we would also expect any new, harsher ESA barriers to bleed through to affect all service animal users.⁶⁸ This especially applies to any service animal user without a disability apparent to the employee or without an animal or breed that matches the employee's prototypical concept of a service animal. The patchwork of airline variations the planned enforcement would open up would further confuse matters on the larger scale.

Since it is clear the sudden ban of larger ESAs would not be appropriate without the usual rulemaking process,⁶⁹ an interim change in whether airlines may require pet carriers for smaller ESAs must be a half-measure. We worry that allowing such a half-hearted set of new restrictions would cloud everyone's thinking and the restrictions' execution.

There is not a clear reason why smaller ESAs must be contained, yet larger ESAs need not be. In fact, if training and safety are the reasons to allow ESA containment requirements, one might easily think larger ESAs would present the larger threat. Since the reasoning is not consistent, we would expect airline employees to (justifiably) become confused, thinking that if an ESA does not come with a carrier or can't fit in one, then the person can't fly with the ESA.⁷⁰ Connecting with the theme above, some employees might even extend this confusion broadly to all service animals.⁷¹

We must finally return to another point we made during the Reg Neg. It is not likely that the point of an ESA—one that is needed for disability mitigation on a flight—is going to be served if that ESA must remain in a

⁶⁸ We have already received anecdotal reports of the new burdens for ESA and psychiatric service animal users being pushed on guide dog users, just as the old requirements have been. The system cannot handle complexity well.

⁶⁹ If DOT were to allow an indirect restriction on ESA size by allowing a requirement that ESAs be transported in pet carriers, the larger-ESA users would deserve a warning period on the order of 2–4 years. This would allow time to either train the ESA to become a service animal and have access, get a smaller ESA, or decide not to use an ESA. ESA users could not be expected to suddenly acquire a new animal as an ESA, as if they were commodities rather than living creatures with personal bonds.

⁷⁰ As we originally quipped during the Reg Neg, "can't fit, can't fly". See §2, ESA 1, p. 8: https://www.transportation.gov/sites/dot.gov/files/docs/P5.SA_1.Advocate%20Positions%20and%20Reasoning%20091516%20%28003%29.pdf

⁷¹ Anyone who doubts the depth of confusion or breadth of ignorance possible should read SIEP comments such as one posted May 22, 2018: "Service Animals shall be permitted exclusively for Blind and Deaf Airline travelers.[...]Service Animals shall be restricted to dogs of eight pounds or less." <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0017>

pet carrier.⁷² If there were a wholesale restriction to pet carriers for ESAs, as we have proposed, it would be fine for the default to be that ESAs are in pet carriers. However, the user must have access to the ESA on the flight for disability mitigation. This, of course, may give way to being required to replace the ESA in the carrier if there were a behavior issue.

A requirement that ESAs be persistently imprisoned is tantamount to giving small-ESA users mere pet fee exemptions for having disabilities, rather than access to the means to cope with their disabilities. This is quite disparate treatment from that of larger-ESA users. DOT should reconsider the wisdom of allowing ESA containment restrictions in a way such that they will unjustifiably favor some ESA users over others. Regarding the whole ESA containment issue, the meal must be *fully* cooked to be both safe and palatable; half-measures or half-baking won't do, but that's all the interim leaves time for.

Conclusion

If DOT allows airlines to fashion new obstacles for people with disabilities without a genuine critique process involving the rights holders having real power, that would teach airlines that they can steamroll people's rights as they see fit, then let DOT play catch-up. If DOT's approach is simply to pursue whatever the midpoint happens to be between the extreme positions, it would seem the airlines are employing the right strategy to manipulate DOT by shifting the goalpost.

We continue to resist the temptation to act as if DOT can be manipulated in this bazaar-barter way. Instead, we are hopeful that DOT will find the best access system regardless of the pull of the extremes.

We may be upset at having to fight so much for so little, but our approach is not radical. We seek fairness and justice while recognizing the practical manacles of the current regulations and access protocols in place.

Our aim is to have DOT recognize and respect that if we enter an interim peace accord—until the regulation update—to honor the access system of the previous years, then the only fair and just approach is for DOT to disallow the new generation of access barriers some impatient airlines have been constructing. Setting up these new barriers not only undermines DOT's authority, but creates an ACAA abscess by undeniably preventing a

⁷² Again, DOT should revisit §2, ESA 1 in "Service Animal Advocate Positions and Reasoning" from September 15, 2016. <https://www.transportation.gov/office-general-counsel/negotiated-regulations/service-animals---advocate-position-and-reasoning>

shocking portion of people with disabilities from flying.⁷³

Sincerely,
Bradley W. Morris, MA, CPhil
Director of Government Relations
on behalf of the Board of Directors,
Psychiatric Service Dog Partners⁷⁴



⁷³ Many details substantiating this are in our 2018 survey report. <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

⁷⁴ This comment was drafted with assistance from our Board of Advisors, especially Jenine Stanley, who assisted with drafting feedback and data analysis.



United Service Animal Users, Supporters, and Advocates

Partnering for reasoned advocacy

5. ANPRM Comment

June 26, 2018

from PSDP

The following document is part of USAUSA's May 2019 compilation, "The path to responsible air travel governance: A recent history of service animal recommendations"



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ANPRM Comment

June 26, 2018

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

RE: DOT-OST-2018-0068; Comment on Traveling by Air with Service Animals Advance Notice of Proposed Rulemaking (ANPRM)

Ms. Workie:

This comment draws on many of our prior works.¹ Here we present a mix of old and new—arguments and ideas with staying power, and fresh additions

¹ The titles, *aliases* used herein (if any), author(s) and organization, date, and public locations of some of these works are as follows.

- “Design Challenges and Solutions for Service Animal Access under the ACAA: A Justificatory Guide for Regulators and Stakeholders”, Brad Morris (PSDP), amended in early March 2016. <https://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/aca-a-design-challenges-solutions>

- “Service Animal Advocate Positions and Reasoning”, Brad Morris et al. (DOT’s ACCESS Committee Service Animal Working Group), from September 15th, 2016. <https://www.transportation.gov/office-general-counsel/negotiated-regulations/service-animals—advocate-position-and-reasoning>

- “Pre-NPRM Comment: DOT’s ACAA Service Animal Regulations”, *USAUSA’s 2016 compromise comment*, Brad Morris and Jenine Stanley (USAUSA with multiple sign-ons), November 24, 2016. <https://www.regulations.gov/document?D=DOT-OST-2015-0246-0290>

- “ACAA Third-Party Documentation Requirements: Survey of Psychiatric-Disability-Mitigating Animal Users”, *USAUSA’s 2016 survey report*, Brad Morris and Jenine Stanley (USAUSA), December 11, 2016. <https://www.regulations.gov/document?D=DOT-OST-2015-0246-0296>

- “Flight Access Survey Report”, *USAUSA’s 2018 survey report*, Brad Morris and Jenine Stanley (USAUSA), May 22, 2018. <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0020>

- “Enforcement Priorities Comment”, *2018 enforcement priorities comment*, Brad Morris (PSDP), June 3, 2018. <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0048>

in response to both the rapidly changing air travel climate and DOT's inquiries.

Our comment is an attempt to exhaustively cover the issues DOT raised, so far as we are able. We hope this will serve DOT well in crafting regulations that: are well-reasoned, respect properly analyzed data, and embody human rights in a way that not only makes us proud of our country, but keeps the promise of the ACAA.²

We added an introduction and conclusion, but otherwise follow DOT's ten-section organization in the ANPRM. We elaborate the content guide below so it may serve as an executive summary.

§1. Whether psychiatric service animals should be treated similar to other service animals (p. 6)

§1.a. Disability profiling is just as wrong as racial profiling

§1.b. Anecdotes do not and may not justify disability profiling

§1.c. A decision tree should be used instead of third-party documentation

§1.d. Third-party documentation requirements don't even do their job but do cause big problems, creating an untenable access inequality

§1.e. A little advance notice serves a purpose under the shade of a decision tree

§2. Whether there should be a distinction between emotional support animals and other service animals (p. 12)

§2.a. Training, experience, and more justify separating the "ESA" category from "service animal"

§2.b. Trying to burden-stack with third-party documentation misses the point of the ACAA

§3. Whether emotional support animals should be required to travel in pet carriers for the duration of the flight (p. 15)

§3.a. Pet carriers are appropriate by default for ESAs, but implementation is key

§3.b. Airports' current ESA pet carrier restrictions would be especially reasonable under a similar ACAA restriction

§3.c. In light of shrinking classes of service, DOT needs a new strategy when it comes to foot space accommodations

² The Air Carrier Access Act (ACAA) is codified at 9 USC §41705.
<https://www.gpo.gov/fdsys/pkg/USCODE-2011-title49/html/USCODE-2011-title49-subtitleVII-partA-subpartii-chap417-subchapl-sec41705.htm>

§3.d. *The US Access Board models a wise approach that would suit modern foot space variations*

§3.e. *Basic Economy fares avoidably discriminate*

§4. *Whether the species of service animals and emotional support animals that airlines are required to transport should be limited (p. 25)*

§4.a. *Our compromise is that service animals should only be dogs, with limited access for miniature horses and capuchin monkeys, while ESAs should only be dogs, cats, and rabbits*

§4.b. *Household birds should be excluded as ESAs*

§5. *Whether the number of service animals/emotional support animals should be limited per passenger (p. 31)*

§5.a. *A principled approach guides our reasoning about limiting the number of service animals and ESAs per passenger*

§5.b. *Per passenger, no more than three service animals, two ESAs, or two total of a combination should be allowed*

§5.c. *It is reasonable for airlines to require special notification from those traveling with multiple disability-mitigating animals*

§6. *Whether an attestation should be required from all service animal and emotional support animal users that their animal has been trained to behave in a public setting (p. 33)*

§6.a. *A decision tree should be required, not an attestation*

§6.b. *There should be reasoned differences between service animal and ESA decision tree confirmations regarding training and its consequents*

§6.c. *A decision tree is the right shared cost to increase safety*

§6.d. *A decision tree should be completed before flying*

§6.e. *Decision tree profile retention can ease the burden*

§6.f. *The decision tree should apply to all users of disability-mitigating animals*

§7. *Whether service animals and emotional support animals should be harnessed, leashed, or otherwise tethered (p. 42)*

§7.a. *A tethering policy is appropriate*

§7.b. *We have a specific recommendation based on a study of DOJ's requirement plus context*

§8. *Whether there are safety concerns with transporting large service*

animals and if so, how to address them (p. 44)

§8.a. A pet carrier restriction would limit ESA size

§8.b. Occasional passenger grumbling doesn't warrant access reduction for service animal users based on animal size

§8.c. The existing seating protocol provides access and is reasonable, if deployed properly

§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 (p. 48)

§9.a. Airlines should not have license to idiosyncratically create access system barriers in an open-ended way

§9.b. Third-party documentation requirements are wrong, even if not a large burden

§9.c. Third-party documentation requirements are a large burden

§9.d. There is insufficient evidence from airlines that veterinary documentation should be required

§9.e. Veterinary documentation requirements would not solve any significant problem

§10. Whether U.S. airlines should continue to be held responsible if a passenger traveling under the U.S. carrier's code is only allowed to travel with a service dog on a flight operated by its foreign code share partner (p. 65)

§10.a. Code-share flights are a US-foreign partnership

§10.b. Regulations should not vary wildly from the enforcement reality

§10.c. Warnings should be in place if US airlines are not held responsible for a code-share partner not transporting non-canine service animals

§10.d. Clarification of regulations would remove code-share responsibility ambiguity

Introduction

DOT must adopt some guiding principles to avoid being buffeted about in a storm of omnidirectional comments.³ This rulemaking should not be a rush

³ Respectfully, the spinning weathervane approach in the ANPRM makes us believe this discussion of

of wild sailings between Scylla and Charybdis, but a looking upward to calmly chart a long-term passage based on lodestars that will keep the journey steadily on course.

Working from such lodestar principles enables consistent, justified, and transparent reasoning.⁴ Making them explicit here allows us to make our reasoning clear, whether for outside critique or agreement. The initial axioms are simple:

AXIOM I—Disability access

The prime directive of the ACAA is to prevent disability-based discrimination and enable access for people with disabilities.⁵

AXIOM II—Safety

Airline employees, passengers, and animals must be kept safe.

AXIOM III—Practicality

We are beholden to practical limitations and opportunities revealed by consideration of actual and realistically possible travel logistics, human psychology, and animal behavior.

Evidence, experience, and expertise matter.

Some helpful theorems fall out of these axioms and the evidence at hand.

THEOREM A—Disability-type discrimination

A party can't discriminate on the basis of disability type without violating the prime directive.⁶

guiding principles is necessary for facilitating a rulemaking that has staying power. We do realize DOT has a difficult task in non-judgmentally presenting complicated issues.

⁴ We originated the foundation of this principle-based analysis in Brad Morris's "Design Challenges and Solutions for Service Animal Access under the ACAA: A Justificatory Guide for Regulators and Stakeholders", as amended in early March 2016. <https://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/aca-a-design-challenges-solutions>

⁵ This derives from 9 USC §41705 (linked first below). See §§1., 3.a., and 3.b. of USAUSA's 2018 survey report for details.

<https://www.gpo.gov/fdsys/pkg/USCODE-2011-title49/html/USCODE-2011-title49-subtitleVII-partA-subpartii-chap417-subchapl-sec41705.htm>

<https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

⁶ The current regulations clearly do violate the prime directive of AXIOM I—Disability access. See §§1 and A3 of Brad Morris's "Design Challenges and Solutions for Service Animal Access under the ACAA: A Justificatory Guide for Regulators and Stakeholders", as amended in early March 2016, as well as §§1.c., 2., 3.a., 3.b., and 5.a. of USAUSA's 2018 survey report.

<https://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/aca-a-design-challenges-solutions>

<https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

THEOREM B—Insufficiency of anecdotes

A party can't use sensationalized anecdotes of safety failures to systematically violate the prime directive.⁷

THEOREM C—New access system needed

Some system of reducing ignorance and increasing responsibility is in order.⁸

THEOREM D—Third-party paperwork undue

Third-party documentation requirements induce undue burdens that violate human rights and reduce access.⁹

Many more theorems may be derived from these axioms and theorems. However, these set the stage for us to proceed to the specifics of DOT's ANPRM inquiries, following DOT's tracking of the issues.

§1. Whether psychiatric service animals should be treated similar to other service animals

[Report-May-2018.pdf](#)

⁷ The old and new third-party paperwork burdens DOT is allowing from airlines are not backed by significant evidence, yet violate the prime directive. See §§1. and 6. of our enforcement priorities comment and the footnote at the end of §9.d. below. <https://www.psychdogpartners.org/wp-content/uploads/2018/06/PSDP-Enforcement-Priorities-Comment-June-2018.pdf>

⁸ See any of the documents from the airlines during the Reg Neg, USAUSA's 2016 compromise comment, and USAUSA's 2018 survey report, wherein USAUSA uncovered an extremely high level of worry about the safety of their disability-mitigating animals.

<https://www.transportation.gov/access-advisory-committee>

<https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

<https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

⁹ See §§1 and A3 of Brad Morris's "Design Challenges and Solutions for Service Animal Access under the ACAA: A Justificatory Guide for Regulators and Stakeholders", as amended in early March 2016. See especially USAUSA's 2016 survey report and 2018 survey report, but also §6 of our 2018 enforcement priorities comment.

<https://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/acaad-design-challenges-solutions>

<https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>

<https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

<https://www.psychdogpartners.org/wp-content/uploads/2018/06/PSDP-Enforcement-Priorities-Comment-June-2018.pdf>

§1.a. *Disability profiling is just as wrong as racial profiling*

DOT asks: "Should the DOT amend its service animal regulation so psychiatric service animals are treated the same as other service animals?"¹⁰

We understand this question as: 'Should DOT continue to encourage discrimination on the basis of disability type?'

We could never fully convey the force with which our community says "No".¹¹ We were puzzled toward the end of the Reg Neg,¹² when all stakeholder representatives had agreed we could do away with this point of discrimination, that DOT still appeared to treat it as a contentious issue.¹³

The discrimination was not originally justified, nor could it now be justified.¹⁴ This falls out of the axioms in our Introduction as the first theorem:¹⁵

THEOREM A—Disability-type discrimination

A party can't discriminate on the basis of disability type without violating the prime directive.

DOT's justification for specifically burdening users of psychiatric service animals (and ESAs)¹⁶ is that it's the overall category in which people committed the most fraud.¹⁷ Airlines gave no hard data that supports this claim, but prejudice and anecdotes were enough to begin a whack-a-mole attack with more civilian casualties than combatant.

Disability rights are supposed to be civil rights. If this were about race instead of disability, we could more clearly see how wrong the discrimination is. If TSA were more suspicious of darker-skinned people of color, that could not justify policies that put more burdens on all darker-

¹⁰ From the ANPRM. <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

¹¹ Over 95% say this discrimination is flatly unacceptable. See §5.a. of our 2018 survey report. <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

¹² "Reg Neg" refers to the Negotiated Rulemaking process conducted by DOT among stakeholder representatives known as the Advisory Committee on Accessible Air Transportation (ACCESS Advisory Committee), concluding in 2016. Our Director of Government Relations, Brad Morris, served on that committee and as a co-chair of its Service Animal Working Group. <https://www.transportation.gov/access-advisory-committee>

¹³ This was actually the clearest point of agreement among the multiple Reg Neg service animal issues on which there was widespread agreement.

¹⁴ See §§1. and 3. of our 2018 survey report. <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

¹⁵ As a reminder: AXIOM I—Disability access. The prime directive of the ACAA is to prevent disability-based discrimination and enable access for people with disabilities.

¹⁶ ESA stands for "emotional support animal".

¹⁷ "This provision was adopted to address the problem of passengers attempting to pass their pets as ESAs or PSAs so they can travel for free in the aircraft cabin." ANPRM.

skinned people of color.¹⁸ Yet if airlines were more suspicious of people with mental health disabilities, it was deemed okay to treat them worse than people with other types of disabilities.

§1.b. *Anecdotes do not and may not justify disability pro filing*

Psychiatric service animal users should not be made to suffer, singled out because of anecdotes of suspected fraud reinforced by stigma. An individual from a marginalized class of people should not be punished by nominally anti-discrimination laws as a result of others' purported fraud or sensationalized antics. Regulations must draw lines only based on relevant characteristics in a manner that does not promote substantial discrimination.¹⁹

DOT's next question in the ANPRM indicates that perhaps DOT still thinks more data (anecdotal or otherwise) could justify discrimination on the basis of disability type.²⁰

*What, if any, experience do airlines have with people attempting to bring pets on board aircraft based on claims that the animals are service animals for disabilities that are not readily apparent other than mental health-related conditions, such as seizure disorders or diabetes?*²¹

We will be perfectly clear: **No** amount of data can justify DOT encouraging airlines to discriminate on the basis of disability type.²² That would constitute a basic failure in carrying out the ACAA. ***Disability pro filing is just as unacceptable as racial pro filing.***

DOT next inquires as follows:

Should DOT harmonize its service animal regulation under the ACAA with DOJ's ADA service animal regulation and prohibit airlines from requiring PSA users to provide a letter from a licensed mental health professional as a condition for travel? If airlines are no longer allowed to require medical documentation from PSA users, what effective alternative methods are there to prevent fraud? For example, if there is no medical

¹⁸ See Brad Morris's February 2018 article, "Potential PR nightmare: how airlines choose to discriminate". <https://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/pr-nightmare-airlines-choose>

¹⁹ Note that ESAs' lack of training and exposure/experience is a relevant factor.

²⁰ Readers using screenreader software should note that longer quotations in this document are indented and italicized, but do not have external quotation marks.

²¹ <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

²² THEOREM B Insufficiency of anecdotes. A party can't use sensationalized anecdotes of safety failures to systematically violate the prime directive.

*documentation requirement for PSAs but such a requirement remains for ESAs, what would prevent individuals from asserting that their ESA is a PSA? How would airline personnel be able to distinguish between a PSA and an ESA? We invite the public, particularly service animal users, to propose methods of detecting and preventing fraud that they believe are feasible alternatives to the current medical documentation requirements for PSAs. The Department notes that the ACAA is a specialized statute that applies to an environment where many people are confined within a limited space for what may be a prolonged time. Is that sufficient reason for DOT's treatment of PSAs under its ACAA regulation to differ from that of DOJ under its ADA regulation? What are the practical implications of no longer allowing airlines to require medical documentation from PSA users?*²³

In manifesting the ACAA, DOT should first be concerned with access for people with disabilities. Preventing fraud is **not** the ACAA's prime directive, and our community agrees.²⁴

DOT has scant evidence of actual fraud, yet seems consumed with rhino-stamping such hearsay fires²⁵—even at great cost to people with disabilities.²⁶ We are inclined to think that what is at least as problematic is ignorance of the expectations of the rights and responsibilities that attach to claiming one's animal is a service animal or ESA.

§1.c. A decision tree should be used instead of third-party documentation

We agree with DOT that the flight environment is peculiarly challenging for animals.²⁷ We believe the ignorance and safety issues alone justify an access system that differs from DOJ's Title II and Title III ADA regulations,

²³ <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

²⁴ Over 4 out of 5 community members agree. See §5.a. of our 2018 survey report. <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

²⁵ Rhino-stamping fires is another example of an activity some people believe is pervasive, yet the claim does not have the weight of evidence behind it.

²⁶ See our 2016 and 2018 survey reports.

<https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>

<https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

²⁷ See §1 of Brad Morris's "Design Challenges and Solutions for Service Animal Access under the ACAA: A Justificatory Guide for Regulators and Stakeholders", as amended in early March 2016. <https://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/acaa-design-challenges-solutions>

but not with respect to those regulations' respect for human rights.

We continue to advocate for our position expressed in USAUSA's 2016 compromise comment. No third-party documentation should be required,²⁸ but a decision tree (not DOT's attestation)²⁹ should be in place.³⁰ Such a system should not inquire about the nature of the person's disability, nor should it use mere labels, as opposed to options of applicable descriptions users may select.

§1.d. Third-party documentation requirements don't even do their job but do cause big problems, creating an untenable access inequality

DOT next asks about USAUSA's 2016 survey report:

*Do you agree with the data in this report? Explain the basis of your agreement or disagreement. Do the costs to users of PSAs of providing medical documentation outweigh the benefits to airlines of requiring such documentation?*³¹

DOT, through Econometrica, requested the information in the report with a turnaround of five days. If DOT believes the data we and our USAUSA partners procured via 56 responses in that time are questionable, we reiterate our offer to provide DOT with access to the original format of the survey responses.³² All of the data is replicated in the survey report itself.³³

As to whether the costs to psychiatric service animal users outweigh benefits to airlines, the 2016 survey report makes these costs clear.³⁴ Most perspicuously, the result is that "Over three out of four people surveyed have either not flown or have flown less because of these factors."

When the purpose of the ACAA is to enable flight access for people with

²⁸ THEOREM D Third-party paperwork undue. Third-party documentation requirements induce undue burdens that violate human rights and reduce access.

²⁹ The distinction is important. In USAUSA's 2016 compromise comment, see §5. Decision tree vs. attestation, which explains why "DOT, advocates, and airlines each have independently sufficient reasons to prefer a decision tree over an attestation." <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

³⁰ THEOREM C New access system needed. Some system of reducing ignorance and increasing responsibility is in order.

³¹ <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

³² See §5. of the 2016 survey report: "At the request of DOT or Econometrica, we are happy to set up direct access to the raw data separately from this report." <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>

³³ We do realize that DOT may be requesting that individuals explain whether their personal experiences line up with the data, which would be more data points, rather than "agreement or disagreement" with the existing data. We caution against cherry-picking personal comments, rather than systematic analysis.

³⁴ USAUSA's 2018 survey report hits this home even harder. <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

disabilities, how can a system that so grossly disables access even be offset?³⁵

Further, we ask what benefits do airlines actually credit to the current system? It seems airlines have been complaining for years about how the third-party documentation requirements do not work. Our experience from the Reg Neg is that practically all stakeholders think the current system is broken.³⁶

So it seems the answer is clear from both perspectives. The current burdens are ineffectual at their purpose, so any benefit is easily offset by their costs. The costs are both massive and contrary to the ACAA's prime directive, and so cannot reasonably be offset by any benefit.³⁷

§1.e. A little advance notice serves a purpose under the shade of a decision tree

Finally for this topic, DOT inquires:

*If the Department were no longer to allow airlines to require medical documentation from a PSA user, should the 48 hours' advance notice requirement be eliminated? We solicit comment on whether there is any reason to retain the advance notice requirement for PSAs if there is no longer a documentation requirement for PSAs. Also, what has been the impact of the 48 hours' notice requirement on individuals with psychiatric service animals?*³⁸

DOT adds: "To enable airlines sufficient time to assess the passenger's documentation, DOT permits airlines to require 48 hours' advance notice of a passenger's wish to travel with an ESA or PSA."³⁹

We surmise that if there were *no* documentation required (not even through a decision tree), requiring 48 hours' advance notice would be a vestige of discrimination. It would serve little useful purpose to justify itself.

However, there is reason for encouraging individuals to meet a reasonably

³⁵ See our 2018 enforcement priorities comment, §6.a. (Burdens must first meet the burden of proof). <https://www.psychdogpartners.org/wp-content/uploads/2018/06/PSDP-Enforcement-Priorities-Comment-June-2018.pdf>

³⁶ THEOREM C New access system needed. Some system of reducing ignorance and increasing responsibility is in order.

³⁷ AXIOM I Disability access. The prime directive of the ACAA is to prevent disability-based discrimination and enable access for people with disabilities.

³⁸ <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

³⁹ <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

loose requirement of advance notice through a decision tree.⁴⁰

§2. Whether there should be a distinction between emotional support animals and other service animals

§2.a. Training, experience, and more justify separating the "ESA" category from "service animal"

DOT inquires about separating ESAs from service animals:

*The Department seeks comment on whether the amended definition of a service animal should include emotional support animals. Alternatively, the Department seeks comment on whether emotional support animals should be regulated separately and distinctly from service animals?*⁴¹

ESAs should not be included in the amended "service animal" definition, but should be defined and treated differently.⁴²

DOT is the only federal regulatory agency to include ESAs under a "service animal" definition.⁴³ This is a significant cause of confusion.

Adding to the confusion is that in the past⁴⁴ and the present⁴⁵ DOT has expected ESAs to be trained to behave in public. We do not think this expectation can be based on anything more than wishful thinking. It usually takes 1–3 years of purposeful training and exposures for (DOJ) service

⁴⁰ See USAUSA's 2016 compromise comment, §4. (Decision tree/attestation timing and method of delivery) and §6. (Decision tree profile retention).

⁴¹ From the ANPRM. <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

⁴² We advise that the ESA definition (and possibly the name itself) not restrict ESAs to those with mental health disabilities. As HUD recognizes, ESAs may be used for other types of disabilities, such as for lowering blood pressure in someone with severe hypertension. See §4 below for a non-restrictive ESA definition. We use the term "ESA" merely for convenience (rather than "support animal", for instance). See the paragraph linked after this sentence in HUD's 2008 "Pet Ownership for the Elderly and Persons With Disabilities" for pain relief as an example of disability mitigation an ESA can provide (the scope of the guidance—HUD-assisted housing—is irrelevant to the point).
<https://www.federalregister.gov/d/E8-25474/p-25>

⁴³ HUD-ESAs are included with service animals under the umbrella of "assistance animals", a different term that thereby makes the situation less confusing. See p. 2 of HUD's 2013 guidance.
https://www.hud.gov/sites/documents/SERVANIMALS_NTCFHEO2013-01.PDF

⁴⁴ See DOT's 2008 guidance, "Nondiscrimination on the Basis of Disability in Air Travel". The following links to the paragraph therein that expresses DOT's expectation.
<https://www.federalregister.gov/documents/2008/05/13/08-1228/nondiscrimination-on-the-basis-of-disability-in-air-travel#p-208>

⁴⁵ "ESAs and PSAs differ from one another in that PSAs, like other traditional service animals, are trained to perform a specific task for a passenger with a disability. In contrast, ESAs provide emotional support for a passenger with a mental/emotional disability but are not trained to perform specific tasks. However, DOT expects that all service animals are trained to behave properly in a public setting." From the ANPRM. <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

animals to reach the level of being able to behave in stressful, no-pets places with extremely high reliability. ESA users are not likely to be aware of DOT's expectation, to be familiar with public access training protocols, to understand the need for or intent of this training, or to be motivated to engage in such intense training.⁴⁶

While DOT should certainly not discriminate based on disability type (such as by treating psychiatric service animal users differently from other service animal users), a difference in the type/training of the assistive device does warrant different treatment (such as by treating service animal users differently from ESA users).⁴⁷ This is analogous to having different requirements for power wheelchair users based on whether their chairs' batteries are spillable or non-spillable.

It is noteworthy that DOT (along with DOJ) already recognizes that there is a significant difference between ESAs and service animals in terms of whether they are trained or not to do disability-mitigating work or tasks.⁴⁸ DOT even recognizes there are practical implications for the differences in training, allowing airlines to create interim restrictions on ESA use.⁴⁹ For DOJ, this training difference is sufficient not to grant ESAs access to the places of public accommodation under its purview, though DOJ indifferently notes that housing and transportation contexts may warrant different treatment.⁵⁰

⁴⁶ We must write in generalities. Of course, many psychiatric service animals were first ESAs (before their training). The ESA users would have to familiarize themselves with the distinct and rigorous training associated with service animals to make the transition. The great majority of ESA users would not have this crossover understanding. For more information on this (noting that our position on allowing ESAs was later modified through Reg Neg discussions), see §§6 and 7 of Brad Morris's "Design Challenges and Solutions for Service Animal Access under the ACAA: A Justificatory Guide for Regulators and Stakeholders", as amended in early March 2016. <https://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/aca-a-design-challenges-solutions>

⁴⁷ See Brad Morris's "Design Challenges and Solutions for Service Animal Access under the ACAA: A Justificatory Guide for Regulators and Stakeholders", as amended in early March 2016. <https://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/aca-a-design-challenges-solutions>

⁴⁸ Again, "ESAs and PSAs differ from one another in that PSAs, like other traditional service animals, are trained to perform a specific task for a passenger with a disability. In contrast, ESAs provide emotional support for a passenger with a mental/emotional disability but are not trained to perform specific tasks." From the ANPRM. <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

⁴⁹ "We recognize the possibility that ESAs may pose greater in-cabin safety risks because they may not have undergone the same level of training as other service animals (including PSAs). Accordingly, at this time, the Enforcement Office will not take action against carriers that impose reasonable restrictions on the movement of ESAs in the cabin so long as the reason for the restriction is concern for the safety of other passengers and crew. Such restrictions may include requiring, where appropriate for the animal's size, that the animal be placed in a pet carrier, the animal stay on the floor at the passenger's feet, or requiring the animal to be on a leash or tether." From DOT's 2018 "Statement of Interim Enforcement Priorities Regarding Service Animals". <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0019>

⁵⁰ See "Recognition of psychiatric service animals, but not "emotional support animals." within DOJ's 2010 "Appendix A to Part 36—Guidance on Revisions to ADA Regulation on Nondiscrimination on the Basis of Disability by Public Accommodations and Commercial Facilities". <https://www.ecfr.gov/cgi->

§2.b. Trying to burden-stack with third-party documentation misses the point of the ACAA

DOT nexts inquires about a cluster of related ESA subjects:

If yes, should DOT allow airlines to require ESA users to provide a letter from a licensed mental health professional stating that the passenger is under his or her care for the condition requiring the ESA and specifying that the passenger needs the animal for an accommodation in air travel or at the passenger's destination? Would such a documentation requirement be stringent enough to prevent individuals who do not have disabilities from skirting the rules by falsely claiming that their pets are ESAs? Suggestions are welcome on approaches to minimize the use of letters from licensed mental health professionals that enable passengers without disabilities to evade airline policies on pets. Are there other types of documents or proof that could be required for carriage of ESAs in the passenger cabin that would be just as effective? Is advance notice of a passenger's intent to travel with an ESA needed to provide the airline time to review documents or other proof? If the documentation needed to fly with an ESA is rigid, would ESA users be less likely to fly and choose other modes of transportation? The Department seeks comment on the practical implications of these options.⁵¹

If we are to be perfectly frank, DOT's perspective is askew in this line of questioning. We believe that requiring people with disabilities to take much time and burdensome expense to acquire third-party documentation to travel, when non-disabled folks do not have to do so, is unacceptably discriminatory.^{52,53,54}

[bin/retrieveECFR?
gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&n=28y1.0.1.1.37&r=PART#ap28.1.3
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51 <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

⁵² See USAUSA's 2016 and 2018 survey reports for details on the burdens, etc.

<https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>

<https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

⁵³ For more on how it is inappropriate to use the medical model of disability to create civil rights laws, see §7 of USAUSA's 2016 compromise comment. <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

54 To understand when an airline might be justified in asking for third-party documentation, see §9 of USAUSA's 2016 compromise comment. <https://www.psychdogpartners.org/wp->

In particular, this question from DOT haunts us: "Would such a documentation requirement be stringent enough to prevent individuals who do not have disabilities from skirting the rules by falsely claiming that their pets are ESAs?"

The point of the ACAA is not to crush all parties—including people with disabilities—under the weight of "stringent" requirements. The ACAA is supposed to enable access for people with disabilities.⁵⁵

DOT must face reality and accept that there will be some level of fraud no matter what. Is DOT's goal to completely eliminate fraud? This would be pure fantasy. Instead, is DOT's goal to facilitate access for people with disabilities in a safe way, while secondarily reducing fraud in ways that do not significantly impede access? This would not only be more reasonable, but would follow the ACAA that DOT is charged to implement.⁵⁶

Instead of burden-stacking to chase the intractable problem of fraud, we advise DOT to hone in on the amenable problem of ignorance by facilitating the use of a decision tree.⁵⁷

§3. Whether emotional support animals should be required to travel in pet carriers for the duration of the flight

§3.a. Pet carriers are appropriate by default for ESAs, but implementation is key

Our overall position is that ESAs should be required to travel in pet carriers,⁵⁸ yet they must be allowed to be tethered and removed from those

[content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf](https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf)

⁵⁵ AXIOM I Disability access. The prime directive of the ACAA is to prevent disability-based discrimination and enable access for people with disabilities.

⁵⁶ We have explained this in more detail elsewhere. See especially §§1. and 3. of USAUSA's 2018 survey report and §§1. and 6. of our 2018 enforcement priorities comment.

<https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

<https://www.psychdogpartners.org/wp-content/uploads/2018/06/PSDP-Enforcement-Priorities-Comment-June-2018.pdf>

⁵⁷ See §§4–6 and especially §8 of USAUSA's 2016 compromise comment.

<https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

⁵⁸ We assume this entire discussion is only about FAA-approved pet carriers that—at least in the past—normally would fit under a seat. 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

carriers during the flight for disability mitigation—the point of having an ESA. If there is a behavior issue, ESA users may be required to replace the animal in the pet carrier for the remainder of the flight or journey.

We address the main points of the ESA containment issue in §7 of our 2018 enforcement priorities comment.⁵⁹ We excerpt that section here for ease of reference and to help DOT understand the angles to consider. Note that comments about the interim not providing enough time for a major change are null for future regulations that would offer a 2–4 year adjustment period for restrictions.

In order to maintain ESA access in some form,⁶⁰ we originated the idea during the Reg Neg of allowing airlines to require that ESAs be contained in pet carriers by default.⁶¹ We remain supportive of this overall idea for a regulation update.⁶² However, the practical difficulties of actually implementing this under the current regulations would be too severe to make this a responsible allowance for the interim.

We are grateful DOT now recognizes there is a significant difference between ESAs and psychiatric service animals, as well as understanding some of the nature and consequences of that difference.⁶³ On the other hand, airline personnel at all ranks still tend not to distinguish ESAs from psychiatric service animals, as most airlines' treatment of the two groups has followed current regulations and been the same.⁶⁴ Airlines have therefore had no impetus to disentangle the two concepts and it would require extensive training to expect accurately different handling.

⁵⁹ <https://www.psychdogpartners.org/wp-content/uploads/2018/06/PSDP-Enforcement-Priorities-Comment-June-2018.pdf>

⁶⁰ Much of our community would just as soon see ESA access eliminated, but we pursued and continue to pursue the most reasonable compromise we could.

⁶¹ We *very highly recommend* DOT revisit §2, ESA 1 in "Service Animal Advocate Positions and Reasoning" from September 15, 2016. We took pains there to lay out what would work, what wouldn't, and why. <https://www.transportation.gov/office-general-counsel/negotiated-regulations/service-animals---advocate-position-and-reasoning>

⁶² See §3.d. in our 2018 survey report. <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

⁶³ "We recognize the possibility that ESAs may pose greater in-cabin safety risks because they may not have undergone the same level of training as other service animals (including PSAs)." <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0019> We elaborate that service animals undergo work or task training, public access training, and are generally quite accustomed to working in a variety of public environments and so have accrued substantial psychological shock absorbers. Any one of these characteristics would be unexpected in the average ESA.

⁶⁴ Southwest is a notable exception. See their "Assistance Animal" entry, which does not currently distinguish psychiatric service animals from any other type of service animal: <https://www.southwest.com/html/customer-service/unique-travel-needs/customers-with-disabilities-pol.html>

Suddenly allowing more restrictive policies for ESA users will lead to trouble not just for the fact that airline employees likely will continue to conflate ESAs and psychiatric service animals, nor only for ESA users needing to adjust to even more restrictions. Similar to how airline employees now try to subject service animal users of the non-psychiatric sort to ESA-user treatment, we would also expect any new, harsher ESA barriers to bleed through to affect all service animal users.⁶⁵ This especially applies to any service animal user without a disability apparent to the employee or without an animal or breed that matches the employee's prototypical concept of a service animal. The patchwork of airline variations the planned enforcement would open up would further confuse matters on the larger scale.

Since it is clear the sudden ban of larger ESAs would not be appropriate without the usual rulemaking process,⁶⁶ an interim change in whether airlines may require pet carriers for smaller ESAs must be a half-measure. We worry that allowing such a half-hearted set of new restrictions would cloud everyone's thinking and the restrictions' execution.

There is not a clear reason why smaller ESAs must be contained, yet larger ESAs need not be. In fact, if training and safety are the reasons to allow ESA containment requirements, one might easily think larger ESAs would present the larger threat. Since the reasoning is not consistent, we would expect airline employees to (justifiably) become confused, thinking that if an ESA does not come with a carrier or can't fit in one, then the person can't fly with the ESA.⁶⁷ Connecting with the theme above, some employees might even extend this confusion broadly to all service animals.⁶⁸

⁶⁵ We have already received anecdotal reports of the new burdens for ESA and psychiatric service animal users being pushed on guide dog users, just as the old requirements have been. The system cannot handle complexity well.

⁶⁶ If DOT were to allow an indirect restriction on ESA size by allowing a requirement that ESAs be transported in pet carriers, the larger-ESA users would deserve a warning period on the order of 2–4 years. This would allow time to either train the ESA to become a service animal and have access, get a smaller ESA, or decide not to use an ESA. ESA users could not be expected to suddenly acquire a new animal as an ESA, as if they were commodities rather than living creatures with personal bonds.

⁶⁷ As we originally quipped during the Reg Neg, "can't fit, can't fly". See §2, ESA 1, p. 8: https://www.transportation.gov/sites/dot.gov/files/docs/P5.SA_1.Advocate%20Positions%20and%20Reasoning%20091516%20%28003%29.pdf

⁶⁸ Anyone who doubts the depth of confusion or breadth of ignorance possible should read SIEP comments such as one posted May 22, 2018: "Service Animals shall be permitted exclusively for Blind and Deaf Airline travelers.[...]Service Animals shall be restricted to dogs of eight pounds or less." <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0017>

We must finally return to another point we made during the Reg Neg. It is not likely that the point of an ESA—one that is needed for disability mitigation on a flight—is going to be served if that ESA must remain in a pet carrier.⁶⁹ If there were a wholesale restriction to pet carriers for ESAs, as we have proposed, it would be fine for the default to be that ESAs are in pet carriers. However, the user must have access to the ESA on the flight for disability mitigation. This, of course, may give way to being required to replace the ESA in the carrier if there were a behavior issue.

A requirement that ESAs be persistently imprisoned is tantamount to giving small-ESA users mere pet fee exemptions for having disabilities, rather than access to the means to cope with their disabilities. This is quite disparate treatment from that of larger-ESA users. DOT should reconsider the wisdom of allowing ESA containment restrictions in a way such that they will unjustifiably favor some ESA users over others. Regarding the whole ESA containment issue, the meal must be fully cooked to be both safe and palatable; half-measures or half-baking won't do, but that's all the interim leaves time for.⁷⁰

§3.b. Airports' current ESA pet carrier restrictions would be especially reasonable under a similar ACAA restriction

DOT further writes:

[...]because the ADA does not require airports to recognize or allow ESAs as service animals, some airports are requiring that emotional support animals be contained in a pet carrier when traversing through areas of the airport not owned, leased, or controlled by airlines. Considering these concerns, the Department seeks comment on when, if at all, should emotional support animals be contained in a pet carrier.⁷¹

Since Title III ADA regulations⁷² (and often Section 504 of the Rehabilitation

⁶⁹ Again, DOT should revisit §2, ESA 1 in "Service Animal Advocate Positions and Reasoning" from September 15, 2016. <https://www.transportation.gov/office-general-counsel/negotiated-regulations/service-animals---advocate-position-and-reasoning>

⁷⁰ <https://www.psychdogpartners.org/wp-content/uploads/2018/06/PSDP-Enforcement-Priorities-Comment-June-2018.pdf>

⁷¹ <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

⁷² See 28 CFR §36.102. https://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_1102

Act)⁷³ apply to the places DOT describes above, yet ACAA regulations do not, the most DOT could do is recommend a *be reasonable* approach.⁷⁴ DOJ had reasons for not offering public access to ESAs under normal circumstances (in or out of pet carriers).⁷⁵

While the facilities DOT mentions are jumping the gun somewhat, their ESA containment policies would seem perfectly reasonable—and even preferable—in a new context wherein DOT's ACAA regulations require ESA containment by default. Under such new regulations, it would be easier to produce harmony between DOJ and DOT rules at their on-the-ground nexus. It would be easier for airports to *be reasonable* through ESA containment policies if they were syncopated with DOT regulations.

§3.c. In light of shrinking classes of service, DOT needs a new strategy when it comes to foot space accommodations

DOT advises that:

Commenters should also consider that recent changes to aircraft configuration and seating, e.g., economy seating vs. seating with extra leg room, means that there may be limitations with respect to containment requirements given the availability of passenger foot space.⁷⁶

DOT's existing ACAA regulations appear to have been developed under assumptions that (1) airplane passenger seat and under-seat areas would remain roughly the same size as they were in the past, and (2) airlines would not significantly alter the "class of service" structure in ways that would make traveling with a disability require a more expensive class of

⁷³ Airports tend to receive federal funding, making them subject to the general nondiscrimination provision of the Rehab Act. One might argue that this general nondiscrimination provision renders ESA pet carrier restrictions in airports unreasonable when DOT does not have such a restriction. For the law's applicability, see the act codified at 29 USC §794. <https://www.gpo.gov/fdsys/pkg/USCODE-2010-title29/html/USCODE-2010-title29-chap16-subchapV-sec794.htm>

⁷⁴ In DOT's 2008 guidance, DOT has a paragraph on this very issue, advising that approach. The paragraph's direct link is: <https://www.federalregister.gov/d/08-1228/p-209>

⁷⁵ See “*Recognition of psychiatric service animals, but not “emotional support animals.”*” within DOJ's 2010 “Appendix A to Part 36—Guidance on Revisions to ADA Regulation on Nondiscrimination on the Basis of Disability by Public Accommodations and Commercial Facilities”. [https://www.ecfr.gov/cgi-bin/retrieveECFR?
gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&n=28y1.0.1.1.37&r=PART#ap28.1.3
6.0000_0nbspnbspnbspnbsp.a](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&n=28y1.0.1.1.37&r=PART#ap28.1.36.0000_0nbspnbspnbspnbsp.a)

76 <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

service.^{77,78} These were not unreasonable assumptions, but as DOT now notes (just above), times are changing and many accommodations are shrinking.

DOT must prioritize at this historical fork. Airlines no longer just divide the cabin into first-class, economy, and sometimes business class. They are chopping classes of service more finely and perhaps idiosyncratically.⁷⁹ In executing the ACAA in this climate, DOT has to determine whether airlines need to make disability accommodation the priority, or whether they can rig the system in a way that makes people with disabilities pay more to have the basic, necessary accommodations that were the baseline of yesteryear.

Canada adopted a different model that prioritizes disability accommodation when it comes to seating space. If a single seat in the passenger's class of service does not have the floor space to accommodate the passenger's service animal, a second, adjacent seat and its space are provided at no charge.⁸⁰

This approach may be extreme. In our experience, there are always willing

⁷⁷ The assumption of 14 CFR §382.87(f) seems to be that there is sufficient space to accommodate the great majority of individuals with disabilities in a single seat within any class of service: "You are not required to furnish more than one seat per ticket or to provide a seat in a class of service other than the one the passenger has purchased in order to provide an accommodation required by this part." https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=16ca0a3ca83c9837961ced25b5f7e49f&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_187

⁷⁸ Similarly, 14 CFR §382.81(c) and (d) (combined with 14 CFR §382.87(f)) assume that a variety of seat types will be available to accommodate passengers with disabilities within any given class of service:

"(c) For a passenger with a disability traveling with a service animal, you must provide, as the passenger requests, either a bulkhead seat or a seat other than a bulkhead seat.

"(d) For a passenger with a fused or immobilized leg, you must provide a bulkhead seat or other seat that provides greater legroom than other seats, on the side of an aisle that better accommodates the individual's disability."

https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=16ca0a3ca83c9837961ced25b5f7e49f&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_181

⁷⁹ For one of many examples, see Frontier's "Standard Seating" vs. "Stretch Seating". <https://www.flyfrontier.com/travel-information/seating-options>

⁸⁰ See §1.5 of the Canadian Transportation Agency's "Aircraft Accessibility for Persons with Disabilities: Code of Practice for Fixed-Wing Aircraft with 30 or More Passenger Seats", but especially the "Implementation Guide Regarding Space for Service Dogs Onboard Large Aircraft" that accompanies it, respectively linked below. At the Reg Neg, we were told by a Canadian airline representative that as a practical matter they must prioritize carriage of the passenger with the service animal, such that another individual may be forced to take a later flight if they discover after fully booking that the service animal user needs the extra seat space.

<https://otc-cta.gc.ca/eng/publication/aircraft-accessibility-persons-disabilities-code-practice-fixed-wing-aircraft-30-or-more>

<https://otc-cta.gc.ca/eng/publication/implementation-guide-regarding-space-service-dogs-onboard-large-aircraft>

volunteers to share foot space with a service animal, if only the flight crew asks. However, the spirit of the Canadian approach is apposite.

§3.d. *The US Access Board models a wise approach that would suit modern foot space variations*

Space for an ESA pet carrier is unlike space for an uncontained service animal, since service animals can conform to different spaces and a pet carrier is less malleable. The approach we recommend is one that applies equally to service animals and ESA pet carriers. We recommend an approach analogous to that of the US Access Board with respect to accessible hotel rooms (bold emphasis added):

*Accessible sleeping rooms and suites must be dispersed among the various classes of sleeping accommodations available according to factors such as room size, cost, amenities provided, and the number of beds provided. The objective of dispersion is to give people with disabilities the same range of options that others have in staying at a place of lodging. However, where the different classes or types of sleeping accommodations is greater than the minimum number of rooms required to be accessible by the table, this does not mandate an increase in the number of accessible rooms that must be provided. In this case, **operational practices may compensate. For example, if a person requests an accessible room with one bed, but the only accessible room is one with two beds (usually let at a higher rate), leasing the larger room at the lower rate can satisfy the requirement for a choice of room prices.***⁸¹

The Access Board guidance is intended to allow hotels to satisfy the requirement of having a certain number of accessible rooms while preventing such hotels from simply pricing out people with disabilities by only having accessible rooms at the higher prices.

This is analogous to our situation because we are not asking that DOT force airlines specifically to provide whole extra seats (like an extra hotel room). Instead, we advise DOT to require airlines to reasonably provide room of a size needed for disability accommodation at the price of whatever class of service the person books.⁸² This provides a needed

⁸¹ "Classes of Sleeping Accommodations [9.1.4]", from "A GUIDE TO ADAAG PROVISIONS". <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/113-ada-standards/background/adaag/422-a-guide-to-adaag-provisions#Accessible>

⁸² An airline may, for example, elect to create a bottom-of-the-barrel service class that contains no seats that can accommodate a normal-sized service dog (at an extreme, perhaps it only has

buffer for people with disabilities against the fickle and varied class-of-service structures across airlines.⁸³

§3.e. *Basic Economy fares avoidably discriminate*

We are surprised that DOT failed to inquire about "Basic Economy" fares in the ANPRM, since we have been pushing DOT officials through email since August 7, 2017 to offer guidance on the topic. Since this dovetails with the discussion above and DOT needs to address the de facto discrimination produced by the presentation of these fares, we reiterate our 2018 survey report findings on that topic below.⁸⁴

The initial impetus for this survey was our interaction with DOT about American's new "Basic Economy" fare.⁸⁵ Other airlines, such as Delta⁸⁶ and United⁸⁷, have also implemented this cheaper type of fare. Basic Economy has various restrictions, such as having to board last, not having access to the overhead luggage space, and not being able to choose one's own seat without a fee.

Each of the restrictions mentioned can run somewhat contrary to ACAA regulations that accommodate service animal users.⁸⁸

"standing"/saddle seats; see CNN Travel's "Will new standing-up airplane seat design take off?" <https://www.cnn.com/travel/article/standing-up-airplane-seat/index.html>). In any such case, a service dog user would simply be bumped up to whatever seat/class could reasonably accommodate the person and dog. This would require that 14 CFR §382.87(f) be modified so that classes of service may be transcended for reasonable disability accommodations. https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=16ca0a3ca83c9837961ced25b5f7e49f&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_187

⁸³ We realize this may require advance notice for airline planning (see "AXIOM III—Practicality" in our Introduction). This is one reason we endorse the use of a (semi-)mandatory decision tree. The version suggested in USAUSA's 2016 compromise comment would give airlines notification that an animal is an ESA and would be expected to be in a pet carrier by default. It should be a relatively simple matter either (1) to add a question for service animal users about whether they think they have a service animal that should be given a seat with more foot space (with bulkhead or non-bulkhead preferences offered), or (2) for airlines to simply ensure that service animal users are always given seats with more foot space, as long as any move is confirmed as okay with them beforehand. See Appendices C. and D. in USAUSA's 2016 compromise comment. <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

⁸⁴ From §3.c., "Basic Economy" de facto discriminates, avoidably. <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

⁸⁵ <https://www.aa.com/i18n/travel-info/experience/seats/basic-economy.jsp>

⁸⁶ https://www.delta.com/content/www/en_US/traveling-with-us/onboard-experience/basic-economy.html

⁸⁷ <https://www.united.com/web/en-US/content/travel/inflight/basic-economy.aspx>

⁸⁸ As we put it to DOT on August 7, 2017, the boarding and bulkhead issues are more straightforward. The issue of whether or how to accommodate service animal users in light of the overhead space restriction is a little more complicated. These tickets do not (normally) allow a passenger to use the overhead bin space. Yet the person would have the under-seat footspace for carryon luggage in non-bulkhead seats. (Service animal users are historically supposed to have the option of bulkhead or non-bulkhead seats; see 14 CFR §382.81(c), while (d) is also conceptually relevant to allowing extra space as needed, other than a whole extra seat: https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=081e6fdb88efba024ce66cc2df66709&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_187

Since all fare types are supposed to be open to people with disabilities,⁸⁹ we felt that airlines should clarify any disability-related exceptions to their basic economy policies. Otherwise, the lack of clarity about whether their needs will be met has the practical effect of keeping people with disabilities from accessing the same spectrum of fares available to others, constituting de facto discrimination.⁹⁰

None of the airlines' Basic Economy pages we footnoted

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The question is whether a total overhead storage prohibition for this ticket would apply to a service dog user whose dog occupies the footspace, since the dog is a disability-mitigation device. Would that person be entitled to any overhead luggage space to substitute for the footspace the dog occupies?

Presumably, assistive devices and associated disability accoutrements in a bag would be exempt from the fare restrictions and be allowed in the overhead, per 2009 DOT guidance, Q&A #44 under §382.121: https://www.transportation.gov/sites/dot.gov/files/docs/FAQ_5_13_09_1.pdf So the question is about carry-on luggage that is not exclusively disability-related.

American, for example, puts the carry-on allowance for Basic Economy roughly in terms of the footspace measurements. Perhaps if the overhead space for service animal users were limited to the footspace equivalent, that would be a reasonable accommodation. This would give Basic Economy service animal users the equivalent carry-on luggage space in the same class of service as non-service animal users. The restriction to a footspace-equivalent overhead space would still be a class-of-service restriction that passengers with normal tickets do not have. (The regulation regarding class of service is 14 CFR §382.87(f): https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=081e6fdbc88efba024ce66cc2df66709&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_187)

PSYCHIATRIC

This discussion is theoretical, but one of our authors has found the enforcement to be more passively practical. An airline representative told him not to worry about the Basic Economy overhead restriction, since his party would be pre-boarding and would have plenty of space. The implication was that the airline merely does not guarantee Basic Economy ticket-holders overhead space because they are (normally) boarding last, rather than the airline actively taking any measures to prevent such passengers from using the luggage space if it's available. This laissez-faire approach is an elegant solution to what may be a merely theoretical problem, but airlines still must make it clear that there is a possible exception for people with disability-related needs so they don't opt out based on a misunderstanding.

Additional regulations relevant to making a study of this might include 14 CFR:

§382.31—prohibits disability-related charges, yet allows charges regardless if more than one *seat* is occupied https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=081e6fdbc88efba024ce66cc2df66709&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_131

§382.93—passengers with disabilities must be allowed to pre-board if extra time is needed https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=081e6fdbc88efba024ce66cc2df66709&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_193

§382.121(b)—airlines can't count assistive devices as carry-on https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=081e6fdbc88efba024ce66cc2df66709&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_1121

⁸⁹ See 14 CFR §382.11(a)(1) and (3): https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=081e6fdbc88efba024ce66cc2df66709&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_1121

currently mention disability-related exceptions. We urged DOT to provide guidance or regulations to airlines to compel clarification, since we presume a simple asterisk and explanation about specific disability-related policy exceptions would adequately address the problem of de facto discrimination.⁹¹ The April 4th, 2018 DOT response in our email exchange was (in part) as follows:

With respect to whether the Department will be issuing guidance on basic economy seating programs, we traditionally decide whether or not to issue a guidance document when we receive a significant number of complaints about an issue or we have received data indicating that there is significant concern in the disability community about an airline policy or practice.

Since the initial problem is a simple one of ignorance-based fare avoidance, this is not the sort of issue we would expect to inspire formal complaints. Consequently, we're providing the data. A full 64% our community indicated they would be totally discouraged from purchasing Basic Economy fares due to their disability-related needs, while 91% were at least moderately discouraged. This data from 919 responses clearly indicates DOT needs to take action if this de facto discrimination is to stop.

We are reminded by this that access for people with disabilities isn't only about whether those who surmount the barriers get along okay. We must also consider how people are pushed to opt out altogether because the barriers are too much for them. Barriers include the perceptions and confusion that policies and their presentation create in reasonable people.

Fortunately, a ready solution is at hand and DOT has the power

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⁹⁰ Even experts on the regulations such as us have either hesitated or refrained from saving money on a Basic Economy fare. However, this is mostly due to a worry that the airline employees would not be versed in the regulatory exceptions and would use the Basic Economy policies as justification not to accommodate our disability-related needs. See §3.e.

⁹¹ We would expect the asterisk (or any functionally equivalent symbol) to appear next to any policy provision for *any* fare type, regardless of its name, where the policy provision may conflict with disability-related regulations or DOT guidance. At the minimum, the airline needs to note that there are disability-related exceptions. Either in the same location, or (if there's a space issue on a physical document) in another accessible document clearly specified in the original location, airlines should clarify exactly the manner in which they would make a disability-related exception (e.g., "A service animal user may choose to sit in either a bulkhead section or a non-bulkhead section without an extra fee; reserving a particular seat within either section may incur a fee.").

*to put it into effect.*⁹²

§4. Whether the species of service animals and emotional support animals that airlines are required to transport should be limited

§4.a. Our compromise is that service animals should only be dogs, with limited access for miniature horses and capuchin monkeys, while ESAs should only be dogs, cats, and rabbits

We are pleased DOT asks about ESA and service animal species separately in the ANPRM. We believe different considerations apply, resulting in a difference in the species that should be allowed under each category.

We articulated our positions during the Reg Neg⁹³ and in USAUSA's 2016 compromise comment.⁹⁴ Below, we excerpt the portions from the compromise comment that are relevant (in overview) to answering DOT's inquiries under this heading, including portions that provide some context in which to understand the positions.

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:

The category of "service animal" does not include (emotional)

⁹² <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

⁹³ See the positions we authored and supported in §§1. and 2. of the September 15th, 2016 "Service Animal Advocate Positions and Reasoning". <https://www.transportation.gov/office-general-counsel/negotiated-regulations/service-animals---advocate-position-and-reasoning>

⁹⁴ See §§1. and 2. <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

support animals.⁹⁵ A **service animal** is:⁹⁶

- 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 destination⁹⁷
- 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:*⁹⁸

⁹⁵ 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.

⁹⁶ 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>

⁹⁷ 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

⁹⁸ At the Reg Neg meeting on 6/14/16, Blane Workie (of DOT) expressed the worry that if we focus on a 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

- *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)⁹⁹*
- *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"¹⁰⁰ 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.¹⁰¹ However,

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.

⁹⁹ 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

¹⁰⁰ 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

¹⁰¹ 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

their users may have similar access as 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.¹⁰²

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.¹⁰³

See Position SAS 1 in "Service Animal Advocate Positions and Reasoning" for the rationale behind our species restriction for

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, 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

¹⁰² 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

¹⁰³ 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.

*service animals.*¹⁰⁴

[...]

*Support animals*¹⁰⁵ *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.¹⁰⁶ The gist is that support animals typically start as pets, dogs 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.¹⁰⁷ So we are proposing going from a virtually unlimited number of species to only three.¹⁰⁸ This represents a good-faith compromise in the face of

¹⁰⁴ <https://www.regulations.gov/document?D=DOT-OST-2015-0246-0208>

¹⁰⁵ See the earlier footnote regarding the provisional "support animal" terminology.

¹⁰⁶ See Position ESA 1 in §2 of "Service Animal Advocate Positions and Reasoning".

¹⁰⁷ <https://www.regulations.gov/document?D=DOT-OST-2015-0246-0208>

¹⁰⁸ 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

¹⁰⁸ 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>

more extreme initial views among some on both sides.^{109,110}

§4.b. Household birds should be excluded as ESAs

In response to a call from others for household birds to be included, we freshly note that the animals we include can either easily be housetrained (in the cases of dogs and cats) or would remain in a carrier or on a lap and its waste is neither messy nor a significant zoonotic disease vector (in the case of rabbits).¹¹¹ By contrast, it would be unusual for a bird to be on a lap if out of a carrier,¹¹² many birds are difficult to housetrain (worse, it can be harmful to their health),¹¹³ they need to eliminate often (15–50 times a day),¹¹⁴ and their waste is a more significant zoonotic disease vector.¹¹⁵

An animal may merely be transported and be kept in a pet carrier the entire journey—as a capuchin monkey would be.¹¹⁶ In that case, the animal could wear a diaper. However, ESAs cannot fulfill their purpose if they are kept in pet carriers the whole time.¹¹⁷ We do not believe an animal should have public access outside a carrier if members of its species would generally need to wear diapers, as this is an example of the spectacle that denigrates the public perception of service animals and makes access more difficult for others. We therefore advise against allowing household birds as ESAs

¹⁰⁹ We reject DOT's "symmetry" argument: that the symmetry of allowing dogs, miniature horses, an 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.

¹¹⁰ <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

¹¹¹ See the July 1, 2010 article "Just Ask the Expert: The zoonotic threat of rabbits and other wild animals", by Kevin R. Kazacos, DVM, PhD. <http://veterinarymedicine.dvm360.com/just-ask-expert-zoonotic-threat-rabbits-and-other-wild-animals>

¹¹² "If you are looking for a lap pet, a companion bird may not be the best pet for you." From the American Veterinary Medical Association's "Selecting a Pet Bird". <https://www.avma.org/public/PetCare/Pages/Selecting-a-Pet-Bird.aspx>

¹¹³ For a discussion among bird fanciers with real-world experience of these dangers—including cloacal prolapse and kidney damage—see the thread "Potty Training is dangerous" on the "Avian Avenue" discussion forum. <http://forums.avianavenue.com/index.php?threads/potty-training-is-dangerous.20749/>

¹¹⁴ This varies by species, with smaller birds needing to eliminate more often. The 15–50 range (macaw minimum to budgie maximum) is reported by various online articles and discussion fora; one of many examples is "DO BIRDS CONTROL THEIR BOWEL MOVEMENTS?" by Tom Ryan. <http://animals.mom.me/birds-control-bowel-movements-7172.html>

¹¹⁵ See the CDC's "Birds Kept as Pets". <https://www.cdc.gov/healthypets/pets/birds.html>

¹¹⁶ Capuchin monkeys aren't used on aircraft. Helping Hands representatives told us during the Reg Neg that the monkeys almost never actually fly with the person with a disability, and when that (paralyzed) person does fly, they have a human assistant. The monkeys are almost always flown by a (non-disabled) employee or trained volunteer for delivery, additional training, or veterinary work. This means that they normally fly by special agreement with the airline, since non-disabled passengers are not covered by the ACAA.

¹¹⁷ See §3 above.

under ACAA regulations.

§5. Whether the number of service animals/emotional support animals should be limited per passenger

§5.a. A principled approach guides our reasoning about limiting the number of service animals and ESAs per passenger

Whether or how to limit the number of animals per passenger was a peripheral issue at the Reg Neg, since (1) few passengers seek to travel with multiple animals and (2) practically all stakeholder representatives agreed it was reasonable to set at least moderate limits. We take a principled approach to arrive at recommending no more than three service animals be allowed per passenger,¹¹⁸ no more than two ESAs per passenger, and no more than two from a combination of the categories.

First, we do not presume to know everyone's circumstances or needs, nor can we predict future treatment modalities. Thus we are motivated from the top down to allow a little room for reasonable animal uses beyond our current imaginings. This wiggle room amounts to an " $n + 1$ " approach, where n is the number arrived at from bottom-up reasoning for how many animals to allow. This number may differ between service animals and ESAs. We call this $n + 1$ approach the *limited imaginings* principle.

§5.b. Per passenger, no more than three service animals, two ESAs, or two total of a combination should be allowed

We imagine that for the great majority even of cases where more than one service animal is used, an individual would not use more than two animals. Although it is unusual, there are multiple reasons someone might use more than one service animal. The animals may be:

- trained to mitigate a single disability in two different ways
- trained to mitigate multiple disabilities, each in different ways
- simultaneously required for the same type of mitigation (such as for mobility assistance on each side)
- switched out upon the first becoming tired and unable to assist¹¹⁹

¹¹⁸ This limitation coincides with DOT's current enforcement scheme, as described during the Reg Neg and then in the ANPRM: "the Department's Office of Aviation Enforcement and Proceedings, as a matter of prosecutorial discretion, has chosen not to pursue action against carriers that refuse to accept more than three service animals per person." <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

¹¹⁹ DOT provides examples on some of these points in the ANPRM: "A single passenger legitimately may have more than one service animal. For example, a person who is deaf and has panic attacks may

It is difficult for us to imagine how it would be reasonable for someone to require more than two service animals. Using the *limited imaginings* principle, we recommend capping the number of service animals allowed per person at three.

When it comes to ESAs, there is no specific training by which multiple animals would differ. Surely, a person may connect with any number of animals that each have any number of differences, yet this does not obligate an airline to transport any number of ESAs for an individual. We believe one ESA should be sufficient per person, as the bulleted points above that justify the use of multiple service animals do not pertain to ESAs.

There is a further practical consideration if we presume ESAs would be restricted to pet carriers.¹²⁰ The principle of *limited imaginings* results in our recommending a maximum of two ESAs per person, but the physical possibilities wherein someone might have two ESAs are themselves limited. In the first instance, an individual has two ESAs small enough and friendly enough to be jointly contained in one pet carrier.¹²¹ The second scenario involves a traveling companion willing to give up their under-seat space, such that the ESA user may have each of their two ESAs in separate carriers.

We imagine practically any service animal may be equally used as an ESA, since the mere presence of the animal as a pet is what's important for ESA use. So even with the principle of *limited imaginings*, we advise no more than two animals be allowed if the individual wishes to bring a combination of service animal(s) and ESA(s).

§5.c. It is reasonable for airlines to require special notification from

use one service animal to alert him or her to sounds and another to calm him or her. A person may also need more than one animal for the same task, such as assisting with stability when walking." <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

¹²⁰ See §3 above.

¹²¹ All the discussion of pet carrier use is predicated on humane considerations present in the background. An animal in a carrier must be able to stand, turn around, sit, and lie down in the container. If there were two pets in the carrier, they would each need to have this room. We believe this is consistent with USDA's Animal Welfare Act regulations, assuming the animals get along and are monitored. 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

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

those traveling with multiple disability-mitigating animals

In addition to limiting the number of disability-mitigating animals per passenger in the above ways, in the USAUSA 2016 compromise comments we recommended a graduated notification protocol beyond the use of a decision tree when it comes to multiple animals.¹²² Our present recommendations fall along very similar lines, with nuanced but justified enhancements.

We advise that passengers seeking to travel with two service animals would need to merely alert the airline via phone/TTY,¹²³ as we find the slight additional burden justified for the greater accommodation request. There would be a higher burden for those seeking to travel with three service animals, two ESAs, or a service animal and an ESA. In one of those cases, the passenger could be required to minimally explain/justify to the airline that the animals are separately and jointly needed for the passenger's disability mitigation.

The point of this goes beyond merely discouraging fraud and ignorance, as it is not intended to provide airlines an easy means to deny all comers. The step of actively communicating with the airline affords the passenger and airline an appropriate opportunity to ensure that each party's needs will be met.

§6. Whether an attestation should be required from all service animal and emotional support animal users that their animal has been trained to behave in a public setting

§6.a. A decision tree should be required, not an attestation

To the basic question of whether an *attestation* should be required, we must be clear that our answer is no. However, we do believe a *decision tree* should be used.^{124,125}

¹²² See §10., which collects miscellany. <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

¹²³ USAUSA's decision tree refers customers seeking to travel with more than one disability-mitigating animal to the airline, under the heading of "special assistance". See Appendices C. and D. of USAUSA's 2016 compromise comment <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

¹²⁴ We defined these terms in §5 of USAUSA's 2016 compromise comment as follows: "[...]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, is a single block of text with one possible selection or output." <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

¹²⁵ In the ANPRM's "ACCESS Advisory Committee" section, under the "Documentation/Attestation" heading DOT writes: "The advocates and the airlines appeared to support the attestation model as a

Our decision tree idea from the Reg Neg¹²⁶ is a solution targeted to meet design challenges by avoiding many of the problems with an attestation.¹²⁷ We reply to one of DOT's questions by noting that one of those challenges is that "the need for assurance that the service animal can behave properly [is] greater in air travel, as air travel involves people being in a limited space for a prolonged period without the ability to freely leave once onboard the aircraft".¹²⁸ In our 2016 design challenges document, we identified two further challenges as points of difference from the usual ADA Title III environments: some pets are allowed on board when people pay fees, and gatekeepers (employees) are more in the position of actively verifying an animal's status.¹²⁹

More specifically in the present context, we seek to address fraud- and ignorance-based issues.¹³⁰ This means that individuals must be actively engaged in a way such that they are likely to read and understand their rights and responsibilities—and specifically, what it means to claim one will be traveling with a service animal or ESA.

Standard blocks of legalese are entirely ineffective for these purposes. People agree to them in order to proceed, while not understanding them or

deterrent to individuals who might seek to falsely claim that their pets are service animals." This is wrong. DOT cites a vote tally as evidence, but DOT authored the tally document and as we recall it, DOT is the only party that specifically preferred its attestation suggestion over the decision tree. Most other parties were undecided between the two. We recall that our Brad Morris noted during the vote that "attestation" was a stand-in for *either* an attestation or decision tree approach, to be determined, and that he strongly preferred the decision tree. The committee never reached a point at which members could vote between an attestation and a decision tree. With respect, it seems that DOT's memory in the ANPRM about the attestation discussion paints DOT as a savior, but conflicts with our own memory and strongly expressed stance. <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

¹²⁶ The decision tree in this context has its roots in PSDP's early 2016 ACAA Proposal, which contains a tick-box access form and guidance document. This proposal combined with our familiarity with Amtrak's use of a limited decision tree for disability accommodations, leading us to the idea of a decision tree for ACAA service animal access. <https://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/aca-a-proposal>

¹²⁷ We will not replicate here everything we've said about the decision tree and its implementation. For more details, see §§4.–6., 8., and 10. and Appendices A.–D. of USAUSA's 2016 compromise comment. <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

¹²⁸ To be perfectly clear, DOT asked whether this was the case in the ANPRM. We modified the question to answer in the affirmative. <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

¹²⁹ See §1 of Brad Morris's "Design Challenges and Solutions for Service Animal Access under the ACAA: A Justificatory Guide for Regulators and Stakeholders", as amended in early March 2016. <https://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/aca-a-design-challenges-solutions>

¹³⁰ In the ANPRM, DOT asks: "Would a provision allowing airlines to require service animal users attest that their animal has been successfully trained to function as a service animal in a public setting reduce the safety risk that passengers, airline staff, and other service animals face from untrained service animals?". Safety is one of the major ignorance-based issues the training confirmation is meant to address in the decision tree. <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

even reading them. The iTunes user agreement and people clicking without reading has been an example of this as the butt of jokes in popular culture for some time.¹³¹

We explain more about the importance of DOT not assuming an attestation could hope to serve the same functions as a decision tree in §5. of USAUSA's 2016 compromise comment. The heading of that section is "Decision tree vs. attestation", with the description: "DOT, advocates, and airlines each have independently sufficient reasons to prefer a decision tree over an attestation."¹³²

§6.b. There should be reasoned differences between service animal and ESA decision tree confirmations regarding training and its consequents

Among other items, the decision tree would have service animal users confirm that their service animals have been trained to adhere to the behavior standard in situations similar to air travel.¹³³ Along a different branch of the tree, an ESA user would confirm understanding that their ESA must adhere to the behavior standard if out of the pet carrier and in a lap for disability mitigation.¹³⁴

The difference in training requirements between the categories is based on (1) a difference in practical expectations and (2) a difference in the degree of access. Service animals would not have to be contained in pet carriers, yet ESAs would, unless in a lap for disability mitigation.

§6.c. A decision tree is the right shared cost to increase safety

¹³¹ We hesitate to elaborate on a South Park episode from 2011. We can reference recent jokes deriving from Gizmodo's James O'Malley tweeting that iTunes' user agreement contains a clause prohibiting its use in aid of constructing nuclear weapons. The agreement is therefore said to be stricter than the agreement from the recent Trump-Kim summit in Singapore. For one of many reports on this, see IFLScience's "Turns Out iTunes Has A Stricter Nuclear Weapon Clause Than Trump And Kim". <http://www.iflscience.com/technology/turns-out-itunes-has-a-stricter-nuclear-weapon-clause-than-trump-and-kim/>

¹³² <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

¹³³ Our decision tree exhibition in Appendix D. of USAUSA's 2016 compromise comment has separate confirmations for service animal behavior, disability mitigation training, and service animal public access training. The last of these is phrased as follows: "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." It's important for the decision tree to use plain language and minimize/explain any special phrases. <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

¹³⁴ The behavior standard is reproduced in §4. above. Reasoning for the decision tree content is in §8. of USAUSA's 2016 compromise comment; Appendices C. and D. exhibit §8.'s recommendations. <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

DOT asks several related questions:

*What is the impact on individuals with disabilities of allowing airlines to require attestation as a condition for permitting an individual to travel with his or her service animal?*¹³⁵

We will answer as if this and subsequent questions are about a decision tree, rather than an attestation. Attestations—in the form of paperwork one must print, complete, submit, and carry—are an entirely different beast that presents various opportunities for unwanted difficulties on all sides.¹³⁶

A decision tree would ensure—as much as is reasonable—that people attempting to fly with animals purported to be for disability assistance are educated about what that means and take an active role in directly assuming responsibility. It is easy for a reasonable person not to have read federal regulations or relatively obscure guidance, laboring under various misconceptions based either on thinking "the ADA" applies everywhere or on the latest poor reporting that conflates service animals with therapy animals.

Any such new requirement would be more of a burden (upfront) for those currently enjoying fairly burden-free access with a non-psychiatric service animal.¹³⁷ However, a decision tree is *much* less burdensome than third-party documentation requirements.¹³⁸ It is also a shared cost the community bears to impart basic levels of responsibility and safety.

Solutions are not without some cost, nor may some community members magically reap the benefits without chipping in for their part. This may require effortful change for some, who may understandably grumble about facing new burdens where they had none before. However, all types of service animal groups during the Reg Neg had significant concerns about the risks for the community under the current system. Everyone equally must be willing to pay an ounce toward prevention if they want to avoid situations needing a pound of cure.

Of course, the community of psychiatric service animal users would much

¹³⁵ <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

¹³⁶ Here we have in mind the patchwork of attestations that have recently hit the market from various airlines.

¹³⁷ As far as the regulations go.

¹³⁸ See USAUSA's 2016 survey report and 2018 survey report for details on such burdens.

<https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>

<https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

rather share the lighter burden of a decision tree with their fellow service animal users, which is orders of magnitude less than the requirements DOT currently allows airlines to impose on them. The difference is that the decision tree is designed to educate and get confirmation of understanding, whereas the third-party documentation requirements assume individuals with (mental health) disabilities cannot be trusted and must prove they're not "guilty".¹³⁹

§6.d. *A decision tree should be completed before flying*

DOT further asks a few related questions:

*If such a provision is allowed, should airlines be able to require the attestation in advance of travel? How long in advance of travel? What options exist for preventing any advance documentation requirement from being a barrier to travel for people with disabilities?*¹⁴⁰

We cannot answer these questions with the necessary details better than we did in USAUSA's 2016 compromise comment and during Reg Neg negotiations, so it bears excerpting a portion of §4.(b) from the former and then a portion of the latter below. The gist is that decision tree completion could be required in advance of travel—no more than 12 hours in advance, as airlines suggested.¹⁴¹ However, there must be reasonable allowances both for extreme situations and for deployment based on whether the airline or a travel agent handles the booking.

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 reasonable timeframe that allows them to readily fulfill those responsibilities.

There are two distinct types of booking parties: airlines and third-party ticket agents¹⁴². The ideal process is the same for these parties, yet there are currently significant practical

¹³⁹ Respectfully, attestations seem designed more to satisfy attorneys' liability concerns than to reach through to individuals in a meaningful way.

¹⁴⁰ <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

¹⁴¹ *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>

¹⁴² 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>

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.¹⁴³ Next, right after booking, the passenger receives electronic notice of their possible responsibilities, most likely through email.¹⁴⁴ The decision tree/attestation remains available for completion after booking.¹⁴⁵ 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,¹⁴⁶ 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-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.¹⁴⁷

¹⁴³ 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.

¹⁴⁴ 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.

¹⁴⁵ 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.

¹⁴⁶ 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

¹⁴⁷ See Appendix A: *Report on Technical Feasibility*, which indicates these may be easier through a third

There are non-technological hurdles with many ticket agents that currently stand in the way of regulating that ticket agents implement the ideal system.¹⁴⁸ 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.¹⁴⁹ 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.¹⁵⁰ 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 and as proposed by

party.

¹⁴⁸ 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

¹⁴⁹ 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.

¹⁵⁰ "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>

airlines, a passenger who books within 12 hours of the flight must be allowed to complete any required decision tree/attestation within that timeframe,¹⁵¹ 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.¹⁵²

The decision tree may be mandatory, but we elaborated during the Reg Neg that exceptions must be made for those who reasonably do not complete the decision tree in advance of travel (e.g., someone else made the booking and didn't relay the decision tree notification to the passenger).

It is not acceptable that a person with a disability would not be able to fly with their assistive device due to the refusal of an airline to make a reasonable exception on a case-by-case basis. If such a person has a good reason for not having completed the decision tree ahead of time, they should be given the opportunity of doing so at the airport via some method accessible to that person.

Willfully not completing the decision tree in advance of travel carries the deterring risk of then being at the mercy of the subjective judgment of airport personnel as to what constitutes good reason. Those who willfully do not complete the decision tree chance having their animals turned away at the airport, with particular scrutiny at the gate if they bypass the ticket counter by checking in online. Additionally, if given the green light to do so, they must take extra time to complete the

¹⁵¹ "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).

¹⁵² Excerpted from USAUSA's 2016 compromise comment. <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

decision tree at the airport (if the airline desires), risking a missed flight.

[...]The level of compliance we should expect with this decision tree default varies based on whether the decision tree can be built into the ticket purchase flow, or whether there is an email alert system after the purchase. Backups to the default should only burden passengers in reasonable proportion to the level of compliance we should expect. If airlines can only implement a system wherein passengers are expected to track down the fine print of an email at which many passengers will only glance, airlines should expect a very low level of compliance.¹⁵³ Consequently, airlines would need to have a very low bar at the airport for granting access to those who earlier failed to complete the decision tree.¹⁵⁴

Appendix B. in USAUSA's 2016 compromise comment contains a breakdown of what decision tree notification language should be used, how, and why.¹⁵⁵

§6.e. Decision tree profile retention can ease the burden

Having the option to save one's decision tree answers in a profile is a means to ease the burden for frequent flyers. Here we excerpt the short §6. from USAUSA's 2016 compromise comment to explain:

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").¹⁵⁶ 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;¹⁵⁷ a third-party report

¹⁵³ This is not to say that any iteration of an email-based notification system would have very low compliance. However, this is a significant worry if the decision tree can truly not be made part of the ticket purchasing process. Advocates look forward to hearing from airline representatives about the details of implementations that might garner more compliance.

¹⁵⁴ Excerpted from "Service Animal Advocate Positions and Reasoning", from September 15th, 2016. <https://www.transportation.gov/office-general-counsel/negotiated-regulations/service-animals-advocate-position-and-reasoning>

¹⁵⁵ <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

¹⁵⁶ See 14 CFR §382.43(d). http://www.ecfr.gov/cgi-bin/text-idx?SID=2924d7d0b28226bcc03f608e7cd86b81&mc=true&node=se14.4.382_143&rgn=div8

¹⁵⁷ "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

*indicates this profile retention is feasible.*¹⁵⁸

*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.*¹⁵⁹

§6.f. The decision tree should apply to all users of disability-mitigating animals

Finally for this section, DOT asks:

*If DOT allows airlines to require attestation that an animal has received public access training, should the attestation be limited to certain types of service animals? Why or why not?*¹⁶⁰

There are two ways to understand "types of service animals": (1) service animals for different types of disabilities and (2) service animals vs. ESAs.

Regarding (1), disability profiling is not okay. Further, discriminating on the basis of disability type is contrary to the ACAA's prime directive.¹⁶¹

Regarding (2), we believe it is not reasonable to expect ESAs to have received public access training, so it would not make much sense to ask whether they have received such training.¹⁶² Instead, we believe ESAs should be in pet carriers by default.¹⁶³ However, we do believe everyone who wishes to bring a purported service animal or ESA should complete the decision tree, with tailored questions based on the responses.

§7. Whether service animals and emotional support animals should be

September 8th, 2016 (p. 4, item 6). <https://www.regulations.gov/document?D=DOT-OST-2015-0246-0209>

¹⁵⁸ 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.

¹⁵⁹ <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

¹⁶⁰ <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

¹⁶¹ See THEOREM A Disability-type discrimination from the *Introduction*, plus §1. above.

¹⁶² See §2. above.

¹⁶³ See §3. above.

harnessed, leashed, or otherwise tethered

§7.a. A tethering policy is appropriate

We have been confused as to why DOT has *not* had a reasonable tethering requirement from the beginning. We welcome such a requirement to facilitate better control of animals, if it is formulated well and with appropriate exceptions.

For this section, we'll assume ESAs will be contained in pet carriers by default, but that they would be subject to a tethering requirement if out on a lap for disability mitigation.¹⁶⁴

§7.b. We have a specific recommendation based on a study of DOJ's requirement plus context

DOJ's longstanding tethering requirement works adequately well.¹⁶⁵ We executed a more rigorous study of that requirement for the national park context in 2014.¹⁶⁶ Applying the considerations we illuminated there to the flight context, we suggest the following as a **tethering requirement**.¹⁶⁷

A service animal must be under control at all times. This includes the use of a harness, leash, or other tether, unless the restraint device would interfere with the service animal's safe,

¹⁶⁴ See §3 above.

¹⁶⁵ The requirement can be found 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)." We believe this does not strictly require the active use of the tether as the default, though this is arguably intended. The flight context may reasonably vary in this regard, since both the service animal and the handler must settle in for long periods. https://www.ecfr.gov/cgi-bin/retrieveECFR?%20gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&n=28y1.0.1.1.37&r=P%20ART#se28.1.36_1302

¹⁶⁶ PSDP's 2014 "National Park Comment" analysis resulted in the following requirement recommendation: "A service animal must be controlled at all times with a harness, leash, or other tether, unless the restraint device would interfere with the service animal's safe, effective performance of work or tasks or the individual's disability prevents using these devices. In those cases, the service animal handler must be able to recall the service animal to the individual's side promptly using voice, signals, or other effective means of control. When not immediately performing work or tasks directly related to the individual's disability, the service animal must not wander from the individual, but must remain within a distance and location that easily allows handler supervision of the service animal." <https://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/national-park-comment>

¹⁶⁷ This is intended to be regulation language. For an example of simplified version for a decision tree, see Appendix D. in USAUSA's 2016 compromise comment, which contains the following in an elaboration of the behavior standard: "• 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)". <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

effective performance of work or tasks or the individual's disability prevents using these devices. In those cases, the service animal handler must be able to recall the service animal to the individual's side promptly using voice, signal, or other effective means of control. Regardless of the means of control, any service animal must not wander from the individual, but must remain next to the handler when not immediately performing work or tasks directly related to the individual's disability.

This requirement unfurls its simpler counterpart, which may be found in a broader behavior standard (such as presented in §1. and explained in Appendix E. of USAUSA's 2016 compromise comment).¹⁶⁸

*§8. Whether there are safety concerns with transporting large service animals and if so, how to address them*¹⁶⁹

§8.a. A pet carrier restriction would limit ESA size

DOT relays a concern from airlines and then a proposed solution from some:

*Airlines have also expressed safety concerns about large service animals in the cabin, particularly large emotional support animals that have not received disability-mitigation training. Some airlines have urged the Department to consider instituting size and weight restrictions for emotional support animals.*¹⁷⁰

If DOT were to allow a restriction of ESAs to pet carriers by default, as we recommend,¹⁷¹ the *can't fight, can't fly* principle¹⁷² means ESA size and weight would be limited.

§8.b. Occasional passenger grumbling doesn't warrant access reduction for service animal users based on animal size

¹⁶⁸ <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

¹⁶⁹ Quite a bit of what we write in §3 above about classes of service pertains to the discussion in this section.

¹⁷⁰ <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

¹⁷¹ See §3 above.

¹⁷² See "ESA containment" under "Position/Explanation ESA 1" of "§2. ESA Species and Containment" in "Service Animal Advocate Positions and Reasoning" from September 15th, 2016. <https://www.transportation.gov/office-general-counsel/negotiated-regulations/service-animals---advocate-position-and-reasoning>

DOT discusses current guidance and airlines' feedback on how its execution is working:

The Department provides guidance in the current rule that if the passenger and animal cannot be moved, carriers should first talk with other passengers to find a seat location where the service animal and its user can be agreeably accommodated (e.g., by finding a passenger who is willing to share foot space with the animal).

While the Department previously concluded that a service animal's reasonable use of a portion of an adjacent seat's foot space does not deny another passenger effective use of the space for his or her feet and is not an adequate reason for the carrier to refuse to permit the animal to accompany its user at his or her seat, some airlines have indicated that passengers feel pressured to agree to such an arrangement and have later expressed to airline personnel their dissatisfaction at having to share their foot space.¹⁷³

Perhaps it goes without saying that airline personnel should not actually pressure passengers to share an unreasonable amount of foot space, versus politely asking.¹⁷⁴ We imagine this pressuring would be rare, but training may be in order to reduce its likelihood if passengers report feeling pressured.

¹⁷³ We excised the portion referring to ESAs. <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

¹⁷⁴ A good guideline for how much foot space is reasonable to share (unless the passenger welcomes more) is how much side panels, the fuselage curvature, etc. cut into the foot space of the seat with the least foot space in the same class of service. Sometimes this can even amount to one-third of the foot space. We assume that DOT is not now considering that zero shared foot space is reasonable; even human passengers share such spaces to some degree. DOT's 2008 "Nondiscrimination on the Basis of Disability in Air Travel" guidance speaks to the general notion (boldface added for emphasis):

"WHAT DO I DO IF I BELIEVE THAT CARRIAGE OF THE ANIMAL IN THE CABIN OF THE AIRCRAFT WOULD INCONVENIENCE NON-DISABLED PASSENGERS?"

"Part 382 requires airlines to permit qualified individuals with a disability to be accompanied by their service animals in the cabin, as long as the animals do not (1) pose a direct threat to the health or safety of others (e.g., animal displays threatening behaviors by growling, snarling, lunging at, or attempting to bite other persons on the aircraft) or (2) cause a significant disruption in cabin service (i.e., a "fundamental alteration" to passenger service). Offense or inconvenience to other passengers (e.g., a cultural or personal discomfort with being in proximity to certain kinds of animals, allergies that do not rise to the level of a disability, **reasonable limitations on foot space**) **is not sufficient grounds to deny a service animal carriage in the cabin.** However, carriers should try to accommodate the wishes of other passengers in this situation, such as by relocating them to a different part of the aircraft."

<https://www.federalregister.gov/d/08-1228/p-460>

While it's possible some airline employees act in ways that would make a reasonable passenger feel unduly pressured to share a sizeable amount of foot space with a large service animal, it is also possible some passengers feel pressured *without* the request being unreasonable or inappropriately expressed.

We're generally talking about adults who can make their own decisions. Some post-agreement grumbling may be expected when there's a possibility of a minor inconvenience, just as some people complain about a bus taking longer to load and unload wheelchair users.¹⁷⁵ This does not mean we should take all pains possible to eliminate whatever minor discomfort some passengers may feel when people with disabilities need accommodations to travel.

To be frank, we would need a lot more data indicating this is a systematic problem significantly impacting these other customers' lives before we consider reducing access for people with disabilities, some of whom need larger service animals for their disabilities (e.g., for mobility work).¹⁷⁶

§8.c. The existing seating protocol provides access and is reasonable, if deployed properly

DOT wonders whether there should be access restrictions for some people with disabilities:

*The Department seeks comment on whether it should allow airlines to limit the size of [...] service animals that travel in the cabin and the implications of such a decision.*¹⁷⁷

DOT provides a seating protocol that airline personnel may follow once aware someone has a large service animal.¹⁷⁸ The protocol may be

¹⁷⁵ We do have direct experience of this and similar happenings that signal some individuals are occasionally either out of touch or simply callous.

¹⁷⁶ See THEOREM B Insufficiency of anecdotes in the *Introduction* above. Its content doesn't apply exactly to the present situation, but its spirit certainly does.

¹⁷⁷ We excised the portion referring to ESAs. <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

¹⁷⁸ From DOT's 2008 "Nondiscrimination on the Basis of Disability in Air Travel" guidance (boldface added for emphasis):

The only situation in which the rule contemplates that a service animal would not be permitted to accompany its user at his or her seat is where the animal blocks a space that, per FAA or applicable foreign government safety regulations, must remain unobstructed (e.g., an aisle, access to an emergency exit) AND the passenger and animal cannot be moved to another location where such a blockage does not occur. In such a situation, the carrier should first **talk with other passengers to find a seat location where the service animal and its user can be agreeably accommodated (e.g., by finding a passenger who is willing to share foot space with the animal)**. The fact that a

deployed at the gate or onboard before takeoff.¹⁷⁹

Our take on this protocol is that the passenger or passengers with seat reservations next to the service animal user may be asked whether they prefer to share foot space or not with the service animal, in case the service animal takes up some of their foot space.¹⁸⁰ If they prefer not to, a volunteer may be sought who actively prefers to share foot space with the service animal. We find there is generally no shortage of such people.¹⁸¹ Otherwise, try to seat the service animal user next to an empty seat.

It is important that volunteer-seeking is not executed in a way that embarrasses people with disabilities. This includes not rewarding a volunteer for sitting next to the service animal user with something like a

service animal may need to use a reasonable portion of an adjacent seat's foot space—that does not deny another passenger effective use of the space for his or her feet—is not, however, an adequate reason for the carrier to refuse to permit the animal to accompany its user at his or her seat. Only if no other alternative is available should the carrier discuss less desirable options concerning the transportation of the service animal with the passenger traveling with the animal, such as traveling on a later flight with more room or carrying the animal in the cargo compartment. As indicated above, airlines may not charge passengers with disabilities for services required by Part 382, including transporting their oversized service animals in the cargo compartment.

In modifying this paragraph in the guidance, we deleted the phrase concerning the potential purchase of a second seat, since there are probably no circumstances under which this would happen. If a flight is totally filled, there would not be any seat available to buy. **If the flight had even one middle seat unoccupied, someone with a service animal could be seated next to the vacant seat**, and it is likely that even a large animal could use some of the floor space of the vacant seat, making any further purchase unnecessary. Of course, service animals generally sit on the floor, so it is unlikely that a service animal would ever actually occupy a separate seat.

<https://www.federalregister.gov/d/08-1228/p-197>

¹⁷⁹ We'll assume there is assigned seating. For airlines with no assigned seating, a volunteer adjacent-sitter may be procured at the gate, but it should not be a spectacle that embarrasses the person with a disability.

¹⁸⁰ Note that we recommend *not* assuming the service animal user would be fine being moved. Many service animal users put time into looking up airplane layouts and carefully pick a seat they believe would accommodate them.

¹⁸¹ If we're talking about an amount of foot space sharing that goes beyond what it is reasonable for practically anyone to share, DOT has given direction about this in its 2008 "Nondiscrimination on the Basis of Disability in Air Travel" guidance (boldface added for emphasis):

"Part 382 does not require carriers to make modifications that would constitute an undue burden or would fundamentally alter their programs (382.13(c)). Therefore, **the following are not required** in providing accommodations for users of service animals

" **Requiring another passenger to give up all or a [sic] most of the space in front of his or her seat to accommodate a service animal.** (There is nothing wrong with asking another passenger if the passenger would mind sharing foot space with a service animal, as distinct from telling the passenger that he or she must do so. Indeed, finding a passenger willing to share space is a common, and acceptable, method of finding an appropriate place for someone traveling with a service animal that may not be able to be seated in his or her original seat location.)

" Denying transportation to any individual on a flight in order to provide an accommodation to a passenger with a service animal;"

<https://www.federalregister.gov/d/08-1228/p-485>

drink voucher, as if it were something the other passenger must suffer through.¹⁸² For many passengers, sitting next to a service animal actually is a reward.

§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

§9.a. Airlines should not have license to idiosyncratically create access system barriers in an open-ended way

DOT:

*[...] seeks comment on whether its service animal regulation should explicitly prohibit airlines from requiring veterinarian forms as a condition for permitting travel with a service animal beyond those specifically allowed by the Department in its regulation unless there is individualized assessment that such a documentation is necessary.*¹⁸³

Not only do we strongly believe DOT should explicitly prohibit airlines from requiring veterinary forms without an individualized assessment—we believe DOT should explicitly prohibit any other version of systematic access barriers for those seeking to travel with service animals, except any specified by DOT, without an individualized assessment.

The default should be a presumption of innocence—not having to prove one is not guilty in whatever way the airline peculiarly sees fit. Otherwise, airlines are apparently left to their own devices to smother passengers with the dreaded patchwork of barriers that has actually been created by airlines this year.¹⁸⁴

¹⁸² This has happened, and it did upset the service animal user.

¹⁸³ <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

¹⁸⁴ As DOT notes in the ANPRM, "Airlines establishing their own policies for travel with a service animal could also mean a patchwork of service animal access requirements, making it difficult for persons with disabilities to know what to expect and how to prepare for travel." <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

It's not that this *could* happen, it's that DOT has already allowed this to happen. Our community members have been shocked and troubled. Airlines started pulling the trigger on various new access barriers as if it were the wild west and the sheriff were away, then DOT's 2018 "Statement of Interim Enforcement Priorities Regarding Service Animals" seems to condone their barrier-happy approach after the fact: "The Enforcement Office does not intend to use its limited resources to pursue enforcement action against airlines for requiring proof of a service animal's vaccination, training, or behavior so long as the documentation is not required for passengers seeking to travel with a service

§9.b. Third-party documentation requirements are wrong, even if not a large burden

As we detailed in §§1, 2, and 6 above,¹⁸⁵ third-party documentation requirements do not achieve their intended purpose, do create significant burdens for people with disabilities, and should be traded in for a decision tree approach.

Independent of burden levels, third-party documentation requirements are wrong. As we have discussed repeatedly and from different angles, government agencies should not follow the medical model of disability and force people with disabilities to get the okay from someone else before traveling.¹⁸⁶ The point of the ACAA is to enable access by eliminating disability-based discrimination, yet third-party documentation requirements do the opposite.¹⁸⁷

We excerpt part of §1.d. from USAUSA's 2018 survey report to explain:¹⁸⁸

The flight context differs significantly from those pondered by the Department of Justice's Title II and Title III Americans with Disabilities Act regulations.¹⁸⁹ That being said, this difference

animal that is not an ESA or PSA." <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0019>

This makes us wonder what else airlines may do without a clear barrier restriction from DOT. In fact, as we are drafting this comment, on June 20, 2018 Delta decided it could prejudicially stop service animal users with one type of dog from traveling. <https://news.delta.com/delta-updates-policy-limits-each-customer-one-support-animal-effective-july-10>

If enforced, 14 CFR §382.19(c)(1) should prohibit such a poorly considered policy. https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=16ca0a3ca83c9837961ced25b5f7e49f&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_119

DOT's 2008 guidance bears out this interpretation. Our point with this latest in an ongoing series of examples is to highlight that DOT *must* put its foot down, or airlines are going to continue walking all over service animal users in ways not yet imagined. <https://www.federalregister.gov/documents/2008/05/13/08-1228/nondiscrimination-on-the-basis-of-disability-in-air-travel#p-305>

¹⁸⁵ And in many other places referenced therein.

¹⁸⁶ For a start, see §7. of USAUSA's 2016 compromise comment, where the position is described as "The medical model of disability is an inaccurate and unjust basis for service animal regulations." <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-Pre-NPRM-Comment.pdf>

¹⁸⁷ From the *Introduction* above, see AXIOM I Disability access: "The prime directive of the ACAA is to prevent disability-based discrimination and enable access for people with disabilities." Also see THEOREM D Third-party paperwork undue: "Third-party documentation requirements induce undue burdens that violate human rights and reduce access."

¹⁸⁸ §1.a. from the report gives an excellent overview of this issue. <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

¹⁸⁹ These differences are perspicuously detailed in a document drafted by Psychiatric Service Dog

does not justify a departure from the basic premise that in the United States, disability rights are civil rights—guaranteed not merely by nature or ethics, but by law.

The requirement to obtain a medical professional's letter to prove one's disability is a prime example of DOT regulations using an outdated medical model of disability that DOJ has eschewed and rebuked as "[...] burdensome, and contrary to the spirit, intent, and mandates of the ADA".^{190,191} Looking to present developments, we are given no reassurance that DOT intends to relegate such models to the past and turn instead to

Partners before the Reg Neg. See especially §1 of "ACAA Design Challenges & Solutions", which enumerates these considerations and details their fallout:

- (1) some pets are allowed on board when people pay fees
- (2) the environments of airports and cabins of airplanes in flight are more challenging than average for an animal (humans, too!)—including in terms of airport activity and stress, and airplane crowding and confinement
- (3) gatekeepers (employees) are more in the position of actively verifying an animal's status

<https://www.psychdogpartners.org/board-of-directors/board-activities/advocacy/acaadesign-challenges-solutions>

¹⁹⁰ DOT's Congressional mandate through the ACAA does not differ significantly from DOJ's through the ADA. See 42 USC §12101(b)(1), where the simple ADA mandate is "the elimination of discrimination against individuals with disabilities". <https://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/html/USCODE-2010-title42-chap126.htm>

¹⁹¹ See DOJ's 2010 analysis from updating its service animal regulations ("Appendix A to Part 36—Guidance on Revisions to ADA Regulation on Nondiscrimination on the Basis of Disability by Public Accommodations and Commercial Facilities", "Section-By-Section Analysis and Response to Public Comments"):

"Some commenters suggested that a title III entity be allowed to require current documentation, no more than one year old, on letterhead from a mental health professional stating the following: (1) That the individual seeking to use the animal has a mental health-related disability; (2) that having the animal accompany the individual is necessary to the individual's mental health or treatment or to assist the person otherwise; and (3) that the person providing the assessment of the individual is a licensed mental health professional and the individual seeking to use the animal is under that individual's professional care. These commenters asserted that this will prevent abuse and ensure that individuals with legitimate needs for psychiatric service animals may use them. **The Department believes that this proposal would treat persons with psychiatric, intellectual, and other mental disabilities less favorably than persons with physical or sensory disabilities.** The proposal would also require persons with disabilities to obtain medical documentation and carry it with them any time they seek to engage in ordinary activities of daily life in their communities—something individuals without disabilities have not been required to do. Accordingly, **the Department has concluded that a documentation requirement of this kind would be unnecessary, burdensome, and contrary to the spirit, intent, and mandates of the ADA.**" (bold emphasis added)

While DOT and DOJ are separate entities with separate purviews, it's hard to understand how the same basic mandate could be handled from such divergent perspectives when it comes to these core issues.

<https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&r=APPENDIX&n=28y1.0.1.1.37.6.3.2.8.13>

*a human rights-based approach.*¹⁹²

A human rights approach to disability could allow deterrent consequences to knowingly and willfully committing fraud to obtain goods or services. It could tolerate a system where individuals verify they understand the rights and responsibilities pertaining to travel with a service animal when they intend to fly —the system can assume traveler ignorance if the consequences are not overly burdensome.

What a human rights approach cannot abide is a system that assumes the guilt of people with disabilities.

*At this point, we cannot afford to mince words; too much hangs in the balance. Requiring people with disabilities to seek, obtain, present, or carry special paperwork from a third party, as if their innocence must be proven for them to exist as others do in society, is an authoritarian violation of human rights.*¹⁹³

[...]

We are not merely frustrated, but are at times distraught that DOT is considering whether to further push discriminatory, burdensome regulations that rely on outdated models of disability, masked in safety concerns for all passengers. While we write of models, this is not a matter of theory. As our survey results show, this is a matter of the very real and quite dire impacts this situation has in the lives of people with disabilities.

After these interloping years of rights reductions, DOT is faced with an historic decision. DOT officials need to decide whether to re-adopt a human rights perspective on disability access, as DOT originally adopted and as the ACAA crafters intended. The other option is to ignore the civil rights concerns and instead push for even more of a medical model of disability, continuing to violate the ACAA mandate. This is the option that incubates barriers by treating people with disabilities as guilty

¹⁹² See DOT's May 16, 2018 "Interim Statement of Enforcement Priorities Regarding Service Animals" and "Traveling by Air with Service Animals Advance Notice of Proposed Rulemaking (ANPRM)", respectively.

<https://www.regulations.gov/document?D=DOT-OST-2018-0067-0001>

<https://www.regulations.gov/document?D=DOT-OST-2018-0068-0001>

¹⁹³ Our 2016 survey report, performed at the request of DOT, clearly bears out the severe impacts of the current regulations' burdens. <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>

until proven innocent.

*This is the unfortunate history and present context in which our community completed the flight access survey. We believe the results below bear this out and beg for a sea change in a way we hope DOT will hear and understand.*¹⁹⁴

§9.c. Third-party documentation requirements are a large burden

In §9.b., we explained why third-party documentation requirements are morally wrong in this context, even if they would not present a large practical burden. In this subsection, we use surveys and their analyses to show how third-party documentation requirements actually are a large practical burden.

DOT says: "We ask passengers with disabilities to provide information regarding what, if any, burdens may exist should they be required to submit veterinary forms related to the health or behavior of their service animal."¹⁹⁵ DOT also writes that airlines "[...] contend that producing animal health records would not be burdensome for service animal users as most, if not all, States require animals to be vaccinated."

To address DOT's inquiry and respond to airlines' reported contention, we excerpt part of §3.b. ("*Prime directive vs. extreme anti-misuse measures*") from USAUSA's 2018 survey report.

*What we find most bizarre is that we provided clear evidence of the unacceptable burdens already in play, yet DOT presently considers whether to permanently add more such burdens.*¹⁹⁶ *Respectfully, from the outside it looks like DOT's single-minded goal in this area is to chase total victory in a misguided crusade against an anecdotal "fraudster" enemy, without regard for how much this burden-stacks people with disabilities.*

DOT can no longer pretend the existing burdens and the new access barriers are due and just burdens. The present survey simply reinforces the manner in which these systems eliminate and reduce access for people with disabilities.

Two-thirds of our community members don't think their

¹⁹⁴ The subsection's heading is "*Outdated disability models incubate fresh barriers*".
<https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

¹⁹⁵ <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

¹⁹⁶ See DOT's ANPRM: <https://www.regulations.gov/document?D=DOT-OST-2018-0068-0001>

veterinarians would be willing to sign the kind of form airlines like United would like to have,¹⁹⁷ and they seem to be right.¹⁹⁸ If service animal users 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.¹⁹⁹ Such burdens would radiate and multiply across hundreds of thousands of flyings by service animal- and ESA-using people with disabilities each year.²⁰⁰

While the population-level cost is disturbing, we remind DOT that for most people with disabilities, these burdens are enormous on the individual level. In our community, 79% of people are at least moderately discouraged from flying by being required to provide one piece of third-party documentation, with 22% being totally discouraged.²⁰¹ This data is reinforced by our 2016 survey, which found that 76% fly less or not at all due to the contemporary burdens.²⁰²

In the present survey, if individuals have to provide two pieces

¹⁹⁷ From United's February 1, 2018 release about their planned policy:

"The customer must also provide a health and vaccination form signed by the animal's veterinarian. The veterinarian must also affirm that there is no reason to believe that the animal will pose a direct threat to the health and safety of others on the aircraft or cause a significant disruption in service."

<https://hub.united.com/united-emotional-support-animal-policy-2530539164.html>

¹⁹⁸ See the March 2, 2018 release from the American Veterinary Medical Association (AVMA), "AVMA, United Airlines reach agreement on veterinary health form"—and the comments from veterinarians attached thereto: "The AVMA, with support from AVMA PLIT, flew into action when United Airlines announced a new policy requiring a veterinary signature vouching for the health, behavior and training of psychiatric service and emotional support animals (ESA) flying with United passengers.

"The AVMA reviewed United's Veterinary Health Form, which the airline said would take effect March 1, and recognized that the information it requested might not position United to make good decisions that would appropriately support the health and welfare of their animal and human passengers. The statements on the form also created potential liability risks for veterinarians attesting to them."

https://atwork.avma.org/2018/03/02/avma-united-airlines-reach-agreement-on-veterinary-health-form/?utm_source=smartbrief&utm_medium=email&utm_campaign=smartbrief-assoc-news

¹⁹⁹ See §5.a. for our data and analyses.

²⁰⁰ We are extrapolating based on data from airlines and our 2016 survey report calculations, which pertained only to disability-assisting animals for mental health-related disabilities: "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)." (2) <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>

²⁰¹ The integer scale in our survey is from 1 to 5, with only 1 and 5 explicitly defined as "not at all discouraged" and "totally discouraged", respectively, in response to "How much would it discourage you from flying if[...]" We consider a rating of 3 to be "moderately discouraged". The 3, 4, and 5 responses for the seventh question constitute 21.1%, 36%, and 21.8% of the answers, totaling 78.9%. Similarly for the eighth question, the numbers are 7.9%, 24.8%, and 55.2%, totaling 87.9%. See §5.a.

²⁰² <https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>

*of third-party documentation, 88% are at least moderately discouraged and 55% are totally discouraged from flying. **We believe this means that over half of our population will not fly with such a system as DOT is considering—a system that is supposed to guarantee access for people with disabilities.***²⁰³

One sentence from §6.a. of our 2018 enforcement priorities comment sums up the situation: "The access reduction is so surprisingly large that it could not possibly be offset by any amount of fraud reduction."²⁰⁴²⁰⁵

DOT points out a further concern:

*Airlines establishing their own policies for travel with a service animal could also mean a patchwork of service animal access requirements, making it difficult for persons with disabilities to know what to expect and how to prepare for travel.*²⁰⁶

We, too, are significantly concerned about airlines that are requiring their idiosyncratic forms be filled out by third parties (as opposed to the same piece of third-party documentation being transferable between airlines), whether by clearly requiring their form be used or due to employee confusion since the form exists.²⁰⁷ This means that every time one wishes to travel on a different airline, one must pay the time and money needed to get new paperwork from one's doctor and/or veterinarian. A reasonable person may even infer from the wording of some of these forms that every new ticket purchase with the same airline will require a new vet and/or doctor visit.

The burdens are very real, and they are not merely adding up, but fractally multiplying in their chilling effects.

²⁰³ <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

²⁰⁴ At least 3 out of 4 don't fly or fly less due to the access burdens. See §4 and §5 in the 2016 survey report, plus the data in §5.a. of the 2018 survey report (ibid. above).
<https://www.psychdogpartners.org/wp-content/uploads/2016/12/USAUSA-ACAA-SA-DOT-Info-Request.pdf>

²⁰⁵ <https://www.psychdogpartners.org/wp-content/uploads/2018/06/PSDP-Enforcement-Priorities-Comment-June-2018.pdf>

²⁰⁶ <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

²⁰⁷ It seems pretty clear DOT did not intend that the medical letter described in 14 CFR 382.117(e) *not* be transferable among airlines. For frequent fliers, needing to obtain and keep track of multiple letters that convey essentially the same message would not just be an unnecessary, large barrier to access, but an extreme annoyance. Yet we have already received reports and had to help when airline employees demand individuals use their forms, even when the policies say independent paperwork will do.
https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=16ca0a3ca83c9837961ced25b5f7e49f&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_1117

§9.d. *There is insufficient evidence from airlines that veterinary documentation should be required*

DOT reports that:

[...] airlines state that there has been a significant increase in the number of service animal/emotional support animal transportation requests they receive as well as an increase in reported animal incidents of misbehavior, including urination, defecation, and biting.

[...]

*We ask airlines for available data on how many incidents of misbehavior, particularly incidents of biting, airlines have experienced, as well as any data demonstrating an increase in these incidents. What amount of increase in animal misbehavior, if any, is sufficient to warrant a general requirement for a veterinary form regarding the health and behavior of a service animal without an individualized assessment that a service animal or emotional support animal would pose a direct threat to the health or safety of others or would cause a significant disruption in the aircraft cabin?*²⁰⁸

We must review both the burden of proof and the nature of the numbers from airlines in order to understand whether we can accord much weight to airlines' claims. We do this primarily by excerpting parts of §1. from our 2018 enforcement priorities comment:

*A government agency that is tasked with enforcing civil rights should maintain those rights by default. If a party wishes to increase burdens on people with disabilities or otherwise reduce disability rights, the burden of proof for this rights-reduction should lie with that party, not on those trying to stem the egress of their rights.*²⁰⁹

We have seen no hard data justifying the rights-reductions DOT

²⁰⁸ <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

²⁰⁹ This refereeing principle is even more important when the rights holders have very little power compared to the rights takers. DOT is the main body rights holders depend on to balance the power differential between individuals with disabilities and the airline corporations providing services upon which the individuals rely. Your office made it clear to us in an April 4th email that DOT prefers to adopt an evidence-based approach to crafting guidance. Here is an excerpt from that email: "With respect to whether the Department will be issuing guidance on basic economy seating programs, we traditionally decide whether or not to issue a guidance document when we receive a significant number of complaints about an issue or we have received data indicating that there is significant concern in the disability community about an airline policy or practice."

*is allowing.²¹⁰ There is clear evidence that the old and new burdens substantially and systematically limit flight access for people with disabilities.²¹¹ The situation would be backward and misadministered if those in power could defeat discrimination-revealing data with a pre-emptive strike of little more than sensational anecdotes of individuals' wrongdoings.
[...]*

§1.a. Behavior

The number of individual behavioral incidents related to service animals may be going up, but it is unclear whether the incidence (rate) of these occurrences is varying significantly. The number of flights in the US is on the rise,^{212,213} while statistics regarding animal-related incidents are both opaque²¹⁴ and in such low numbers that statistical significance is hard to come by. As a start, the relevant rate for DOT to consider is the incidence of negative service animal- or ESA-related events per service animal or ESA flying.²¹⁵ DOT must look beyond absolute numbers related to service animals and not miss the forest for the trees.

This relevant rate would be for events in which a purported service animal or ESA presented a significant behavioral problem, or in which the accompanying passenger presented a significant behavioral/control problem that was related to their animal. This should not include a prominent statistic from some

²¹⁰ In the SIEP Background section, after explaining how the ACAA requires access for service animal users, DOT notes "[...]the Department recognizes that airlines have a responsibility to ensure the health, safety, and welfare of all of its passengers and employees. In enforcing the requirements of Federal law, the Department is committed to ensuring that our air transportation system is safe and accessible for everyone." If DOT were to allow reduced access for service animal users, it seems this would have to be clearly justified on such bases as those mentioned—health and safety—so mere evidence of increased travel is not sufficient. Yet we await relevant evidence as access is nonetheless reduced.

²¹¹ See USAUSA's 2018 Flight Access Survey Report: <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

²¹² See the Bureau of Transportation Statistics (BTS) release BTS 16-18, "2017 Traffic Data for U.S Airlines and Foreign Airlines U.S. Flights": <https://www.bts.gov/newsroom/2017-traffic-data-us-airlines-and-foreign-airlines-us-flights>

²¹³ The current BTS "U.S Air Carrier Traffic Statistics" are searchable: <https://www.transtats.bts.gov/TRAFFIC/>

²¹⁴ Airlines' data collection methods are not always clear, but a prime example of the muddled use of airlines statistics is that airlines generally lump together psychiatric service animals (PSAs) and emotional support animals (ESAs). These are very different entities, since PSAs are supposed to have much more training and public exposure than ESAs. By collecting data on PSAs and ESAs in one indiscernible grouping, airlines lose the ability to claim they have data showing problems with PSAs and ESAs—as opposed to just with ESAs, for example.

²¹⁵ This is similar to how DOT should consider the rate of (pet) animal cargo deaths per animal trip, since some airlines carry many more animals per year than others, making their absolute losses higher even if their rate of loss were much lower.

airlines, which is incidents related to the paperwork burdens DOT currently allows. Such reports indicate more of a problem with the regulations than they do with the passengers or animals subjected to those regulations.

§1.b. Misuse

Airlines cannot claim the number of service animal and ESA flyings is dramatically on the rise, then assume this must mean fraud is on the rise. What is most relevant on this front is whether the rate of fraud (or general ACAA misuse) is on the rise.

An easy explanation for the rise in animal use for disability mitigation is the dramatic increase in public awareness in recent years, resulting in more people with disabilities taking action to use animals to help them live their lives. This awareness and resulting rise in use should be seen as a good thing overall.²¹⁶ We need not imagine a fraudster hiding behind every tree.

It is easy, with the current system, for a shadowy ignorance to follow the public's casual understandings of service animals and ESAs. Without an access system that bears an educational light, we would not be surprised were the well-intentioned misuse to continue. However, we have neither clear evidence of the rate of fraud nor the rate of other misuse. As far as we know, there is no airline that can keep track of this (or tries to).

Instead, during the Reg Neg we were shown numbers related to paperwork issues in general. Such numbers could represent anything from, for example, a non-disabled pet owner unquestionably forging paperwork, to a psychiatric service dog user's documentation being one day out of date. Anything beyond a catch-all number for this variety of issues was in anecdotal form.

Surely, airlines could provide better evidence for their case if this were such a large problem. This would involve devoting more resources to investigating claims or verifying paperwork. However, the weakness of airlines' evidence of misuse seems

²¹⁶ See the January 31, 2018 article by Brad Morris in USA Today, "More animals on airplanes are good" (the newspaper altered the author's title and its resultant meaning): <https://www.usatoday.com/story/opinion/2018/01/31/opposing-view-overall-animals-airplanes-good/109987262/>

to show us two things. First, if they haven't put their money where their mouths are (to create targeted evidence-gathering systems), it must not be an elephantine problem so much as it is a gadfly. Second, the whole idea of a paperwork-based access system might have us pointed down a muddled rabbit hole in its approach. Instead, we should think seriously of turning right round and considering how the system should value human rights as opposed to playing fraudster whack-a-mole with increasing mounds of third-party paperwork.

[...]DOT should [...] lean toward greater rights and access. DOT should not dispose of rights by allowing new barriers, unless there were an enormous and public body of evidence that clearly carries the burden of proof. In the absence of the public having the ability to examine and critique any such body of evidence, new access barriers simply cannot have sufficient justification.²¹⁷

We continue to see the same pseudo-informative, context-free claims from airlines, which are sorely inadequate on their own to justify more burdens for people with disabilities.²¹⁸ If we look at the small amount of informative numbers recently made available to us, the story they tell is actually

²¹⁷ Of course, THEOREM B Insufficiency of anecdotes (from the *Introduction* above) reverberates in this section of PSDP's 2018 enforcement priorities comment. <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0019>

²¹⁸ Take, for example, this set of claims from Delta in their June 20, 2018 press release "Delta updates policy, limits each customer to one support animal effective July 10":

"The changes follow an 84 percent increase in reported incidents involving service and support animals since 2016, including urination/defecation, biting and even a widely reported attack by a 70-pound dog. Delta carries approximately 700 service or support animals daily — nearly 250,000 annually. Putting this into perspective, Delta carries more than 180 million passengers annually." <https://news.delta.com/delta-updates-policy-limits-each-customer-one-support-animal-effective-july-10>

In light of the considerations we just elaborated, anyone with a keen eye will note that these claims do not provide the evidence trajectory DOT needs. Here, Delta provides neither the number of incidents in 2016 and 2017, nor the rate of incidents per service or support animal flying. Delta doesn't even specify whether the 84% figure is all misbehavior, or whether it also includes paperwork-based issues. The increase could simply come from a similar increase in their overall number of flyings (other stats we cite above indicate a very large such increase), or from Delta more strictly enforcing their internal reporting protocols.

One useful thing we learn is that Delta's rate of service or support animal flying is almost 0.14%—that's a little over 1 out of every 1,000, at 7 out of every 5,000. It's hard to see how this is the colossal problem that grips the public consciousness, though as DOT notes in 2008 guidance (in connection with unusual species), even the lilliputian problems, "Because they make for colorful stories, [...] have received publicity wholly disproportionate to their frequency or importance." <https://www.federalregister.gov/d/08-1228/p-210>

It looks to us like rather than going beyond pseudo-informative statistics, Delta is content to cash in the frequent flier miles from the airtime it's getting out of the single colorful story mentioned.

shockingly contrary to the story the airlines have been broadcasting!²¹⁹

§9.e. Veterinary documentation requirements would not solve any significant problem

In this section, we explain why veterinary documentation requirements are practically useless in addressing airlines' expressed concerns about rabies and behavior. Instead, we find that they are so ill-considered as to constitute barriers for the sake of barriers, which must be bleached out in light of the ACAA's mandate.²²⁰

DOT inquires:

²¹⁹ While we appreciate an airline like American trying to gather data (see the "Survey" section in American's 2018 enforcement priorities comment), the preferences of a general public that doesn't understand service animals or disability rights are not enormously helpful for a rulemaking on the topic. Two sets of figures from American actually indicate a *decrease* in the rate of problems associated with service and support animals:

"In 2017, American carried 155,790 emotional support animals, as compared to 49,196 trained service animals. In the last three years, there were three times as many ESAs onboard our airplanes than trained service animals. There has been an almost 50 percent increase in emotional support animals flying on American Airlines in the last two years." (p. 3)

"Overall, the complaints made to Customer Relations related to animals in the cabin and service animal fraud are increasing—in 2016, there were 746 and in 2017, there were 792." (p. 6)

If there were an almost 50% increase in ESA flyings and this is making things worse (not specifically behavior issues), we would expect the number of complaints to go up by somewhere close to 50%. (Even then, the rate of incidents per flying—at the present, when flyings have been increasing—could remain the same, as could the rate of incidents per ESA flying.) However, **American's data here indicate that things are getting much better.**

The number of complaints only increased by about 6%. With overall flyings and service/support animal flyings on a steep rise (see references in footnotes above), the *rate* of complaints per (service animal/ESA) flying dropped dramatically. American's data on page 8 is consistent with this, since it is not clear the difference mentioned is even statistically significant with such a small sample size: "Airlines have seen increases in the number of incidents recorded by our flight attendants related to service and emotional support animals: in 2016, there were 103 recorded incidents and in 2017, there were 141 recorded incidents."

This means that in 2017, American had 204,986 individual service/support animal flyings (there may be multiple "flyings" on the same flight if there is more than one animal on the flight), but flight attendants only recorded incidents as occurring in 0.069% of service/support animal flyings. This is about 7 out of every 10,000 flyings, so report-worthy incidents do not occur in 9,993 out of every 10,000 service/support animal flyings. That's a 99.93% success rate. Granted, as discussed in §3.d. of USAUSA's 2018 survey report, risk analysis involves both the likelihood and the severity of negative outcomes. <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

American's 2018 enforcement priorities comment: <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0079>

²²⁰ Airlines may not erect barriers for people with disabilities for no purpose more specific than trying to make service animal fraud harder (which the current barriers don't really seem to do anyway). While we subscribe to AXIOM II Safety and AXIOM III Practicality, there needs to be a demonstrable nexus between a real safety/practical issue and a requirement, or it's just plain discrimination. See the *Introduction* above, which includes AXIOM I Disability access.

*If veterinarian forms are not allowed to be required as a condition for travel, what about other types of documentation to ensure that the animal is not a public health risk to humans? Specifically, the Department seeks comment on whether airlines should be allowed to require that service animal users provide evidence that the animal is current on the rabies vaccine as that vaccine is required by all 50 states for dogs and by most states for cats. Finally, should airlines be permitted to require passengers to obtain signed statements from veterinarians regarding the animal's behavior. And if so, what recourse should be available for service animal users if the veterinarian refuses to fill out the behavior form.*²²¹

Partly by excerpting our 2018 enforcement priorities comment below, we will explain why: (1) veterinarians are not in a position to evaluate animals' behavior,²²² and (2) in spite of popular thinking, veterinarian forms and rabies paperwork don't significantly address safety issues. These points mean that the documentation types airlines want from veterinarians is not useful (functionally presenting barriers for the sake of barriers).

DOT reports what our airline contacts have told us: "[...]certain carriers have indicated that they need veterinary forms or behavioral attestations to determine whether a service animal, particularly a PSA and/or an ESA poses a direct threat."^{223,224}

²²¹ <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

²²² Relevantly, DOT notes: "The American Veterinary Medical Association (AVMA) has raised concerns with the Department about airlines' service animal forms, which require veterinarians to attest to the animal's behavior as well as the animal's health. The AVMA explained to the Department that veterinarians cannot guarantee the behavior of an animal particularly in a new environment like an aircraft but can provide information based on their observations of the animal during a physical examination and discussions with the animal's owner regarding whether the animal has been aggressive in the past. AVMA emphasized to the Department that expanding the scope of the veterinary form beyond health information of the animal and behavioral information of the animal based on the veterinarian's observations could lead to refusals by veterinarians to fill out these forms, which would result in more service animals being denied air transportation." AVMA doesn't want to broadcast it, but veterinarians are usually *not* trained in assessing animal behavior. That's the skillset of an animal behaviorist (which is a rare occupation) or a trainer (which requires a particular focus for service animal work). This means that veterinarians typically are not experts in that which airlines want them to assess. <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

²²³ <https://www.regulations.gov/document?D=DOT-OST-2018-0067-0019>

²²⁴ DOT gestures in its current ANPRM toward what we believe everyone had previously assumed about 14 CFR §382.117(f)—that the evaluation of direct threats to health or safety was intended to be based on individualized, in-person observations by airline personnel, rather than a license for airlines to lay down blanket burdens across classes of people with disabilities. See DOT's ANPRM, footnote 54: "An airline may refuse transportation of a service animal if the animal would pose a direct threat to the health or safety of others. However, the Department's regulation does not clearly specify whether airlines must make this direct threat assessment on an individualized case-by-case basis. The DOT guidance document referenced in the regulation does suggest that the direct threat should be individualized as it states that the analysis should be based on observable actions". <https://www.regulations.gov/document?D=DOT-OST-2018-0068-1157>

Veterinarians are not in a position to predict how an animal would behave in a flight environment, nor do they want to.^{225,226} Veterinarians can give information about vaccinations and the appearance of parasitic critters such as fleas. However, we have not once heard of fleas being a major problem—or a minor one—on airplanes. We have heard of rare, heavily sensationalized reports of dog bites, though with no statistics to aid us.

Clearly, a form from a veterinarian does not prevent a dog from biting. We have been told by DOT²²⁷ and airlines²²⁸ that airlines now want people with disabilities to acquire, submit, and carry these forms in case their animal bites someone (and breaks the skin, presumably). It's hard for us to see how such a rare occurrence could justify requiring hundreds of thousands of people with disabilities to each spend \$115 and 6 hours of

It is clear to us that DOT's direct threat analysis explanation in its 2008 guidance prohibits using a "direct threat" concern as a reason to prejudicially block access to groups of people with disabilities: "If the carrier's reason for excluding a passenger on the basis of safety is that the individual's disability creates a safety problem, the carrier's decision must be based on a "direct threat" analysis. This concept, grounded in the Americans with Disabilities Act, calls on carriers to make an individualized assessment (e.g., as opposed to a generalization or stereotype about what a person with a given disability can or can't do) of the safety threat the person is thought to pose. In doing so, the carrier must take into account the nature, duration and severity of the risk; the probability that the potential harm will actually occur; and whether reasonable mitigating measures can reduce the risk to the point where the individual no longer poses a direct threat. In using its authority to make a direct threat determination and exclude a passenger, a carrier must not act inconsistently with other provisions of Part 382. Direct threat determinations must not be used as a sort of de facto exception to specific requirements of this Part (e.g., the prohibition on number limits)." Even if this were somehow twisted into allowing veterinary forms, airlines have not engaged even in any half-hearted attempt to justify the forms based on a risk assessment and risk mitigation analysis. We believe these processes would quickly fail for the reasons elaborated in our present comment.

<https://www.federalregister.gov/d/08-1228/p-305>

²²⁵ The comments from veterinarians on the article "AVMA, United Airlines reach agreement on veterinary health form" indicate that many veterinarians (1) do not understand the world of service animals and ESAs and (2) are not willing to sign airline forms. The article's 3/8/18 revision itself hints at this reluctance: "The AVMA[...] flew into action when United Airlines announced a new policy requiring a veterinary signature vouching for the health, behavior and training of psychiatric service and emotional support animals (ESA) flying with United passengers."

"The AVMA reviewed United's Veterinary Health Form[...] and recognized that the information it requested might not position United to make good decisions that would appropriately support the health and welfare of their animal and human passengers. The statements on the form also created potential liability risks for veterinarians attesting to them."

https://atwork.avma.org/2018/03/02/avma-united-airlines-reach-agreement-on-veterinary-health-form/?utm_source=smartbrief&utm_medium=email&utm_campaign=smartbrief-assoc-news

²²⁶ See §3.b. of the 2018 survey report for detail on this topic. <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

²²⁷ At a February 6, 2018 meeting in DOT's DC headquarters.

²²⁸ In phone calls between January and April, 2018.

personal time on average to surmount a new set of barriers.²²⁹

Let's strain credulity and pretend those barriers are not an overwhelming problem. We may now ask whether the forms would help in any way.

§6.c. Let's be rabid about the facts

The principle concern airlines offered in connection with veterinary forms seems to involve rabies. It is a zoonotic disease (transmissible to humans) and could increase the likelihood of aggressive behavior. Here we engage in a basic investigation of the matter that anyone else could have done before instituting new burdens.²³⁰

Each year between 2011 and 2015 (in the US) there were between 59 and 89 cases of rabies reported in dogs, averaging 74 per year.²³¹ In 2012, there were 69,926,000 dogs in the US.²³² This means the incidence of rabies over the course of the entire year was 0.0001%, or one in a million. Since an animal is only able to transmit rabies for a period of "several days" after an incubation period and before it is "obvious to even an untrained observer" that there's a problem,²³³ a generous estimate is that any given dog is likely to have rabies at a rate of 0.000002% for any given day out of the year (1 in 50 million).²³⁴ It is plain why domestic dogs are not even considered to be a significant source of rabies anymore.²³⁵

Rabies is transmitted through saliva via a bite into the muscle from a rabid animal. An animal cared for enough to be a service animal (or claimed to be one) is probably much less likely to have rabies than animals that are less cared for and left where

²²⁹ See §2.b. of the 2018 survey report. <https://www.psychdogpartners.org/wp-content/uploads/2018/05/USAUSA-Flight-Access-Survey-Report-May-2018.pdf>

²³⁰ At least as far as the citations go. We also consulted with an ER doctor at a prestigious university hospital, a local veterinarian, a PhD biologist, a former veterinary technician, a supervisor at a law enforcement agency with a major airport in its jurisdiction, an emergency dispatch supervisor, and PSDP board member Heather Walker, who has worked as an Emergency Services Dispatcher for a sheriff's department since 2002.

²³¹ From CDC's "The Burden of Rabies" article infographic. <https://www.cdc.gov/features/dsrabies/index.html>

²³² From AVMA's "U.S. Pet Ownership Statistics". <https://www.avma.org/KB/Resources/Statistics/Pages/Market-research-statistics-US-pet-ownership.aspx>

²³³ See CDC's "The Path of the Rabies Virus" <https://www.cdc.gov/rabies/transmission/body.html>

²³⁴ We interpret CDC's "several days" as 7 days, or 1 week, and so divide the earlier incidence by 52.

²³⁵ From the CDC's "Human Rabies": "[...]domestic dogs[...]are no longer considered a rabies reservoir in the United States." . https://www.cdc.gov/rabies/location/usa/surveillance/human_rabies.html

one could not know whether they've been bitten. They are also more likely to have standard veterinary care, including a rabies vaccine or titer test.²³⁶ When an animal is known to have been bitten by another and has not been vaccinated, it is standard for there to be monitoring or a quarantine.²³⁷

If the point of the vaccination form is to protect the public from rabies, that argument falls apart at the briefest glance at this data. Rabies is a fear-inducing disease since it involves animal bites and is fatal without treatment, yet only 1–3 people are reported to have rabies each year in the US.²³⁸

Since rabies is so rare, whether to treat a human bitten by a dog is not the foregone result of a conversation with a doctor.²³⁹ It's unlikely even that postexposure prophylaxis would be needed.²⁴⁰ If it were needed, we have been fortunate that since the 1980s, the prophylactic protocol has been much easier and less painful—this means that even if the biting animal's vaccination status can't be verified, it does not portend a torturous ordeal.²⁴¹

We belabor the facts to emphasize that people with disabilities deserve the courtesy of basic fact-checking and sufficient reasoning before burdens are forced on them. This applies beyond the specific example of rabies vaccination verification or any veterinary forms.

²³⁶ Some dogs have bad reactions to vaccines, so instead of needlessly re-injecting the vaccine, owners will choose to have a titer test performed to see whether the dog has retained sufficient antibodies.

²³⁷ "Cats, dogs, and ferrets that have not gotten their rabies shots and are bitten by an animal may have to be quarantined for six months or euthanized." <https://www.cdc.gov/features/dsrabies/index.html>

²³⁸ From the CDC's "Human Rabies".
https://www.cdc.gov/rabies/location/usa/surveillance/human_rabies.html

²³⁹ From the CDC's "When should I seek medical attention?": "See your doctor for attention for any trauma due to an animal attack before considering the need for rabies vaccination. Your doctor, possibly in consultation with your state or local health department, will decide if you need a rabies vaccination. Decisions to start vaccination, known as postexposure prophylaxis (PEP), will be based on your type of exposure and the animal you were exposed to, as well as laboratory and surveillance information for the geographic area where the exposure occurred."
<https://www.cdc.gov/rabies/exposure/index.html>

²⁴⁰ From CDC's "Domestic Animals" section on rabies exposure: "If you were bitten by a cat, dog, or ferret that appeared healthy at the time you were bitten, it can be confined by its owner for 10 days and observed. No anti-rabies prophylaxis is needed. No person in the United States has ever contracted rabies from a dog, cat or ferret held in quarantine for 10 days."
<https://www.cdc.gov/rabies/exposure/animals/domestic.html>

²⁴¹ "In the United States, postexposure prophylaxis consists of a regimen of one dose of immune globulin and four doses of rabies vaccine over a 14-day period. Rabies immune globulin and the first dose of rabies vaccine should be given by your health care provider as soon as possible after exposure. Additional doses of rabies vaccine should be given on days 3, 7, and 14 after the first vaccination. Current vaccines are relatively painless and are given in your arm, like a flu or tetanus vaccine." *ibid.* See also articles such as "What's it like: To get a rabies shot".
<https://newsok.com/article/3862071/whats-it-like-to-get-a-rabies-shot>

§6.d. Barriers as mere deterrents, not for health and safety

Airlines are resistant to sharing passenger information, so it does not seem like that is the point of the forms. Forms may be forged or an animal may acquire rabies after the form is completed, so it's not possible for the airline to use the forms to provide any guarantees to any passengers.

If there is a serious animal bite, we cannot see how the form would be of significant help. If airlines are concerned about passenger health or the need for law enforcement involvement, they can call ahead so the proper response is waiting at the airport.

We have heard the protest from some airlines that the baseline law enforcement response to airports is extreme, and too excessive for a dog bite. However, a person (or dog) bitten in the air deserves the same minimum level of law enforcement, medical care, and animal control involvement as a person bitten anywhere else. It is unjust to deny that level of basic response and care due to an airline not wanting to bother the authorities, or the authorities not wanting to be bothered.

Of course, a vaccination form—whether shared with the bitten party or not—in no way removes the obligation to provide the appropriate response. If the response has to be excessive because the incident was during a flight or at the airport, then so be it, because excessive is better than nothing when some response is required.

What, after all this, is the purpose of the form? It cannot ensure the animal is safe; getting a vaccine does not make an animal safe.

The main purpose of the new vaccination forms appears to be simply creating a new barrier for passengers with disabilities, in hopes that a barrier for the sake of barriers will have a deterrent effect on fraud. The ACAA is supposed to remove barriers to access, not oversee their gratuitous multiplication.

Ultimately, we must weigh the burdens to hundreds of thousands of passengers with disabilities vs. any supposed

*benefit to requiring these forms in the extremely rare cases of skin-breaking animal bites. It is difficult to see any specific benefit to the forms, while it is very easy to spot their quite significant and undue burdens.*²⁴²

To enunciate a point touched on above, most veterinarians aren't professionally trained to predict or even evaluate behavior,²⁴³ so the most they can do as an expert is pass along the prospective passenger's self-report. There is no good reason the passenger cannot provide the same behavioral report *directly* to the airline. Having a professional in the middle means the access cost for people with disabilities is higher than it is for others—and many veterinarians would likely act as a barrier to their air travel by not signing such documentation for anyone due to vague liability concerns.

When your only tool is a hammer, every problem can look like a nail. We caution DOT not to follow airlines' thinking that if only we can find the right third-party documentation, everything will be right with the world. Not only does every specific example of third-party documentation (the hammer) fail to solve the problems airlines think need solving, but the problems are not nails. A different kind of tool is needed.²⁴⁴

§10. *Whether U.S. airlines should continue to be held responsible if a passenger traveling under the U.S. carrier's code is only allowed to travel with a service dog on a flight operated by its foreign code share partner*

§10.a. *Code-share flights are a US-foreign partnership*

DOT's regulation makes a US airline responsible for a foreign airline's compliance with some of the ACAA regulations for foreign "code-share" flights. These are flights where the US airline sells the ticket for an entirely non-US flight, but a foreign airline operates the flight.²⁴⁵ This means that for the passenger, the flight is the product of a US-foreign partnership.

²⁴² This excerpt begins at §6.b., "*Gesturing absently at justification is unsatisfactory*".
<https://www.psychdogpartners.org/wp-content/uploads/2018/06/PSDP-Enforcement-Priorities-Comment-June-2018.pdf>

²⁴³ We also explained this in a footnote above. It's easier to realize this if you think of veterinarians as pet doctors, like (human) doctors. Most doctors for humans aren't trained to evaluate or predict human behavior, either; that's a specialty, as it is for veterinary/animal behaviorists.

²⁴⁴ We're referring to a decision tree. What applies here from our *Introduction* above is THEOREM C New access system needed: "Some system of reducing ignorance and increasing responsibility is in order."

²⁴⁵ See 14 CFR §382.7(c). https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=16ca0a3ca83c9837961ced25b5f7e49f&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_17

§10.b. Regulations should not vary wildly from the enforcement reality

DOT presents the current (non-)enforcement situation before making an inquiry:

While the Department's Office of Aviation Enforcement and Proceedings has not taken action against U.S. carriers under these circumstances, the Department seeks comment on whether the rule should explicitly state that U.S. carriers would not be held responsible for its foreign code-share partner's refusal to transport transportation [sic] service animals other than dogs.

It seems patently unfair to have neither enforced a regulation nor plan to, yet to keep the regulation on the books. This may grossly mislead people, since they may have expectations based on what's on the books. Practically speaking, DOT should dispose of any regulation it does not and will not actually enforce, or it should enforce the regulation (at least in some manner).²⁴⁶

So if DOT has already determined that "U.S. carriers would not be held responsible for its foreign code-share partner's refusal to transport [...] service animals other than dogs", then yes, this should be explicitly stated.

§10.c. Warnings should be in place if US airlines are not held responsible for a code-share partner not transporting non-canine service animals

If it's appropriate for US airlines to be held responsible for any partner's ACAA adherence in this situation, there must be a reason. One of the best reasons for this is that a reasonable person could expect that any flight booked through a US airline would adhere to ACAA regulations—even a flight that does not touch the US. Further, if the US airline is not held responsible, *no one is*, because the code-share flights in question do not trigger any foreign airline responsibility.²⁴⁷

This means that if there is a chance a flight booked through a US airline would *not* adhere to ACAA regulations, the passenger is owed practically

²⁴⁶ The question might then be pushed into terms of whether DOT should enforce the regulation in some way or not.

²⁴⁷ From 14 CFR §382.7(c): "As a foreign carrier, you are not subject to the requirements of this part with respect to flights between two foreign points, even with respect to flights involving code-sharing arrangements with U.S. carriers." https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=16ca0a3ca83c9837961ced25b5f7e49f&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_17

effective warning of the specifics before the booking is completed.

Such a warning may be accomplished by at least requiring US airlines' service animal policies to include a warning that foreign travel may not be able to accommodate the person's disability-related needs and that the airline should be contacted for further details about specific flights. It may also be appropriate for clear warnings to be in the booking flow for any such foreign code-share flights, if it is at all practical for the airline to provide such warnings.

No reasonable person should be able to book such a flight and then be unhappily surprised to find their disability can't be accommodated.

§10.d. Clarification of regulations would remove code-share responsibility ambiguity

Should US airlines not be held responsible for a foreign code-share partner's refusal to transport non-canine service animals? No, they should not be; we agree with the airlines' reasoning from the Reg Neg.²⁴⁸ We also believe this is simply the best interpretation of existing regulations, but that clarification would help remove a distinct ambiguity.

DOT's regulation says that "as a foreign carrier, you are not required to carry service animals other than dogs."²⁴⁹ Yet earlier, we find that:

As a U.S. carrier that participates in a code-sharing arrangement with a foreign carrier with respect to flights between two foreign points, you (as distinct from the foreign carrier) are responsible for ensuring compliance with the service [animal] provisions [...] with respect to passengers traveling under your code on such a flight.²⁵⁰

So even if a foreign airline is operating a flight into or out of the US, it only has to carry service *dogs*. But if a foreign airline operates a flight entirely outside of the US, but a US airline sold the ticket, the US airline *may* be on the hook if the foreign airline refuses to transport a service cat. As far as airlines are concerned, these are oddly contrary requirements.²⁵¹

²⁴⁸ As we recollect the gist from conversations. This was not a central topic of debate, but a peripheral issue.

²⁴⁹ From 14 CFR §382.117(f). https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=16ca0a3ca83c9837961ced25b5f7e49f&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_1117

²⁵⁰ From 14 CFR §382.7(c). https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=16ca0a3ca83c9837961ced25b5f7e49f&mc=true&n=pt14.4.382&r=PART&ty=HTML#se14.4.382_17

²⁵¹ In line with what we wrote above, someone may reasonably try to book with a US airline *because* they

Setting aside practical questions of enforcement discretion, it isn't actually clear that the best interpretation of the regulations puts the US airline on the hook at all in this situation.

The service animal provisions require *US* airlines to transport non-canine service animals. However, that doesn't mean that because the US airline is the one ensuring compliance in the code-share situation that the service animal regulations must be interpreted as if the US airline is operating the flight. Rather, it seems that the US airline is in the position ensuring a *foreign* airline follows the regulations—and thus, follows them *as those regulations apply to a foreign airline*.

If a foreign airline carries service dogs, but not other types of service animals, it is following the applicable service animal regulation. There would be nothing on that front for which the US airline could be held responsible if the foreign code-share partner refuses other service animal types.

However, given that a possible interpretation of the regulations is that the US airline must ensure compliance by the foreign code-share partner *as if it were a US airline*,²⁵² clarifying this seems entirely appropriate.

Conclusion

We aimed in §§1.–10. to breathe life into the body of axioms and theorems in our *Introduction*, so that new regulations may exude reason, knowledge, and above all, justice. If we may be of any more assistance in animating these principles for the benefit of all stakeholders, please send word our way.

Sincerely,
Bradley W. Morris, MA, CPhil
Director of Government Relations
on behalf of the Board of Directors,
Psychiatric Service Dog Partners²⁵³

have a service cat need to take advantage of US rules. That is why warnings must be presented whenever this expectation would fail.

²⁵² We believe this is a less defensible strict interpretation.

²⁵³ This comment was drafted with assistance from Jenine Stanley of our Board of Advisors, who provided moral support and a welcome sounding board.



United Service Animal Users, Supporters, and Advocates

Partnering for reasoned advocacy

6. Recent community feedback

May 7, 2019
from USAUSA

The following document is part of USAUSA's May 2019 compilation, "The path to responsible air travel governance: A recent history of service animal recommendations"

Between April 29 and May 7 in 2019, we put a survey out to those in the service animal and ESA community. We received 77 responses to the question of what these community members wanted DOT to know about trying to travel with a service animal or ESA in the past couple of years.

The context for respondents is a multiplicity of new requirements within different airlines, which create a maze of inconsistent hoops and increased burdens for people with disabilities. These burdens can be examined in terms of money, time, and the stress that comes with confusion and discrimination. What is most perspicuous about the recent survey responses is that many individuals are more distraught and more discouraged from flying than in earlier contexts.

This is of grave concern to us, since the starting point in 2016 was already that over three out of four people surveyed either did not fly or flew less because of the requirements targeting them.

Many of our community members wonder how things have gotten so much harder on them when the Air Carrier Access Act (ACAA) was supposed to *end* discrimination on the basis of disability in air travel. Now that our community feels airlines are more free to increase the requirements without apparent oversight, we are backsliding when it comes to fulfilling the promise of the ACAA.

We select 34 quotations just below that pertain to the recent changes in how airlines are operating. Below these selections, we provide the survey content and then all of the responses.

Selections relevant to recent changes

It's been a confusing maze of individual airline requirements that leave me and others anxious about how we will be received at the ticket counter or gate. This only adds to the stress of travel. Behavior is sometimes being recognized as a factor but rules seem to override common sense more often than not.

The rules for each airline have become so arbitrary and so confusing that it stops our team from even considering air travel as an option.

Many years ago (2004- 2008 or so), I flew regularly with my now deceased service dog. I thought the rules were easy to understand, and I felt comfortable and welcomed, and knew I could ask for a CRO if necessary. In the last couple of years, flying has become a huge hassle. The rules seem to vary according to airline which is not fair. It's hard to keep track of all the airlines' individual rules when trying to book a ticket. It causes a lot of anxiety to feel under suspicion of doing

something wrong, of cheating, when just trying to take a trip like everybody else.

The breed restrictions basically make it impossible for me to fly. I didn't know that when I chose my puppy.

Difficult. I'm planning on flying in November with my SD and the list of do' and don't's is overwhelming. Every airline seems to have its own rules and regulations

We fly a lot and the extra vet visit for health certificate each time is expensive.

Jumping through all of the holes makes traveling a nightmare. Every airline has different paperwork and requirements.

My concerns is the policies for service animals seem to change with the airline.

I need a larger dog for mobility issues. He is extremely well trained, and has been my partner for 3 years. Since, I have been afraid to fly with all this new regulations and such. I have missed out on family gatherings as well as vacations, all because of the stress in dealing with the airlines. Please.. fix this.

Additional requirements for passengers using service animals in an attempt to weed out passengers who want to pass off pets as service animals, creates an undue burden on legitimate service animal users. Figure out how to prevent abuse of the system in some other way than making it hard on those of us who use service animals.

In the last two years, I have found airline workers and airport personnel, including TSA agents, much more confused about whether or not my guide dog is actually a service animal. I have found myself more on edge, wondering about what kinds of uncontrolled and possibly misbehaving -- even dangerous -- animals we might encounter in the airports and on the planes that we encounter. [...] Because there is so much confusion about what constitutes a service animal and what constitutes an ESA and where an ESA might be legally allowed to accompany its owner, life has gotten far more complicated in recent years -- and certainly less safe for guide and service dog handlers.

The inconsistency of airline rules makes it somewhat more difficult.

The new psychiatric service dog requirements put in place by some major airlines are unfair and too restrictive. Why is a mental disability

subject to more stringent requirements than a physical one? The requirements for psychiatric service dogs should be as they are now for all other service dogs: simple, easy, and accessible to all disabled people with service animals.

I now only fly on Southwest Airlines since they are the only airline that treats all service dogs equally and don't single out psychiatric service dogs. If other airlines would follow Southwest's example it would make it so much easier to travel with my service dog. There needs to be consistency with all airlines following the ADA definition of service animals as Southwest's policy clearly states especially not singling out psychiatric service dogs and requiring extra documentation.

Many airlines are uneducated and ask for registry papers, even after I followed the correct steps and uploaded the specific airlines required vet forms which is the only required papers.

[...] making sure my "papers" are in order is super stressful.

We used to just make a reservation, get on the plane, slide the guide dog under the seat, and that was it. More recently, (at least in Burbank) Southwest wants us to stop at the main front desk and verify that it is an actual service dog that will "fit". And then they often tell us that they think the dog is too big to fit under the seat, which he isn't, and they finally believe us. We allow plenty of extra time at the airport, but we still find it a little annoying that the proliferation of "fake" service dogs is impacting our travel experience.

Flying is always stressful but in past few years the fear of my guide dog being attacked by someone's pet flying outside a carrier as an ESA has increased. When flying my guide dog has been barked and lunged at repeatedly by pets in the airport and no authority steps in to tell the other owner such behavior in their pet is not tolerated. If my guide dog is harmed or injured that could be a career ending event and my independent would suffer greatly. Airport security and staff need to be trained and actually refuse service to those whose pets (or service animals) are acting in an unsafe and threatening manner for the increased safety of all.

The most difficult and unsettling aspect of flying with my guide dog in the last two years has been the uncertainty about how we will be received at the airport and on the plane. "Most of the time, we have been treated respectfully and no differently than before. However, I was asked once to preduce my dog's ID which was not appropriate. Now I do not know if the airlines expect me to carry my dog's health record or not, and I never was required to prepare in this way before. I really hope the TSA will adopt clear guidelines and make certain

everyone has the same understanding of the regulations. Also, I have no objection to including information about my dog in my on-line profile just like I do for myself, but I do not want to be asked to produce records each time I fly with my dog.

Flying is stressful for anyone, but it's become increasingly so for service animal users like myself. The number of people cleaning their untrained pets are ESAS or service animals so that they can fly them for free and take them places they don't belong has made an already stressful experience even more so. The rise of websites that let owners purchase fake paperwork for their pets so they can claim them as ESAS is also worrying. The increasingly burdensome regulations airlines are trying to put on service dog handlers is a trend that needs to be stopped. We have just as much right to fly with our well trained well behaved animals public does, and we depend on our animals for specific tasks because of our disabilities.

Hello, please pardon the somewhat unstructured format of this message. I am totally blind and have been traveling with a guide dog for the last 31 years. In just the last year I've encountered more difficulty in flying with my guide due to what seems to be the lack of knowledge of front-line customer service personnel at air line ticket counters and/or gate personnel as to the exact regulations spelled out in the air carrier service act. Until several months ago I was not required to provide specific veterinarian and health documentation for my guide as I am required to do now. Although I carry documentation and do provide it upon request if that means I either fly or not, if I was required to provide such documentation in advance prior to flying which some airlines have said they may require me to do, this could cause hardship if I was to need to fly on emergency basis as I have had to do a couple times this year. I have been on a number of occasions in the last several months asked by air line personnel to show proof of my guide dog and her health certificate only to then have them in one case go back to supervisors for a few minutes and to return with forms for my doctor, (more specifically a licensed mental health professional), to have them filled out for the next time I flew with what clearly is a guide dog. I neither have nor need a mental health professional to travel with a guide dog that clearly serves as my eyes in my travels. Furthermore, on another occasion, I had a gate agent insist that she was told that my 60 pound labradore *must* fit under the seat onboard the aircraft to which I responded that she sits on the floor space in front of me. Upon asking the question as to what would happen if she didn't fit under my seat, I was told we would be denied boarding. She then proceeded to board the aircraft with me to ensure my dog would fit in the space required. Although the agent was polite and supportive even when I expressed my frustration and intent

to contact the airlines, this is unacceptable. I've been traveling for 30 years with no issues and take great care to keep my guide in my seat space. and now we've seemingly due to issues like what I've discussed here, taken steps backward in our ability to fly freely without questioning with potential denial due to the lack of consistency among personnel and apparent knowledge at times as to what constitutes a service animal versus an emotional support animal versus a pet. I don't necessarily fault the individuals on the front lines as they're likely following the instructions handed down from higher-ups, but I do feel that possibly better training needs to take place to allow them to know the questions to ask, and follow what was set forth by the air carrier service act. the issues I've experienced have mostly been in my dealings with Allegiant air in Peoria, Illinois (air port code PIA), and Sanford, Florida (air port code SFB). Again I believe the issues in most cases are not with the customer service personnel which whom I've dealt with directly but with the information they're given from air line authorities. If I was to travel with another airline, due to each airline following their own individual regulations rather than across the board standards, I may or may not have the same experience based on whatever they're individual regulations call for therefore making me wonder with each time I fly what challenges I will face during the check in and boarding process. It's very frustrating to feel that we've been required to take steps backward in being able to freely travel or potentially freely travel with our guides as the result of other travelers feeling the need to attempt to play the system and take un-authorized or untrained animals onboard. this however is what we face now and I understand the airlines can at times be in a difficult position and trying to make judgement calls however it would seem to me that following the air carrier service act and determining a consistent procedure and regulation that is followed across all airlines that doesn't remove freedoms we service animal handlers currently enjoy, would simplify and make more pleasant the process for everybody involved.

One never knows whether the crew will hassle the passenger or not, will insist on the dog and handler in the bulkhead when that should be up to the passenger; there are hardly any relief areas in the airports. That needs to be corrected. I used to love to fly and now I fly with trepidation because of all this.

The airlines have been extremely difficult to navigate these last two years. Every airline has different rules, and it is difficult to keep them straight. Airline employees frequently don't understand or know the rules. It is difficult to find the rules so that I can make my flights on airlines that treat psychiatric service dogs the same as all other types of service dogs. Breed bans are coming into effect on some airlines, which makes it very difficult for people to fly.

Basically, the airlines have been wreaking havoc on disability rights these past two years. They are doing whatever they want, which is significantly impacting people with disabilities, especially those with psychiatric disabilities. Treating people with one type of disability different from people with all other types of disabilities is discrimination, flat out.

[...] the DOT should require that airlines do not put undue burdens on service dog users such as special identifications and special checkin requirements are not put in place.

The last two years have been stressful and chaotic, with different airlines having different rules. I've not known what treatment to expect from trip to trip.

I fly with my Seeing Eye dog upwards of 30 segments per year and continue to experience regular occurrences of discrimination. These include being asked for documentation or being asked why I haven't added my Seeing Eye dog to my reservation by both checkin and gate agents, being told I need to sit in a certain seat (i.e. window or bulkhead) which may not be best for my dog and I or is not in line with my preferred seating preference chosen at booking, and being told I can't check in online because I have a service dog.

I travel often and every damn time United calls me to verify I actually have a guide dog. It takes over an hour of my time and is ridiculous when I'm already busy.

I do not think service animal handlers should be required to check in at the counter if they submit documentation ahead of time.

I have had guide dogs for 20 years. It is not easy to fly with a dog taking space at your feet. 20 years ago, if possible, we would be given a preferable seating to make it a little easier to fly with a dog. Now, we are treated like annoying fakers at best and criminals at worse.

It's become incredible complicated as a psychiatric service dog user to fly in the past two years with all of the paperwork that many of the airlines now require.

I believe that psychiatric service dogs should be treated in the same manner as other types of service animals. It doesn't feel fair to require us to submit more documentation than others because it makes me feel like my disabilities or my dogs work that she is trained to do is less valid than folks with other types of disabilities.

I am not opposed to there being paperwork that needs to be completed but strongly believe that it should be required uniformly across the board toward all service dog handlers. I also think that this

paperwork should be the same for every airline and not have to be uploaded and sometimes filled out by the doctor and vet for every flight. Once it is submitted once I think that should be enough. I have a lot of organizational and executive functioning issues so completing and submitting a stack of papers every time I fly is a huge burden. I also am someone who sometimes makes plans at the last minute due to my fluctuating health so I don't believe I should have to submit paperwork 48 hours in advance.

I am very grateful that the DOT is looking into this matter as I understand that there is a lot of abuse of a system designed to help folks with disabilities, but ask that you are thoughtful about what barriers to air travel you are putting on folks with psychiatric disabilities when you ask people with PSD's to jump through all these hurdles.

Thank you

Hannah Badain

I want to be able to check in curbside and not have to go to the inside counter just because I have a guide dog. I do not think my dog should have to be checked out by the people at the ticket counter.

Dog guides have historically traveled with their person with little to no difficulty. However, with the expansion of the service/support animal climate, I would hope that a well trained, qualified service animal would continue to be able to travel with their person with little to no difficulty.

Thankfully, I have a trained guide dog and I have mainly flown on Southwest, which has a great policy for obvious disabilities such as mine. I am concerned about an upcoming flight on United, since I am not familiar with their policy and hope it does not cause problems. The challenge is not being sure until the flight is over whether I will have any access issues that would impede my travel. I should not have to be concerned with just travelling with my dog.

It has been terrible. You really need to get a handle on this, stop treating us like criminals, and stop it with the media reports that keep making fun of our civil rights. Thank you.

Survey content

Below we reproduce the heading, explanation, and question used in the survey, as well as the graphic used to advertise the survey.

Heading—

Service animal air travel: Tell DOT.

Explanation—

Three people from the United Service Animal Users, Supporters, and Advocates (USAUSA) coalition are meeting with the US Department of Transportation (DOT) in mid-May of 2019. Our service animal peers have helped us before in letting DOT know about the challenges of trying to fly with a service animal, but airlines have been putting a lot more of their own rules in place in the last couple of years.

We want to share with DOT what impact this is having on our community. Is the Air Carrier Access Act (ACAA) living up to its mandate of ending disability-based discrimination in air travel?

The last day to provide an answer is Tuesday, May 7th, 2019. We also plan to make answers public. For more on USAUSA, see psych.dog/usausa

Survey question—

If you have a service animal or ESA, what do you want the United States government (USDOT) to know about what it's been like to try to fly in the last two years?

Graphic—

Photo description: *Graphic with text. Black and white picture: Two women with small, heeling service dogs walk through an expansive area in an airport with their backs to the camera. A USAUSA logo with a paw print is in the upper right. Text: "Tried flying with a service animal or ESA? Help us take your air travel concerns to the government. Your 1-question survey feedback will head to DC in mid-May of 2019."*



All survey responses

It's been a confusing maze of individual airline requirements that leave me and others anxious about how we will be received at the ticket counter or gate. This only adds to the stress of travel. Behavior is sometimes being recognized as a factor but rules seem to override common sense more often than not.

The rules for each airline have become so arbitrary and so confusing that it stops our team from even considering air travel as an option.

Many years ago (2004- 2008 or so), I flew regularly with my now deceased service dog. I thought the rules were easy to understand, and I felt comfortable and welcomed, and knew I could ask for a CRO if necessary. In the last couple of years, flying has become a huge hassle. The rules seem to vary according to airline which is not fair. It's hard to keep track of all the airlines' individual rules when trying to book a ticket. It causes a lot of anxiety to feel under suspicion of doing something wrong, of cheating, when just trying to take a trip like everybody else.

Our autism service dog is so much more than an ESA. Stop lumping ESA's and psych service dogs together!!

I haven't flown with my SDiT yet but the rules some airlines have for Psychiatric Service Animals would make it very difficult to fly. I also don't like that PSDs are being treated as ESAs with some airlines.

I have not flown with my service dog but I have heard horror stories about having to buy them a ticket or fly them in a crate below and that makes me wary of flying.

The breed restrictions basically make it impossible for me to fly. I didn't know that when I chose my puppy.

Have a trained service animal as someone with paraplegia who uses a wheelchair and have had multiple problems with ESA's that are not trained not in a crate within the airport (which is against the law) and ESA's not behaving on the plane (which is the fault of the human). Makes it scary for me to travel with my service animal that is trained to behave in public settings.

terrible

As the owner of a Service Dog training company, I have had to call the airlines on behalf of just about every client travelling with a Service Dog to make sure that my clients have and know everything they

need. It is a grueling, unnecessary step to have to take, and all clients are very fearful.

Difficult. I'm planning on flying in November with my SD and the list of do' and don't's is overwhelming. Every airline seems to have its own rules and regulations

As a handler of a Psychiatric service dog, I don't want to be lumped in with possibly untrained ESA's. I want to be treated like any other person using a service dog.

We fly a lot and the extra vet visit for health certificate each time is expensive.

It's very demeaning - to be told my highly trained service dog is the same as an ESA, to have to prove my disabilities to employees and other fliers, to have my seat mates cause a fuss about vicious dogs and demand to move, to have employees listen to that and start eyeing my dog like she's going to hurt someone, to be told to wait until the end to deplane because "you're too slow with a dog" - it's just incredibly demeaning and demoralizing. Not a good way to start a vacation.

Jumping through all of the holes makes traveling a nightmare. Every airline has different paperwork and requirements. They also are not aware of the difference between an ESA or PSD

TSA has always been very accommodating for my service animal. I have a fear of flying so my anxiety is really high and having Jaylen working beside me helps greatly. My concerns is the policies for service animals seem to change with the airline. Most have been nice but some have made an issue especially if flight is full or it's just been a long day. I get it, everyone has bad days, it happens. I even been told I didn't fit the profile for PTSD being an Black American Female. Sigh. Anyways I would like to see more education for airline employees that is federally mandated in order to be consistent with all airlines. Same training for everyone. Also would like to rules set in place to help our real service animals be set apart from the fakes. Mandatory IDs?, better mandated registration? Just something to set us apart so the airline doesn't have to worry if I'm legit. Especially since I don't fit the profile. Thanks!

Yes definitely

I flew last winter, 2 round trip tickets from DFW to Chicago. I was told I could have the bulk head seating as my Service Dog is large, but in all

the flights, I was bumped to regular seating. In one trip, I was told there were no other seats available yet they moved the person next to me, to bulkhead seating. It seemed that the stewardess was just trying to make my trip harder and more uncomfortable for my dog. I need a larger dog for mobility issues. He is extremely well trained, and has been my partner for 3 years. Since, I have been afraid to fly with all this new regulations and such. I have missed out on family gatherings as well as vacations, all because of the stress in dealing with the airlines. Please.. fix this. My dog is vested, with a mobility harness, so it's clear he is working.

I'm tired of my dogs safety being put in jeopardy when I fly because of untrained pets, fake SDs and ESAs flying. ESAs should NOT be allowed to fly because they don't require any training and flying is stressful enough for legit task trained service dogs. It's extra stressful for a pet or ESA with no training or very little training. They need to be removed for the list of things that can fly.

Additional requirements for passengers using service animals in an attempt to weed out passengers who want to pass off pets as service animals, creates an undue burden on legitimate service animal users. Figure out how to prevent abuse of the system in some other way than making it hard on those of us who use service animals.

I do not use a service animal - I provide Orientation and Mobility instruction to individuals with blindness, some of whom use guide dogs.

In the last two years, I have found airline workers and airport personnel, including TSA agents, much more confused about whether or not my guide dog is actually a service animal. I have found myself more on edge, wondering about what kinds of uncontrolled and possibly misbehaving -- even dangerous -- animals we might encounter in the airports and on the planes that we encounter. Once I was terrified when my rather vocal German Shepherd, who is my Seeing Eye Dog, had a couple things to "say" right after we boarded a plane. (German Shepherds are notoriously vocal, and mine is no exception.) I was terrified that we might be kicked off the plane. Of course my dog picked up on my apprehension, and it was even harder than usual to quiet her. Because there is so much confusion about what constitutes a service animal and what constitutes an ESA and where an ESA might be legally allowed to accompany its owner, life has gotten far more complicated in recent years -- and certainly less safe for guide and service dog handlers.

It continues to be challenging because of poor behavior of dogs not

controlled by handlers. The inconsistency of airline rules makes it somewhat more difficult. Consistency with the ADA definition of service animal would help with consistency between airlines and airports and be more clear. D

The new psychiatric service dog requirements put in place by some major airlines are unfair and too restrictive. Why is a mental disability subject to more stringent requirements than a physical one? The requirements for psychiatric service dogs should be as they are now for all other service dogs: simple, easy, and accessible to all disabled people with service animals.

I now only fly on Southwest Airlines since they are the only airline that treats all service dogs equally and don't single out psychiatric service dogs. If other airlines would follow Southwest's example it would make it so much easier to travel with my service dog. There needs to be consistency with all airlines following the ADA definition of service animals as Southwest's policy clearly states especially not singling out psychiatric service dogs and requiring extra documentation.

Many airlines are uneducated and ask for registry papers, even after I followed the correct steps and uploaded the specific airlines required vet forms which is the only required papers. Also, the fact that PSD are put in the same category of ESAs. The amount of time, money, and training efforts that go into a PSD is just as much as any other SD, and it is unfair to lump them in the same category as untrained ESAs.

All TSA agents have a different idea of how to go through screening with a dog. There is no consistency. Additionally, making sure my "papers" are in order is super stressful.

For ESA's there needs to be tighter regulations so just not random animals people can fly. As one who has a service dog and is highly trained, those who are untrained and random, make it extremely challenging. Also with SDs, segregation of having one who has psychological diagnosis and need to have a current letter vs a medical (diabetic, seizure alert, etc) feels like I'm being segregated. Delta has been extremely beneficial in the past. I have not flown since the term of people flying with rats, peacocks, and other animals.

I didn't have an issue at all flying with SouthWest Airlines they were amazing.

There is a huge difference between an ESA and a psychiatric service dog. Any type of SD requires thousands of hours of training and is very expensive. An ESA requires no training at all. Stop discriminating

against people who require psychiatric SDs, because it is no different from any other disability

We need clear consistent rules with reasonable documentation requirements. Airlines must understand the important role ESA and SD serve a person with a disability. If a Dr letter is necessary it should not have to contain personal diagnoses history. Simply stating the person is disabled and their symptoms will be mitigated by the animal should be sufficient.

I appreciate airport and flight staff being so accommodating to my SD and I but PLEASE be aware that if it wasn't for him, I would not be able to leave the house! PLEASE IGNORE MY SD. I am a wreck and he's guiding and supporting my travels and needs to be focused on me.

I want them to know my animal is not here as a pet. My animal is here to help me be independent. The animal is a working animal, NOT a pet. I think it's important to understand the difference and allow the disabled to have their service animal. However, Not those scamming our system with their pets proclaiming to be service animals This is not helpful to the cause for those of us With disabilities who need them.

Even though I know how to walk through TSA with my guide dog oh, it would be nice if the agents helping me were aware of how confusing this particular part of the airport is to the Blind and Visually Impaired. Sometimes being left facing the wrong direction or not sure where my belongings might be is very nerve-wracking. It would be so beneficial if an agent could not only assist us going through the metal detector but could also assist us in finding our belongings and may be pointing Us in the right direction to our gate. Some might need 100% assistance in some might just need guidance. For me, going through TSA is the most stressful part because it can be so confusing and overwhelming as I can't see what needs to be done. PS - my dog and I have always been treated very well in respectfully by TSA agents.

My guide is my medical equipment. My employee. Because so many are now getting free rides for their pets, we are now being held hostage by snapping, snarling, and even biting dogs. The fake certificate that gets printed off on a home computer has become commonplace. There is NO CERTIFICATE! But because so many have been waving them, it's us that get in trouble when we try to explain the only way to get that paper, is to buy it! The Amazon, abs EBay dogs need to stop please.

It has been challenging to identify as a Guide Dog handler to airport and flight crew members.

My guide dog does not have enough room to lie down. Her body is too long to fit under the seat in front of me, as I've been instructed to do, and even if I sit in the window seat of a 2-seat row, her legs would extend into the aisle. When I sit in a 3-seat row, such as the bulkhead, the other passengers in that row have to share their foot room with my dog. Perhaps if the bulkhead row could be a little wider, this would not happen. Otherwise, I am at a loss as how to fly with my dog.

I have been very fortunate and not experienced problems.

You are making traveling with a service dog too difficult to travel. A valid ID from a reputable training school should be enough for travel.

We used to just make a reservation, get on the plane, slide the guide dog under the seat, and that was it. More recently, (at least in Burbank) Southwest wants us to stop at the main front desk and verify that it is an actual service dog that will "fit". And then they often tell us that they think the dog is too big to fit under the seat, which he isn't, and they finally believe us. We allow plenty of extra time at the airport, but we still find it a little annoying that the proliferation of "fake" service dogs is impacting our travel experience.

My Seeing Eye Dog and I have not flown in the past two years, but we have done so previously. I am concerned at the number of untrained and under-controlled animals that continue to be permitted. I'd like to see something done about the use of fake service animals. Although I understand the thought of requiring certification, I believe that this does not work. Such documentation is easily obtained and does not necessarily mean that the animal is what is indicated. Further, I feel that the Air Carrier Act needs to be reexamined, perhaps restricting what animals are included.

Doug Hall

Flying is always stressful but in past few years the fear of my guide dog being attacked by someone's pet flying outside a carrier as an ESA has increased. When flying my guide dog has been barked and lunged at repeatedly by pets in the airport and no authority steps in to tell the other owner such behavior in their pet is not tolerated. If my guide dog is harmed or injured that could be a career ending event and my independence would suffer greatly. Airport security and staff need to be trained and actually refuse service to those whose pets (or service animals) are acting in an unsafe and threatening manner for the increased safety of all.

The most difficult and unsettling aspect of flying with my guide dog in the last two years has been the uncertainty about how we will be received at the airport and on the plane. "Most of the time, we have been treated respectfully and no differently than before. However, I was asked once to produce my dog's ID which was not appropriate. Now I do not know if the airlines expect me to carry my dog's health record or not, and I never was required to prepare in this way before. I really hope the TSA will adopt clear guidelines and make certain everyone has the same understanding of the regulations. Also, I have no objection to including information about my dog in my on-line profile just like I do for myself, but I do not want to be asked to produce records each time I fly with my dog.

That ESA's should adhere to the language of the ADA and should have to adhere to the same behavioral guidelines as all other service dog handlers.

My dog guide passed away a couple of years ago, but when she was with me, I traveled alone frequently. I had pretty good experiences, though there were three areas that were sometimes a concern. It often seemed that the check-in desk wasn't aware that my backpack with dog items was not subject to the luggage fee. Often, it wasn't included on the airline's list of exempt items. Another area concerned dog relief areas that were indoors. In one airport, I can't remember which one, the relief area was basically a towel in a hallway. I didn't want to break my dog's training by encouraging her to relieve herself indoors, but it was a cross-country flight. She refused it, which made the flight a little complicated. Lastly, I usually got bulkhead seats, which I really appreciated. A couple of times, though, on cross-country flights, I wasn't able to change a very tight seat in economy. We made do, but having more consistent access to bulkhead seats would be welcome. Hope this helps. Thank you!

I have a guide dog the it has been over 1 year since we have been travelling and the trip did not have any issues. We will be flying in June I can update you after that flight.

Flying is stressful for anyone, but it's become increasingly so for service animal users like myself. The number of people cleaning their untrained pets are ESAS or service animals so that they can fly them for free and take them places they don't belong has made an already stressful experience even more so. The rise of websites that let owners purchase fake paperwork for their pets so they can claim them as ESAS is also worrying. The increasingly burdensome regulations airlines are trying to put on service dog handlers is a trend that needs to be stopped. We have just as much right to fly with our well trained

well behaved animals public does, and we depend on our animals for specific tasks because of our disabilities. The rise of pets where they don't belong Has made our animals jobs harder and our experiences stressful. Those emotional support animals prescribed by a doctor Should have the ability to keep them with them if needed, but the process somehow needs to be regulated and these sites that make it easy for pet owners to game a system meant to increase freedom and independence for people with disabilities need to be cracked down on and stopped.³

When flights are full, it is extremely uncomfortable for service animals particularly on economic flights like Allegiant. It is extremely concerning.

Segregated to wait to be unloaded off airplane last and told "I'll be in the way so it is best to wait until the other passengers deplane." I have also been told by airline crew that it is policy for me to wait to deplane. I do not believe that standing in the aisle to quickly retrieve bags from top compartment and leave with the rest of the passengers causes any holdups. I do not move any slower than other passengers. My guide dog is a well behaved, trained service dog and will wait for me or stand next to me just like any young child would stand close to an adult. I have often needed to ask and ask for assistance once I have arrived at the airport when I make the airline know before my flights that I will need assistance getting to my gate or baggage. Often there is not a person available or has not been notified prior of my arrival. The dog relieving areas indoors are not practical, sanitary or acceptable. My guide dog is trained to do her business outdoors and not indoors. The indoor rooms with padding is never going to work for my trained guide dog to take care of relieving herself. I am not comfortable going into those rooms because of the odor and germs with my immuno-deficient system along with nausea from landing. The need to have vaccination records in hand is reasonable and acceptable to me. I believe that the time restraints on vaccination records is too strict. the requirements to upload vaccination records to a website prior to flying is very unreasonable and burdensome. I have also encountered flight crew members who pet and interact with her. The response "Oh I just cannot help myself, I love dogs and she's so cute looking up at me." I recommend improved or additional airline crew staff training on the service dog rules and proper behavior, in addition to how to interact with blind people. Many times I have not been given information about emergency exits and have even been told "just follow the other passengers in an emergency."

Yes!

Hello, please pardon the somewhat unstructured format of this message. I am totally blind and have been traveling with a guide dog for the last 31 years. In just the last year I've encountered more difficulty in flying with my guide due to what seems to be the lack of knowledge of front-line customer service personnel at air line ticket counters and/or gate personnel as to the exact regulations spelled out in the air carrier service act. Until several months ago I was not required to provide specific veterinarian and health documentation for my guide as I am required to do now. Although I carry documentation and do provide it upon request if that means I either fly or not, if I was required to provide such documentation in advance prior to flying which some airlines have said they may require me to do, this could cause hardship if I was to need to fly on emergency basis as I have had to do a couple times this year. I have been on a number of occasions in the last several months asked by air line personnel to show proof of my guide dog and her health certificate only to then have them in one case go back to supervisors for a few minutes and to return with forms for my doctor, (more specifically a licensed mental health professional), to have them filled out for the next time I flew with what clearly is a guide dog. I neither have nor need a mental health professional to travel with a guide dog that clearly serves as my eyes in my travels. Furthermore, on another occasion, I had a gate agent insist that she was told that my 60 pound labradore *must* fit under the seat onboard the aircraft to which I responded that she sits on the floor space in front of me. Upon asking the question as to what would happen if she didn't fit under my seat, I was told we would be denied boarding. She then proceeded to board the aircraft with me to ensure my dog would fit in the space required. Although the agent was polite and supportive even when I expressed my frustration and intent to contact the airlines, this is unacceptable. I've been traveling for 30 years with no issues and take great care to keep my guide in my seat space. And now we've seemingly due to issues like what I've discussed here, taken steps backward in our ability to fly freely without questioning with potential denial due to the lack of consistency among personnel and apparent knowledge at times as to what constitutes a service animal versus an emotional support animal versus a pet. I don't necessarily fault the individuals on the front lines as they're likely following the instructions handed down from higher-ups, but I do feel that possibly better training needs to take place to allow them to know the questions to ask, and follow what was set forth by the air carrier service act. The issues I've experienced have mostly been in my dealings with Allegiant air in Peoria, Illinois (air port code PIA), and Sanford, Florida (air port code SFB). Again I believe the issues in most cases are not with the customer service personnel with whom I've dealt with directly but with the information they're given from air line authorities. If I was to travel with another airline, due to each airline

following their own individual regulations rather than across the board standards, I may or may not have the same experience based on whatever their individual regulations call for therefore making me wonder with each time I fly what challenges I will face during the check in and boarding process. It's very frustrating to feel that we've been required to take steps backward in being able to freely travel or potentially freely travel with our guides as the result of other travelers feeling the need to attempt to play the system and take un-authorized or untrained animals onboard. This however is what we face now and I understand the airlines can at times be in a difficult position and trying to make judgement calls however it would seem to me that following the air carrier service act and determining a consistent procedure and regulation that is followed across all airlines that doesn't remove freedoms we service animal handlers currently enjoy, would simplify and make more pleasant the process for everybody involved.

One never knows whether the crew will hassle the passenger or not, will insist on the dog and handler in the bulkhead when that should be up to the passenger; there are hardly any relief areas in the airports. That needs to be corrected. I used to love to fly and now I fly with trepidation because of all this.

I fully support heavy regulation of service animals in air travel. I support the airlines in requiring documentation of the service animal and the specific work the animal is trained to provide for the handler. I believe no Emotion Support Animals should be allowed in the airport, much less on a plane. These animals are not closely regulated and the behavior and training varies widely from animal to animal. These untrained, poorly behaved animals pose a risk to service animals and their handlers, making travel less safe and more unpleasant. I welcome the opportunity to share any and all information regarding my dog's high level of training for his specific guide work.

It's helpful to have identification that the animal is certified in the case of dogs. A physician's letter is good for cats, stating the emotional problem and the cat gives support for that emotional problem. Exotic animals other than mini horses used for guiding the blind should be excluded as well as puppies and kittens as they are not trained yet. The only question to be considered is what airlines might do if there is a person using a dog for service such as a guide or wheel chair or hearing companion and uses a cat as well for emotional support as how to situate the person so they may have both.

I have a guide dog, and I've found that she becomes a lot more distracted if there are poorly managed pets/ ESAs/ or service dogs present. Though I don't appreciate the need to provide certification for

my well behaved guide dog, I also don't think the ones who are not well groomed, well-managed, well trained should be allowed to board aircraft. They should be left at home or asked to pass a test like the Canine Good Citizen test, administered by the American Kennel Club (AKC).

Trying to find and use the service dog relief areas is usually a challenge. Airport staff often do not know what I am asking about. Many relief areas are outside the security stations requiring far more time to use them. If these areas were inside the security stations as many smoking areas are they could be far more user friendly.

I have not had any problems traveling with my guide dog, although I always travel with a sighted companion. I have always been treated well by TSA and airline personnel. My biggest complaint is about people who bring aboard dogs which they claim are service dogs/emotional support dogs. They are often distracting and sometimes aggressive to my dog.

The airlines have been extremely difficult to navigate these last two years. Every airline has different rules, and it is difficult to keep them straight. Airline employees frequently don't understand or know the rules. It is difficult to find the rules so that I can make my flights on airlines that treat psychiatric service dogs the same as all other types of service dogs. Breed bans are coming into effect on some airlines, which makes it very difficult for people to fly.

Basically, the airlines have been wreaking havoc on disability rights these past two years. They are doing whatever they want, which is significantly impacting people with disabilities, especially those with psychiatric disabilities. Treating people with one type of disability different from people with all other types of disabilities is discrimination, flat out.

ESA animals must be treated differently from trained service dogs. The DOT needs to tighten the rules concerning emotional support animals and it needs to mandate that emotional support animals are properly controlled and that airline personnel are properly trained to tell the differences between emotional support and service dogs.

Also, the DOT should require that airlines do not put undue burdens on service dog users such as special identifications and special checkin requirements are not put in place. The DOT should adopt rules and regulations in conformance with those of the Americans with Disabilities Act.

It is disconcerting when there are emotional support animals or pets who are not under control. At a minimum, they can distract our guide dogs or even worse and danger them if they attack.

The last two years have been stressful and chaotic, with different airlines having different rules. I've not known what treatment to expect from trip to trip.

I have a seeing eye dog. I have found that traveling has been a good experience. I think that the airlines need to do a better job of training their employees on how to work with service animal users.

I fly with my Seeing Eye dog upwards of 30 segments per year and continue to experience regular occurrences of discrimination. These include being asked for documentation or being asked why I haven't added my Seeing Eye dog to my reservation by both checkin and gate agents, being told I need to sit in a certain seat (i.e. window or bulkhead) which may not be best for my dog and I or is not in line with my preferred seating preference chosen at booking, and being told I can't check in online because I have a service dog.

I travel often and every damn time United calls me to verify I actually have a guide dog. It takes over an hour of my time and is ridiculous when I'm already busy.

Emotional support animals and fraudulent service dogs have posed a threat to my guide dog and negatively impacted our ability to travel safely. I hope DOT will amend the Air Carrier Access Act so it will mirror the ADA and NOT cover emotional support animals. I do not think service animal handlers should be required to check in at the counter if they submit documentation ahead of time.

I have had guide dogs for 20 years. It is not easy to fly with a dog taking space at your feet. 20 years ago, if possible, we would be given a preferable seating to make it a little easier to fly with a dog. Now, we are treated like annoying fakers at best and criminals at worse. There are also so many "fake" and not so well behaved dogs on board that it gives us all a bad rap and also, having a dog bark and yap at my dog the whole time is no fun for her either. She should not have to deal with that when she is behaving perfectly and bugging no one. I am hoping for a national certification process based on real training standards, but until then, the very least that could be done to help would be to not allow "emotional support" dogs on the planes because that is where a lot of the fakery happens. And they aren't service dogs.

It's become incredible complicated as a psychiatric service dog user to

fly in the past two years with all of the paperwork that many of the airlines now require.

I believe that psychiatric service dogs should be treated in the same manner as other types of service animals. It doesn't feel fair to require us to submit more documentation than others because it makes me feel like my disabilities or my dogs work that she is trained to do is less valid than folks with other types of disabilities.

I am not opposed to there being paperwork that needs to be completed but strongly believe that it should be required uniformly across the board toward all service dog handlers. I also think that this paperwork should be the same for every airline and not have to be uploaded and sometimes filled out by the doctor and vet for every flight. Once it is submitted once I think that should be enough. I have a lot of organizational and executive functioning issues so completing and submitting a stack of papers every time I fly is a huge burden. I also am someone who sometimes makes plans at the last minute due to my fluctuating health so I don't believe I should have to submit paperwork 48 hours in advance.

I am very grateful that the DOT is looking into this matter as I understand that there is a lot of abuse of a system designed to help folks with disabilities, but ask that you are thoughtful about what barriers to air travel you are putting on folks with psychiatric disabilities when you ask people with PSD's to jump through all these hurdles.

Thank you
Hannah Badain

disallow ESAs they are not trained, certified, there are no set standards for ESAs; the community knows and understands that ESAs are important and have a place but not when there are no training standards that are acceptable to the nation.

Please tell DOT not to continue to allow ESAs, service dogs have a standard of training because they are obligated to behave in public, they are required to perform tasks for a person with a disability and ESAs are only required to be housebroken there is no language in the ADA (yes I know DOT/Airlines do not follow the ADA per se) that says ESAs must be on good behavior and in fact the ADA says nothing much about ESAs other than they have no public access.

It has been inconsistent among airports. Sometimes TSA agents are not considerate for the guide dog. Some airports TSA are very professional. There could be more relief areas.

The number of fake service and ESAs that are now on the city streets, on public conveyances and numerous public locations is at the bottom of the problems. These animals haven't been "TRAINED" and bother other people and animals. The real service and ESA dogs have been taught how to be in the public. They know not to bother other people, are not a disturbance and are not aggressive. Aggressive animals are a danger to others. Most service dogs go through 1 1/2 to 2 years of training, they follow commands, and have a job to do. Anyone wanting the public to pay attention to their dog doesn't have a Service Dog. Service dogs are also always on a leash and have a way to be restrained from inappropriate behavior. To boil it into a nutshell, to be a service or ESA dog, the dog must be obedient and not bother or threaten other people or dogs. I use a guide dog and waited over 2 years to get a new dog because of problems caused by FAKE ANIMALS. I should not have to be worried about encountering another dog every time I walk out my front door. The public should be protected from dogs that are a nuisance or dangerous.

I would like for there to be accessible relieving areas for my service dog. The last couple of times I have flown, the relieving areas were far away from the terminal. Also, even though I called in advance, to find out where the relieving area was located, it was a different story when I arrived. None of the workers who assisted me knew where the areas were located.

I am blind and have a guide dog from The Seeing eye. I make sure to carry our ID when I travel. Even though I am not required to show my ID, I think it's prudent to be proactive. I travel for work with my guide and have not had issues on Southwest and Jet Blue which are my main carriers. I believe that people with licensed/trained guide dogs from accredited schools should be required to show an ID to verify the identity of their guide.

I want to be able to check in curbside and not have to go to the inside counter just because I have a guide dog. I do not think my dog should have to be checked out by the people at the ticket counter.

Since 1970, I have traveled successfully internationally and throughout the US with an educated dog guide. I am totally blind. I have worked in a number of different careers and managed well, thanks to the highly trained and properly managed presence of these dogs. I very seldom have trouble flying. My dogs are well behaved and properly maintained. I know how to handle myself. I am not like people who fake disability and take pets into public and on to planes and hope it works.

The presence of untrained and undisciplined pets in environments where the public must operate represents a hazard and a risk to task trained working dog guides. The ADA wisely designed laws so that the performance of the dog and not the badging indicated the dog's right to be in public for a legally specified purpose.

Please carefully consider any changes which permit unprepared and uncontrolled animals in places, such as the public air spaces, we're tight quarters and highly trained performance represent the best indication that a dog is providing bona fide assistance to someone with a bona fide disability.

My Dog Guide is essential to my safe travel anywhere I go. I have always appreciated Southwest Airline's attitude and respect for me and my dog guide when I have traveled. Southwest Airlines should be a model of how those of us who NEED service animals and travel with them should be treated with respect and dignity. However, realizing that well trained dogs are not the only animals who are stated as service animals, passenger safety and the legitimacy of an animal traveling as a service and/or support animal should also be established. Dog guides have historically traveled with their person with little to no difficulty. However, with the expansion of the service/support animal climate, I would hope that a well trained, qualified service animal would continue to be able to travel with their person with little to no difficulty.

Thankfully, I have a trained guide dog and I have mainly flown on Southwest, which has a great policy for obvious disabilities such as mine. I am concerned about an upcoming flight on United, since I am not familiar with their policy and hope it does not cause problems. The challenge is not being sure until the flight is over whether I will have any access issues that would impede my travel. I should not have to be concerned with just travelling with my dog.

It has been terrible. You really need to get a handle on this, stop treating us like criminals, and stop it with the media reports that keep making fun of our civil rights. Thank you.



United Service Animal Users, Supporters, and Advocates

Partnering for reasoned advocacy

7. Design Challenges and Solutions for Service Animal Access under the ACAA: A Justificatory Guide for Regulators and Stakeholders

March–May 2016

from PSDP

**The following document is part of USAUSA's May 2019
compilation, "The path to responsible air travel governance:
A recent history of service animal recommendations"**



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Design Challenges and Solutions for Service Animal Access under the ACAA: A Justificatory Guide for Regulators and Stakeholders

*by Bradley W. Morris, MA, CPhil,
based on PSDP's ACAA Committee discussions and collaborations through early March 2016*

The Department of Justice's (DOJ's) Americans with Disabilities Act (ADA) regulations and guidance on service animal access have been refined through years of testing, wise consideration, and response to stakeholder input—they are the gold standard. So when other federal and state agencies are increasingly bringing their regs in line with DOJ's, why should the Department of Transportation (DOT) do anything different with service animals and air travel?

The answer is they should only differ when it's justified by the special nature of air travel. We'll be navigating how and to what extent that special nature comes into play to untangle the unique design challenges—and practicable solutions—for a system of service animal access under the Air Carrier Access Act (ACAA). The stakeholders in this system are most clearly service animal users, trainers, prospective service animal users, air travel industries, and industry personnel, but also include all fellow air travelers that may find their journeys joined by a service animal team.

§1: *The current state of things*

What makes air travel access distinct from general public access for service animals includes these three considerations for air travel:

- (1) some pets are allowed on board when people pay fees
- (2) the environments of airports and cabins of airplanes in flight are more challenging than average for an animal (humans, too!)—including in terms of airport activity and stress, and airplane crowding and confinement
- (3) gatekeepers (employees) are more in the position of actively verifying an animal's status

The current system has some additional features that've fallen out of these considerations. While certain pets are allowed when people pay more, charging service animal users extra fees would be discriminatory. Because of this, people have a distinct financial incentive to claim their non-service animals as service animals—and this happens both intentionally or unintentionally.

In an unsuccessful attempt to discourage this abuse of reasonable accommodations, DOT allows extra, discriminatory requirements for people with mental health disabilities. These extra barriers—including paperwork-carrying¹ and 48-hour prior disclosure², which DOT admits is discriminatory³—certainly make it harder for those with psychiatric service dogs. Even worse, they provide a clear and well-traveled path for unsavory online business accomplices, whose m.o. is to sell medical certifications in a healthcare vacuum. This is not about assigning blame; we just have to face the ugly, messy state of things to understand what's needed to improve.

If we're speaking plainly about the online businesses, these rubber-stamping paperwork factories have created an air travel access pipeline for pet owners. Owners just have to be willing to tick a few boxes from the comfort

1 <https://www.federalregister.gov/articles/2008/05/13/08-1228/nondiscrimination-on-the-basis-of-disability-in-air-travel#h-90>
2 <https://www.federalregister.gov/articles/2008/05/13/08-1228/nondiscrimination-on-the-basis-of-disability-in-air-travel#h-57>
3 "While it is always a good idea for passengers and carriers to communicate about accommodations as early as possible, the Department's ACAA regulations and nondiscrimination policies have discouraged advance notice policies as an undue limitation of the ability of passengers with disabilities to travel freely and without discrimination."
<https://www.federalregister.gov/articles/2008/05/13/08-1228/nondiscrimination-on-the-basis-of-disability-in-air-travel#h-24>

of their home, lying to a faceless and unaccountable "healthcare provider" with whom they have no prior or subsequent relationship. The more frugal fakers may realize they can simply claim to have one of a number of non-psychiatric invisible disabilities, thus avoiding the cost of obtaining the paperwork.

Even some legitimate service animal users have been pushed by the current system to subsidize this kind of business. This often happens because many individuals' genuine doctors are reluctant to sign anything at all they perceive as increasing their own liability. I have personally had such doctors and consequently been prevented from benefits I was owed from an insurance system I paid into.

So not only is the current service animal access system discriminatory, but it falls gravely short even on the goals it was specifically designed to achieve. If we want to come up with a smarter solution for air travel access, we should identify the particular design challenges. But we can't proceed with unity and conviction until we map out some overall goals all stakeholders should agree on.

§2: Overall goals, including parity

It looks like the main goals that come into play for the various stakeholders are:

- Public safety through reasonable measures
- Fair and just disability access (mental health parity + no undue burden on disabled)
- Privacy of specific medical information
- Discouraging intentional and unintentional fraud
- Clarity and systematic ease of use for all parties
- Respect and liability reduction for airline and airport personnel as non-experts in disability access, animal behavior, and legal affairs

Many of these goals go hand in hand, which is promising if we want a system that fairly ties together everyone's needs. When we recognize that hierarchical thinking about disability types isn't just misdirected, but is unhelpful, we can see a fair system that discourages fraud will give every person with a disability the same privileges (and burdens) across the board.

If we're going to treat people with disabilities the same, we either have to expand the paperwork and prior notification burdens to service animal users with *non*-psychiatric disabilities, or eliminate those burdens (possibly replacing them with something that makes more sense). As DOJ and other agencies have recognized, forcing those with disabilities to carry paperwork to access goods and services others can access without paperwork is discriminatory.⁴ The same reasoning applies to giving advanced notice.⁵ If there isn't enough reason for those with non-psychiatric disabilities to give notice, there isn't enough reason to require early notice from service animal users with mental health disabilities.

Since mental health parity was supposed to be gained last century, it looks like all disabilities should be treated the same for service animal access, now that we're over a decade into this century. This makes it our overdue duty to eliminate the paperwork-carrying and prior notification requirements. On its own, this would leave us with something much more similar to the DOJ regs and guidance, wherein gatekeepers can only ask (1) whether it's a service animal required for a disability, and (2) what work or tasks the animal's trained to do (to assist with the disability).⁶

§3: Anti-fraud design challenges

But the burdens in the current system were enacted to prevent fraud. This was perceived as a problem so significant and perverse that DOT was willing to discriminate against those with certain disabilities in a misguided attempt to address it. What else can we do to discourage fraud and try to ensure public safety—while still avoiding undue burdens on people with disabilities?

We'll get to that, but wait, there's more! Another consideration here is that we cannot expect airline and airport employees to be experts in making all the determinations about whether it's a service animal. Employees may have some training, but any system has to be easy for non-experts to implement. In the absence of obvious misbehavior, the burden should be on the handlers as to whether their animals meet the criteria for service

4 See "Inquiries about services animals." <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&r=APPENDIX&n=28y1.0.1.1.36.7.32.3.11>

5 See footnote 3 to reference DOT claiming prior notice requirements are discriminatory.

6 See Q7. http://www.ada.gov/regs2010/service_animal_qa.pdf

animals, rather than on airline employees. "Credible verbal assurances"⁷ leaves a lot of room for interpretation.

Other important considerations here involve both intentional fraud and unintended misunderstandings. Some people will lie, cheat, and steal to get whatever they want, no matter the risk. The best we can do, then, is give the system enough teeth and clear enforcement paths so that it's simply not worth the risk to the majority of prospective "fakers". That way the punishment is large on the back end and only for violators, rather than small and for everyone up front.

But some well-meaning people simply don't understand that their animals don't qualify as service animals, whether it's because they don't have a disability or their animal isn't sufficiently trained. Consequently, we can't rely on jargon, but must use descriptive terms in plain language so there's minimal confusion about what handlers are being asked to verify. We need to minimize the chances of unintentional violations.

So in our system for discouraging fraud, we want to:

- Avoid undue burdens on people with disabilities, such as paperwork-carrying or notification requirements
- Relieve some of the burden from airline employees, not requiring them to be expert assessors
- Allow obvious, ongoing misbehavior of an animal to overrule any initial handler verifications
- Give the system teeth to make lying not worth it
- Use descriptive terms rather than jargon to avoid misunderstandings (hint: avoid "Is that a service animal?")

§4: Anti-fraud solution

One way to meet these anti-fraud goals is for airline ticket counters and gate/boarding desks to stock and use a form. The form would be for handlers representing their animals as service animals; they would complete and turn in the form for flight access/accommodations with the animal. Airlines would then have a record they could file (signed by the handler and the form-accepting employee), and people with disabilities would not have to carry the completed form for access. The form would state the steep penalties for knowingly telling falsehoods on it, and handlers would simply have to check the boxes next to the jargonless descriptions that apply to them and their animals.

This is not a free pass. This is a special application of the DOJ questioning system for this unique context. Handlers would not be asked to reveal any private medical information, such as whether they have a mental illness. In essence, they are just asked whether they have a service animal through the component aspects of what that means, but they're "on the record" rather than just answering verbally. They also can't shift any blame onto anyone else for their black and white answers—and airline employees don't have to rely on personal judgment about anyone's verbal answers.

Just like with the DOJ system for public access, blatantly disruptive behavior removes the accommodation, regardless of whether the animal is a well-behaved service animal in other contexts. Depending on the particular situation, the consequences can vary from being charged the pet fee for that flight (and any up to a month later) to much more serious and formal repercussions for fraudulently filling out the form.

§5: Species restrictions

Here it's appropriate to bring up what species are suitable as service animals in the sky. Again, the DOJ reasoning is the respected authority with plenty of transparently argued guidance, so the only reason to depart from it is when the special context gives us reason to.

The latest DOJ rules have restricted service animals to dogs, with some special exceptions for miniature horses. This DOJ restriction (from allowing most domesticated animals) arose because there were consequences DOJ didn't anticipate with the earlier phrasing, but then wanted to prevent once problems developed. There were safety concerns with some species, such as capuchin monkeys, but overall the problem was that people were taking out untrained pets of all species as service animals. The restriction mainly to dogs was designed to ratchet down the intentional and unintentional "faking" that was especially prevalent among handlers of these other species, making the whole service animal community subject to ridicule.

⁷ "These five steps can help one determine whether an animal is a service animal or a pet: 1. *Obtain credible verbal assurances*[...]" <https://www.federalregister.gov/articles/2008/05/13/08-1228/nondiscrimination-on-the-basis-of-disability-in-air-travel#h-109>

It looks like the same reasons DOJ had for increased species restrictions have only been magnified in the context of air travel. The collection of "colorful stories" has continued to grow.⁸ This means it's high time for DOT to restrict these other species from being considered service animals for airline access, which fences the field down to dogs and miniature horses.

Conversations with our horse-owning leaders and research into guide horses reveal that some miniature horses are able to be trained to signal a short time before they need to eliminate, which means they are able to ride in taxis, busses, and subways without incident. However, they are not able to go for long periods of time without eliminating, and you can't maintain their health while withholding/restricting water and food from them before traveling, as handlers often do for long flights with service dogs.

Consequently, we have not lassoed miniature horses as an acceptable service animal species in this context, leaving dogs as the only animals that qualify as service animals for air travel. Of course, airlines would remain free and encouraged to make their own exceptions on a case-by-case basis, allowing for those reasonable accommodations too specific to detail in regulations.

§6: Training standards

This leads us to another salient question: what is the training standard for service animals (dogs)? This splits into two types of training: public access training and disability mitigation (assistance) training.

Public access training is training the dog in various environments to the point at which the dog is reliably safe, non-disruptive, and well-behaved in novel situations. We certainly assume this includes housetraining, for its absence would be disruptive.

A common initial thought is that requiring certification would solve all the problems, but as DOJ has found, specific certifications or registrations do not demonstrate that the dog is or will be well-behaved in the environment.⁹ Additionally, requiring handlers to acquire and carry such paperwork would present undue burdens on those with disabilities.^{10,11} The best overall approach seems to consist of striving for clarity on the form (and an accompanying guidance brief) as to the level of expected training.

This does not involve getting government bureaucracy into the business of dog training. Instead, the handler is asked outright on the form to attest that the dog has undergone training in various environments so it's reasonable to expect the dog to behave at the airport and on the airplane. The handler is directly responsible for the reliability of the dog's training, and not anyone else.

Of course, some people may be willing to interpret whatever question is asked about public access training in a much looser way than is desired. There is another layer to this cake that both aligns the requirements more with DOJ's and conveys that the bar for service dog access is not so low that a barely trained pet would qualify.

This other aspect follows the standard DOJ recipe in requiring that service dogs be trained to do work or tasks to mitigate the person's disability. This means the dog has to actually recognize and respond reliably to a command, or to a change in the person or environment, in a way that helps relieve symptoms or negative effects of their disability—it cannot be that the mere untrained presence of the dog makes the person feel better. This is another blindspot that has been exploited in the current system. When people don't have to take disability-mitigation training seriously, as a practical matter it seems they also do not take public access training seriously.

§7: Emotional support animals unsupported

One consequence of this proposed disability-mitigation training requirement is that emotional support animals (ESAs) would no longer be allowed. This is in contrast with psychiatric service dogs, which do perform disability-

8 DOT downplayed this in 2008, when the problem may be been smaller: "Because they make for colorful stories, accounts of unusual service animals have received publicity wholly disproportionate to their frequency or importance. Some (e.g., tales of service snakes, which grow larger with each retelling) have become the stuff of urban legends."

<https://www.federalregister.gov/articles/2008/05/13/08-1228/nondiscrimination-on-the-basis-of-disability-in-air-travel#h-36>

9 See Q17 http://www.ada.gov/regs2010/service_animal_qa.pdf and "Training requirement." <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&r=APPENDIX&n=28y1.0.1.1.36.7.32.3.11>

10 See "Inquiries about services animals." <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&r=APPENDIX&n=28y1.0.1.1.36.7.32.3.11>

11 As DOT notes, "Under U.S. law (the ADA as well as the ACAA), it is generally not permissible to insist on written credentials for an animal as a condition for treating it as a service animal."

<https://www.federalregister.gov/articles/2008/05/13/08-1228/nondiscrimination-on-the-basis-of-disability-in-air-travel#h-36>

mitigating work or tasks for psychiatric disabilities and are public access trained. We believe it's an accident that ESAs were given ACAA access in the first place. This accident seems to have resulted from DOT co-opting a HUD term and confusingly giving it a significantly different meaning—in a way no one noticed.

Historically, ESAs were created in FHAct regulations as part of the protected general class of "assistance animals" with access rights in no-pet housing.¹² They did not need to be trained for public access because they only had housing access rights, unlike service animals that accompany their disabled users in public.¹³ There are other, mildly arcane considerations, but as long as their mere presence helps someone with a disability, they're basically covered for housing.

Later—and clearly with good intentions—DOT allowed access for what sounded an awful lot like HUD's ESAs (without using that full name), but DOT oddly assumed these animals would be public access trained.¹⁴ Some years following this, DOT started using the terms others were using: ESAs and psychiatric service dogs/animals. Confusingly, DOT continued to assume that the animals they were now calling ESAs (like HUD) were public access trained (unlike with HUD).¹⁵

DOT further added to the frustration of advocates in this arena. In spite of DOT itself at least having distinguished between psychiatric service dogs and ESAs on the basis of ESAs not being work or task trained, DOT remained reluctant to treat the categories differently from one another. This did not stop DOT from treating access for their handlers differently from that of non-psychiatric service animals' handlers. Advocates even petitioned DOT regarding this in 2009, but the education efforts and pleas went nowhere at the time.¹⁶

We believe DOT is practically the only party aware that "DOT-ESAs" are expected to be public access trained, unlike "HUD-ESAs". We do not believe this pervasive ignorance is likely to change, nor do we imagine it would be helpful to even try to start bifurcating this term in the public consciousness into two technical meanings. When this difference is brought to light among experts, it does seem strange to expect animals to be public access trained if their only experiences in no-pet places are in the advanced environments of airports and airplanes. Contrast this with the intense and lengthy public access training and everyday outings of service dogs!

Eliminating ESA access in flights would resolve the longstanding confusion, leaving untrained ESA access to housing only. Then it would be only users of *trained* service dogs that have mandated access to spaces that appropriately require public access *training*. Just like mixing up established jargon, a contrary system just doesn't work out in practice!

§8: Reasonable and valuable accommodation extensions: deliveries and SDITs

While untrained ESAs don't merit public access rights, there are two exceptional other categories where it is reasonable to grant access rights. In each case, the dog is public access trained to the point at which it's expected to behave in airports and aircraft, and access would be an *indirect*—albeit reasonable—

12 "The Fair Housing Act and HUD's Section 504 regulations govern the use of animals needed as a reasonable accommodation in housing. HUD's regulations and policies pertaining to reasonable accommodation were constructed specifically to address housing and, furthermore, were enacted prior to the development and implementation of the ADA regulations. Thus, the requirements for assistance/service animals must be evaluated in the appropriate context of housing, and are independent of the ADA regulations that were formulated to meet the needs of persons with disabilities in a different context and were adopted subsequent to HUD's regulations." <https://www.federalregister.gov/articles/2008/10/27/E8-25474/pet-ownership-for-the-elderly-and-persons-with-disabilities>

13 "There is a valid distinction between the functions animals provide to persons with disabilities in the public arena, i.e., performing tasks enabling individuals to use public services and public accommodations, as compared to how an assistance animal might be used in the home. For example, emotional support animals provide very private functions for persons with mental and emotional disabilities. Specifically, emotional support animals by their very nature, and without training, may relieve depression and anxiety, and help reduce stress-induced pain in persons with certain medical conditions affected by stress. Conversely, persons with disabilities who use emotional support animals may not need to take them into public spaces covered by the ADA." (ibid.)

14 In 1996, DOT mandated access (with restrictions) for animals that (1) provided emotional support to a person with a disability, (2) were not necessarily trained to do work or tasks, and (3) *were trained for public access*. DOT did not call them "emotional support animals" (ESAs) at the time. See p. 56421 of this federal register entry: <https://www.federalregister.gov/articles/2008/05/13/08-1228/nondiscrimination-on-the-basis-of-disability-in-air-travel#h-10> By 2003, DOT had begun calling these animals ESAs.

15 "Of course, like any service animal that a passenger wishes to bring into the cabin, an emotional support animal must be trained to behave properly in a public setting." <https://www.federalregister.gov/articles/2008/05/13/08-1228/nondiscrimination-on-the-basis-of-disability-in-air-travel#h-36>

16 Our predecessor, Psychiatric Service Dog Society, filed a petition in 2009 in an attempt to end the discriminatory regulations. Rather than relying on the articulations of the experts, DOT dithered by seizing on the less articulate personal comments of some individual advocates. <https://www.federalregister.gov/articles/2009/09/18/E9-21351/nondiscrimination-on-the-basis-of-disability-in-air-travel>

accommodation for a person with a disability.

Since service dog training programs are often hundreds or even thousands of miles from the recipients, it is occasionally optimal for a trainer to fly with a trained dog for both delivery to and local training with the recipient. Accommodating such a dog trainer/trained dog pair for one trip is a reasonable and valuable extension of the accommodations given directly to those with disabilities.

The other exceptional category involves *advanced* service dogs in training. Service dog public access training must increase incrementally if the dog is to graduate as a service dog. A dog may not yet be ready to graduate either due to the need for more public access training that does not bear on the dog behaving during air travel, or due simply to the fact that the service dog in training is still being trained to perform work or tasks.

If either of these is the case and the dog is expected to behave in the air travel environments, this is another reasonable and valuable extension of the usual accommodations. This allows advanced dogs to train specifically to airport and airplane conditions, rather than just training in similar environments, graduating, and then being thrown into such an environment and possibly (and avoidably) becoming an unexpected washout after great investment and expectations.

§9: Airport access (vs. airplane access)

One final design challenge pertains to what's needed for *airport* access,¹⁷ as opposed to *flight* access.

Airlines would be strongly encouraged to note "service dog" on the person's tickets to signify when the access form has been successfully completed and filed, and to prevent agents from iteratively requiring form completion on multiple legs of the same flight. As we covered above, handlers cannot be expected to carry paperwork for access, and some may even use an automated check-in, bypassing the first opportunity to complete the form. So if we can't rely on *paperwork* for access and accommodations outside of the airplane, how should access work in these places?

This is where DOJ-style questions are appropriate. However, with the nuances we've justified above, those exact questions don't include the variety of teams that would have airport access. Instead, when it is not clear to an employee whether the person and dog constitute a service dog team (or some acceptable extension), the employee may ask two questions:

- (1) Is this dog trained to behave in airports?
- (2) Is this dog trained or training to assist with an individual's disability?

These are a short mashup of the questions on the form, constructed specifically for airport access. They get to the heart of the matter, and just like with the form, clear and ongoing misbehavior are grounds for revoking accommodations in a way proportional to the situation.

§10: Terms of success

While not especially short, this article is still a mere distillation of many hours of intense discussion within PSDP's ACAA committee and through collaboration with other stakeholder groups. Here we've covered a breadth of the main design challenges for service animal access in air travel, and outlined a system we hope meets these unique challenges and the universal stakeholder goals in the best way practicable. We don't believe everyone will be happy with each aspect of our proposal, but we'll count success in terms of the degree to which others see our system as the best-justified way to construct the puzzle using all the roughly contoured pieces on the table.

To see the system practically fleshed out, please consult our three-page proposal; the latest updates will be reflected in the version on our website. The proposal currently consists of a one-page form and a two-page guidance brief.

Psychiatric Service Dogs Partners' purpose is to promote the mental health of people using service dogs for psychiatric disabilities by educating, advocating, providing expertise, facilitating peer support, and promoting responsible service dog training and handling.

¹⁷ The question of which laws govern accessibility in airports has a complicated answer. See p. 56417–8 of the federal register entry linked below for a start. For our purposes, we will assume the simple view that ACAA regulations can govern all airport accessibility for service animal handlers. <https://www.federalregister.gov/articles/2008/05/13/08-1228/nondiscrimination-on-the-basis-of-disability-in-air-travel#h-10>

ADDENDUM

—3/18/16—

After consulting with several national disability advocacy groups, we learned of some key (non-supportive) positions individuals could take in response to the proposed form. This is not to say that each position has an actual supporter!

This addendum is an attempt to prevent or fix potential misunderstandings, and to respond to those positions that may otherwise have unhappy results. Here's an index as a heads-up:

- §A1: Ounce of prevention
- §A2: Addressing fraud denial
- §A3: Eliminating ESA access is not discriminatory
- §A4: Where "losing" is winning for service dog users
- §A5: No technical loss for the disability community
- §A6: This is not a zero-sum game

§A1: *Ounce of prevention*

First we'll look at a worrisome way of thinking we encountered. This way of thinking isn't so bad for normal public access situations, but is not so great for the captive audience of airplane passengers.

Some seem to think that the current system of enforcement is fine (excluding the non-discriminatory bits). In this way of thinking, it would be okay just to have the DOJ-style questions and allow ESAs.¹⁸ It would thus be okay not to actively discourage handlers of inadequately trained animals and "fakers" from boarding a plane, because there are remedies if an animal bites someone or causes some other severe disturbance.

In an everyday store on the ground, there's at least the possibility of having the dog leave if things are starting to go badly. Doggie parachutes are not an analogous option for misbehavior on aircraft, though!

This is part of why we believe that in the special context of flying, an ounce of prevention is worth a pound of cure. You may agree with this reasoning or not, but you don't have to be part of the service dog community to think of it. In contrast, an experienced service dog handler might have some frightening "insider information", enabling the sober realizations that follow.

When a service animal is attacked or its training is otherwise ruined by another animal, it may have to retire early. This happened to the second service dog of one of our board members. Her investment in years of training and thousands of dollars was ruined when he was attacked multiple times by an untrained pet.

Allowing this egregious irresponsibility can rob people with disabilities of their independence and integration in society. It can take years and financial strain to get another service dog unexpectedly. This is not something we want to risk to allow an increasing number of people to fly openly with their pet/ESA, when they apparently don't need the pet in the rest of their public life.

We are certainly not opposed to individuals choosing to mitigate their disabilities—that is not independently in question. The fact remains, though, that this must be done in a reasonable manner.

A gas-powered wheelchair may help a mobility-impaired person get around, but that doesn't automatically make it a reasonable accommodation indoors. In a similar vein, "Segway"-style devices may be excellent mobility aids for some—but if it isn't needed for a disability, a business has no ethical or legal obligation to accommodate. We also think it's likely there are safe, reasonable medical remedies available to the flying-phobic other than their untrained pets.

If our form can institute and clarify the requirements and penalties¹⁹, it may significantly lower the chances of traumatic incidents that would cause a service dog to retire early. Yes, the form is a small burden. So is ever

¹⁸ When we talk about ESA access or service dog access, this is shorthand. It is the person with the disability that has access with the animal (or doesn't). The animal does not have access on its own, or with someone else (generally).

¹⁹ In case it isn't clear, we are not committed to specific penalties, nor are we suggesting that the slightest misbehavior of a legitimate service dog is grounds for a penalty. We are largely concerned that the penalties are scary enough to discourage most people from lying, and that the repercussions are clearly advertised so that they will in fact do that discouraging. Some worry the penalties will be incorrectly applied to a service dog that's just having a bad day. Employees tend to be excessively permissive when it comes to service dogs, so we do not share this worry. The sort of behavior that merits action is the sort of behavior that a well-trained service dog would be expected *never* to engage in—even on a bad day.

having to answer the DOJ-style questions. But filling out the form is merely a focused version of answering those questions for the flying context, and it's in black and white to suit this context. So it's a burden, but not an *undue* burden.

As we've said, an ounce of prevention is worth a pound of cure. Maybe it's because of this that 95.5% of our community mostly or completely supports our proposal. Whatever the reason, it looks like there is overwhelming support within a subset of the disability community to whom the proposal directly applies. If the form appears to non-service-dog-users like a burden we wouldn't want, I hope a closer look—and certainly the voices of those affected—would relieve them of that impression.

§A2: Addressing fraud denial

Our access form was designed primarily as a replacement for the current, discriminatory system DOT put in place to prevent fraud. In the absence of this form, our proposal would be very similar to just having a DOJ style of questioning.

We found several disability advocacy groups highly suspicious that fraud exists to a degree justifying a counter-measure. So these groups tended to want a DOJ-style questioning, with no special 48-hour notice, doctor's letter, or our form. The reasoning below in this section is intended to address this permissive approach, as we believe it does not respect the practical reality of the situation.²⁰

Either there is significant fraud that merits a deterrent, or there isn't.

If there is (or would be) significant fraud that calls for a deterrent, we need something to replace the current deterrent system. Our access form is a prime candidate.

If there isn't, then a DOJ questioning system might be alright. However, this assumes that having just a DOJ questioning system itself would not lead to significant fraud. This assumption deserves inspection, but I'll leave that to the reader.

Now for the practical reality, for those who deny there's significant fraud. If anyone wants to try to convince DOT and industry groups that there wouldn't be fraud with a DOJ questioning system, I wish you thick skin and safe travels! Not only am I not sure how you would substantiate this view,²¹ but from the Reg Neg objectives²² and their historical trajectory, they seem absolutely determined to do *something* to address the actual or perceived fraud.

That's why we (PSDP) must persist in making available the best *something* to meet the design challenges, respecting everyone's interests as much as we can.

We don't believe we have "a solution in search of a problem". We have ourselves seen and heard of harmful fraud, which is more likely to be harmful and so noticed when our community members are present with their canine partners (seeing another dog brings a pet's/ESA's lack of training to the surface). We strive to be proactive here because in a vacuum, we know not what devilish system might replace the current one.

§A3: Eliminating ESA access is not discriminatory

It was difficult for me to discern exactly whether any individuals believed that eliminating ESA access would be discriminatory, but there were indications in our discussions that this is another avenue for misunderstanding.

I must assume no one objects to thinking that public access training is a reasonable requirement for public access in no-pet places. This is training that makes good behavior reliable and obscenely bad behavior out of the question. DOT has explicitly assumed this requirement (see §7 above), and without this assumption, it is quite difficult to reach common ground. Since ESAs aren't public access trained as a practical matter, we struggle to understand the desire to preserve ESA access.

Some individuals may be under the impression that eliminating ESA access would discriminate against one type of disability. We did not anticipate this impression, because—being fundamentally wrong in our view—this notion

²⁰ I assume here that since the current deterrent system—48-hour notice and a doctor's letter—violates mental health parity, we have to get rid of it.

²¹ Don't expect there to be survey data wherein you get a realistic feel for how much fraud there is!

²² "Specifically, the Department is exploring a Reg Neg to...Establish safeguards to reduce the likelihood that passengers wishing to travel with their pets will be able to falsely claim that their pets are service animals"
<http://www.regulations.gov/#documentDetail;D=DOT-OST-2015-0246-0001>

is foreign to us. I'll explain why it's not true.

Imagine there were a type of service dog for every type of disability. Eliminating ESA access would not eliminate access for any such type of service dog. So there is no disability against which ESA access elimination would discriminate.

People with psychiatric service dogs in training often obtain housing access for their dog as an ESA. Our community tends to think of it as:

ESA + public access training + disability mitigation training = psychiatric service dog

If you switch this formula around, an ESA is a psychiatric service dog without training.²³ Some members of the psychiatric service dog community have actually viewed ESA access as psychiatric-service-dog-in-training access for owner-trainers. This means that the lack of access for other types of service dogs in training would appear to discriminate against those whose disabilities cannot be mitigated by ESAs. This turns the situation on its head, but we'd wander too far to pursue this further here.

So under our proposal, people (with or without disabilities) would not have unfettered public access with their untrained animals. However, if someone's disability is so severe that they need the services of a service dog, if they engage in public access training and disability mitigation training like those with service dogs, they can have one.

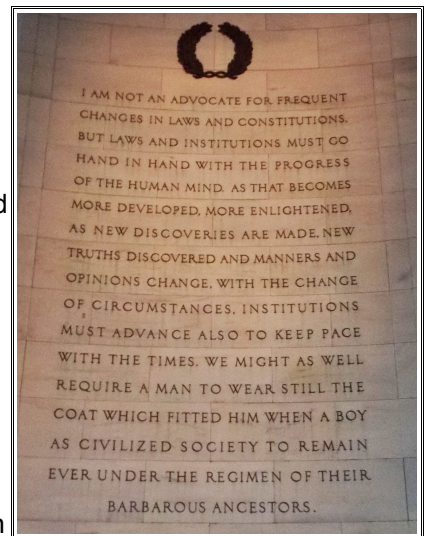
This means that type of disability has nothing to do with eliminating ESA access. It's primarily about public safety, and secondarily about fraud prevention. DOJ has clarified that ESAs don't have public access rights elsewhere, and as I detail in §7 above, it's largely an historical accident that people think their untrained housing-access ESAs are also flying-access ESAs.

§A4: Where "losing" is winning for service dog users

Many general disability advocacy groups—those not specifically tuned to the needs and desires of service dog users—are under the distinct impression that any "loss" of part of the disability-related system is worse for the side of disability rights. This mindset doesn't mesh with the mild complexity of the situation.

If we dare to speak on behalf of responsible service dog users, the access "rights" involving animals of various species that are not public access trained are access "wrongs". This tends to be the case with emotional support animals, which cannot be expected to have been extensively trained in no-pets places when they don't even have access rights outside of housing and flying. When these animals poorly behave and their use grows, it negatively affects the reputation and level of safety for respectable service dog teams. The permissiveness of the current system is disrespectful to those who value the safety and unhindered access of well-trained teams.

So this is a case where *cutting out* part of the current ACAA system tied to disability rights would *improve* the situation. To see this, we must take care not to fasten ourselves to the past. We must not insist on general principle that a former (apparent) gain for disability rights must not be lost—even when we learn it was not a gain after all.²⁴ This approach would railroad our thinking. We'd miss the fact that ESA access on planes wasn't a gain overall in the first place for the disability



23 Technically—interpreting the exact HUD wording—an ESA could be for a non-psychiatric disability. For example, the emotional support of an ESA could lower the blood pressure of someone with a disabling heart condition, or could keep non-disabling depression at bay for a disabled cancer patient. "An assistance animal is...an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability."

https://www.animallaw.info/sites/default/files/FHEO_notice_assistance_animals2013.pdf

24 This sentiment is explained through a quotation chiseled into the Jefferson Memorial in Washington, DC (pictured above):

I am not an advocate for frequent changes in laws and constitutions. But laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy as civilized society to remain ever under the regimen of their barbarous ancestors.

community, and in particular for service animal users.

We can sum it up for the general disability rights advocates like this. If the reaper comes for ESA ACAA access, don't fear the reaper. And if you're worried about negotiating in a traditional, zero-sum game manner (see §A6 below) for the disability rights "side", feel free to treat losing this access as a loss the other side can then be pushed to offset elsewhere. Perhaps this is a means by which you can join us in arguing for mandated access for trained service dog delivery and advanced service dog in training development. If you can't join us on these points, at least don't rise up to oppose us when we service dog groups self-advocate and fight against access wrongs!

§A5: No technical loss for the disability community

We've seen that eliminating ESA access isn't discriminatory (§A3) and is better for service animal users (§A4), and that our proposal would valuably increase access for other categories (§8). But you might think it's still an overall loss for the disability community, in virtue of thinking that there are ESA teams that now have access that would not have access under our proposal. We're not even sure that's the case!

What our proposal technically does is eliminate access for the elusive "DOT-ESA", which is somehow public access trained (see §7 above). Untrained "HUD-ESAs" never technically had access in the first place. Any attempt to expand mandated access to HUD-ESAs would qualify as trying to increase access, rather than defending existing rights—regardless of whether individuals are currently acting as if their HUD-ESAs already have access rights.

It seems *highly unlikely* that DOT-ESAs exist. That is, that there are animals whose mere presence is the only disability-mitigating factor, but who have been extensively public access trained in various environments. It would be strange to think they would be public access trained, because DOJ doesn't grant them access rights in any no-pets places. If DOT-ESAs do not exist, then there is no actual ESA team that technically has access now that would not have access under our proposal.

If the mythical DOT-ESA *does* exist, then we believe the training efforts and knowledge that went into the animal's extensive public access training could be easily channeled into teaching the animal a simple, disability-mitigating work or task item. That is the salient threshold between a DOT-ESA and a (DOJ) service animal, and it is not a particularly onerous step, as the public access training is the hard part.

Our proposal also contains a restriction of the species given access: dogs only. There are independent justifications in §5, but we also find justification in light of the issues we're discussing here, as follows. Miniature horses are exceptional and covered in §5.

Non-canine ESAs are highly unlikely to be public access trained, both because of the limitations of many species, and because DOJ does not grant them public access. An animal that is not allowed public access in normal circumstances cannot be expected to be reliably trained to behave in public environments that are more challenging than normal.

All of this means that eliminating DOT-ESA access is not likely to eliminate access for any team that previously had access. Of course, the practical reality is that HUD-ESAs are wrongly being granted access under the current system, due to misunderstandings. We believe there should be no room for this kind of misunderstanding in the future.

§A6: This is not a zero-sum game

A "zero-sum game" is a situation in which there's a discrete amount of something, and the more someone else in the game gets, the less you get (and vice versa). Real life situations are rarely like a zero-sum game overall. Even when it seems like they are, we can see other approaches if we are able to think creatively.

It helps to realize that one party's benefit is not necessarily the detriment of another. This is why limiting your thinking in terms of zero-sum games can be destructive: if you only think in terms of "us vs. them", you can miss opportunities to create systems that bring interests together to benefit everyone.

Our proposal is justified by both disability-based stakeholder considerations and industry-based ones, and that is on purpose. As it turns out though, even if you ignore all industry-based considerations, the others are independently enough to justify our proposal with practical reasoning. We did not need to compromise or otherwise give concessions to accommodate industry needs, because like most situations, this is not a zero-sum game!

ADDENDUM 2

—5/1/16—

Our proposal expands access for advanced service dogs in training and for the delivery of service dogs. However, we have encountered some resistance when it comes to our proposition that ESA flight access should be eliminated.

We've argued for our position and addressed some specific concerns in the guide to our proposal and its first addendum, but there remains a particularly heartfelt objection. A couple of people who use psychiatric service dogs, not ESAs, have enthusiastically voiced that flying is especially challenging for some people, and that it is unjust to deprive these people of their ESAs if those animals provide comfort to them.

Our hearts have always been sympathetic to this sentiment. Let's honor it by giving the argument its most distilled form. This way we can address the strongest possible version of this objection to ESA access elimination.

§A2.1: *Considerations beyond disability mitigation*

We'll focus on the kind of situation in which people have a disabling psychiatric condition—one that significantly limits one or more major life functions, not just one where someone experiences mild discomfort. Add to this that the mere presence of a pet mitigates the disabling psychiatric condition, enabling them to fly without chance of a significant medical incident.

At first glance, it might seem like anything that helps people engage in the world despite their disabilities would be a good thing, and following this, that ESA access should be mandated for flights because flying is a particularly challenging and stressful situation for some people. However, there are considerations that exist outside of whether an individual's disability is mitigated. For instance, we would not allow someone to fly with a gun just because it made them feel safe and kept flashbacks at bay!

§A2.2: *Training for health and safety*

We have pushed for two types of training requirements to address the health and safety of the public and the dog. This training includes extensive public access training in various environments that ESAs don't have access to, and disability mitigation training as a threshold indicator for the seriousness of the public access training. Details are in §6, where we've noted that "When people don't have to take disability-mitigation training seriously, as a practical matter it seems they also do not take public access training seriously."

We aren't creating this on our own from nothing: the Department of Justice expects this training in service animals. We are simply following their lead and agreeing with the authority's reasoning.

§A2.3: *Parity of reasoning: untoward consequences*

So what would be the consequences if we follow the contrary reasoning of those who object to our proposal's ESA flight access elimination?

Let's imagine we believed that the need for the dog to be trained for public access—to respect the dog's and public's health and safety—were outweighed whenever the situation were particularly challenging or stressful. To be consistent, this pattern of reasoning would obligate us to want ESA access in many other situations.

For instance, some people have panic attacks or dissociate when in large crowds or around loud sounds or music. For these people, these situations are particularly challenging or stressful, so by parity of reasoning, they should be allowed to take their untrained ESAs with them into such no-pet places.

From our perspective, these situations that are more likely to be difficult for people are more likely to be difficult for dogs. These are situations with an *even greater* need for public access training! If the person is more stressed, they are also less likely to be able to control an untrained dog, which makes the training even more necessary.

§A2.4: *Ensuring safety and respect without luck*

It is unfair *to the dog* for it to be thrown into a stressful situation without extensive prep work. Service dogs

undergo 1–3 years of public access training to incrementally build up to handling unexpected and otherwise very stressful situations. This ensures the dog has psychological shock absorbers and can stably do its job while remaining healthy and safe. Many dog owners are not even familiar with the signs of stress in a dog, and must be educated about this to accurately read their dogs' reactions.

Similarly, it is disrespectful *to the public* to take a dog into stressful situations without the extensive, purposive-driven training needed to create these psychological shock absorbers. Dogs are more likely to misbehave—or even present an aggression-based danger—when stressed.

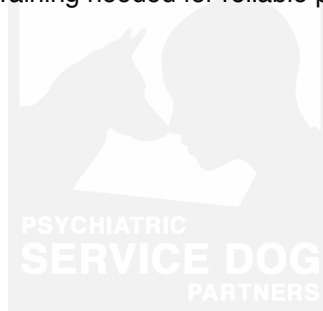
“ Dogs without “shock absorbers” may be lucky... but reasonable accommodation isn't about being lucky.

Dogs without "shock absorbers" may be lucky and not encounter any "bumpy roads" that would cause a problem, but reasonable accommodation isn't about being lucky. Reasonable accommodation is about disability mitigation with an assurance of public safety and respect, even if you're not so lucky.

This is why the Department of Justice doesn't mandate access for untrained ESAs in no-pets places. Just as it isn't reasonable to mandate access for someone with an untrained dog at an indoor rock concert just because the situation would otherwise aggravate the person's disability, it doesn't make sense to require ESA access for flying.

§A2.5: *On public access training and HUD-ESAs vs. DOT-ESAs*

As noted in §§7 and A5, the Department of Transportation expects what we call "DOT-ESAs" to be public access trained, even though "HUD-ESAs" predate them²⁵ and are not expected to be public access trained. We earlier elaborated why it is not reasonable to expect DOT-ESAs to be public access trained. In addition to the terminological discrepancy between agencies, this includes especially that they don't have access to any no-pets places in which to undergo the extensive training needed for reliable public access behavior. See the previous sections for more details.



²⁵ Case law regarding ESAs in housing under Section 504 of the Rehabilitation Act dates back at least to 1981, with *Majors v. Housing Authority of the County of DeKalb Georgia* (652 F.2d 454, under the 5th Circuit US Court of Appeals). <https://www.animallaw.info/case/majors-v-housing-authority-county-dekalb-georgia>



United Service Animal Users, Supporters, and Advocates

Partnering for reasoned advocacy

8. PSDS objections

April 13, 2009

from PSDS

The following document is part of USAUSA's May 2019 compilation, "The path to responsible air travel governance: A recent history of service animal recommendations"



Psychiatric Service Dog Society

Board of Directors

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April 13, 2009

Docket Clerk, Office of the General
Counsel, Department of Transportation,
Washington, DC 20590

PSDS is a 501c3 nonprofit organization located in Arlington, VA. We are the only service and advocacy organization focused exclusively on the use of Psychiatric Service Dogs by persons living with mental health disabilities. Our mission is national in scope. As a flagship service dog organization, we are innovating the use of Psychiatric Service Dogs with an eye toward community stewardship. In matters of policy, we reflect the perspectives of thousands of PSD handlers across the country that otherwise would have no voice in Washington, DC.

The community of PSD handlers we represent is **united in its opposition** to the ~~proposed~~ **FINAL** DOT regulation that will require all PSD handlers to give the airlines 48 hours advance notice before flying and to present a letter from a licensed mental healthcare provider that discloses the fact that the passenger is a mentally ill patient under the provider's care and that a service animal is required inside the plane's cabin as part of the passenger's treatment plan. Please see the attached letters of protest from Psychiatric Service Dog handlers nationwide.

While such a requirement may be reasonable for persons living with mental health disabilities who rely upon untrained pets for so-called emotional support, it is not at all reasonable when such persons are assisted by Psychiatric Service Animals, which by definition are extensively trained to provide disability-related assistance. If requiring such documentation was reasonable, then DOT should be fully amenable to making the new regulation applicable to all persons with disabilities utilizing service animals. The fact that DOT has not made such a requirement merely illuminates the discrimination inherent to treating persons with mental health disabilities differently from all other persons with disabilities who wish to engage in air travel. This violates the clear regulatory intent of Section 382 of the Air Carrier Access Act.

At a public forum held in July 2008 in Washington, DC, a senior DOT official explained that the requirements of the new regulation are 'necessary discrimination' in light of the large numbers of persons who are fraudulently attempting to hitch a free ride with their pets in-cabin under the guise that they are Psychiatric Service Animals or Emotional Support Animals. While such a justification for 'necessary discrimination' might be compelling in the context of a

large body of verifiable data that documents known incidences of fraud, indeed it has been revealed that DOT has established no such evidence base. Thus, it appears that the DOT is orchestrating systemic discrimination against an entire class of disabled persons when, in fact, the discrimination, itself, has no rational basis. This is a shameful violation of the civil rights and privacy of thousands of disabled Americans seeking access to air travel.

Furthermore, the policy itself is poorly conceived, because all one has to do to get one's pet on board an airplane is to claim that the animal is a service animal for any number of other invisible disabilities such as epilepsy, diabetes, heart disease, dementia, etc. which do not require a provider's letter or advance notice of travel. That said PSDS is prepared to educate its large constituent base about the availability of this loophole in case our request for revocation of the policy is denied. If such a media campaign was undertaken by PSDS, one may be assured that the information will eventually find its way into the dog show and pet communities where it may be easily exploited. Then, what will DOT do? Will it require documentation for all service dog handlers with invisible disabilities? Try getting such 'necessary discrimination' accepted by the physical disability community. It will never happen.

There are additional reasons why this regulation should be repealed immediately. For example, it requires that passengers with mental illness be identified in the context of a letter that must be provided to airline employees thereby violating an individual's right to privacy regarding personal medical information. Further, the regulation makes no provisions for the safe storage of this personal medical information; nor does it restrict the dissemination of it. A reasonable person might ask the following questions for which the regulation offers no answers, "How will this information be used? How will it be stored? Who will have access to it? How long will it be stored? Will my medical information be put into a Transportation Security Administration file? Will I be subject to additional screening because I am mentally ill? Will the airlines add air marshals to every flight that has a person with mental illness on it? Where does the intrusion upon this community of already stigmatized disabled persons end?"

Requiring a letter from a mental healthcare provider assumes that persons who utilize Psychiatric Service Dogs have health insurance or significant cash reserves and are being seen by a mental healthcare provider who supports their use of a service animal. First, many with health insurance are required to see a General Practitioner instead of a psychiatrist or psychologist for their medications. Yet, the DOT policy does not allow for letters from General Practitioners. What about those who do not have health insurance? Will they be banned from air travel? This is certainly what follows from the regulation as it is currently written. Not all mental healthcare providers are aware of Psychiatric Service Dogs. There is, as yet, no published evidence base for their usage; thus, clinician skepticism about such a new rehabilitative model is understandable.

The regulation requires that the letter be less than one year old. This means that in addition to requiring all PSD handlers to have health insurance (or large amounts of cash on hand), and be under the care of a mental health provider, they must also pay extra for the letter writing services of their clinician, if they wish to fly in an airplane. In the disability and policy worlds what DOT is doing here is called "erecting barrier to equal access".

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The regulation makes no provisions for individuals who have both physical and mental disabilities. Which disability takes precedence—the physical or the mental? If such a person fails to report the presence of a mental health disability in addition to a physical disability will there be sanctions? Will they be unable to fly? These are basic questions that the authors of the regulation neglect to consider.

The 48-hour advance notice rule is similarly problematic. There are many types of personal emergencies that require spontaneous and immediate travel such as, medical emergencies (self or other) and the death of a loved one. In the course of its rulemaking, did DOT consider that the pre-emptive revocation of civil rights for an entire class of disabled persons would also preclude the same individuals from attending the deathbeds or funerals of loved ones? Imagine telling a veteran from the Iraq war that they cannot attend the military funeral of their fallen comrade because the funeral is set to take place less than 48 hours before the veteran's scheduled flight departure. Where is the common sense, here?

Did DOT officials decide that anyone utilizing a Psychiatric Service Dog who is also on an organ transplant list might as well die, because the airlines will not allow him/her to claim an available kidney or liver that awaits them half way across the country? These are but some of the **very serious** implications of the proposed regulation, and DOT cannot hide from acknowledging that this is what will follow if the regulation is enacted. We anticipate an avalanche of civil rights lawsuits to follow from this regulation.

It would be one thing if DOT had an evidence base supporting such an outrageous policy, but it doesn't even have that. As a result, there is no compelling reason that justifies the systemic pre-emptive discrimination against all PSD handlers, in case someone somewhere ***might*** try to sneak a pet on board an airplane. This is nothing short of ludicrous. It is no doubt a policy that reflects the previous administration's priorities—business first, people second, and mentally ill people last. Our civil rights are not yours to give away. This regulation is unsubstantiated, poorly conceived, and most importantly will not prevent unscrupulous people from sneaking pets onto airplanes. 'Spot' has suddenly become a diabetic alert dog.

Sincerely,



Joan Esnayra, Ph.D., President

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THE RULE(s) THAT THE PETITIONER(s) SEEKS TO HAVE REPEALED:

14 CFR Part 382

[Dockets OST-2004-19482; OST-2005-22298; OST-2006-23999]

[RINs 2105-AC97; 2105-AC29; 2105-AD411]

Nondiscrimination on the Basis of Disability in Air Travel

AGENCY: Department of Transportation, Office of the Secretary

ACTION: Final Rule Issued May 8, 2008

"These five steps can help one determine whether an animal is a service animal or a pet...."
p.187

"Require documentation for emotional support and psychiatric service animals: With respect to an animal used for emotional support (which need not have specific training for that function but must be trained to behave appropriately in a public setting), airline personnel may require current documentation (i.e., not more than one year old) on letterhead from a licensed mental health professional stating (1) that the passenger has a mental health-related disability listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM IV); (2) that having the animal accompany the passenger is necessary to the passenger's mental health or treatment; (3) that the individual providing the assessment of the passenger is a licensed mental health professional and the passenger is under his or her professional care; and (4) the date and type of the mental health professional's license and the state or other jurisdiction in which it was issued. Airline personnel may require this documentation as a condition of permitting the animal to accompany the passenger in the cabin. The purpose of this provision is to prevent abuse by passengers that do not have a medical need for an emotional support animal and to ensure that passengers who have a legitimate need for emotional support animals are permitted to travel with their service animals on the aircraft. Airlines are not permitted to require the documentation to specify the type of mental health disability, e.g., panic attacks." Pp. 190-191.

"There is a separate category of service animals generally known as 'psychiatric service animals.' These animals may be trained by their owners, sometimes with the assistance of a professional trainer, to perform tasks such as fetching medications, reminding the user to take medications, helping people with balance problems caused by medications or an underlying condition, bringing a phone to the user in an emergency or activating a specially equipped emergency phone, or acting as a buffer against other people crowding too close). As with emotional support animals, it is possible for this category of animals to be a source of abuse by persons attempting to circumvent carrier rules concerning transportation of pets. Consequently, it is appropriate for airlines to apply the same advance notice and documentation requirements to psychiatric service animals as they do to emotional support animals." pp.190-192.

"Keep in mind that you can ask but cannot require documentation as proof of service animal status UNLESS (1) a passenger's verbal assurance is not credible and the airline personnel cannot in good faith determine whether the animal is a service animal without documentation, or (2) a passenger indicates that the animal is to be used as an emotional support or psychiatric service animal." p.194.

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regulations make no distinction between service animals and emotional support animals. Finally, there are no provisions in the regulations for emergency or last-minute travel.

Emotional support animals (ESD) are rarely more than pets that accompany their handlers, providing exactly that—emotional support. Service animals, on the other hand, are minimally trained in basic obedience, public access skills, and handler-specific behaviors to ameliorate or mitigate the effects of a disability. ESDs are not the equivalent of service animals for persons with psychiatric or mental health-based disabilities. I urge you to reconsider the creation of such equivalence in the ACAA because it sets a new standard that is not in agreement with the Americans with Disabilities Act and other land-based human rights law covering persons with disabilities and medically necessary accommodations.

People using service animals for hearing, sight, mobility, and medical alert would not be required to perform the same notification 48 hours in advance. Nor would they be required to show documentation that they have a disability and that the animal is a necessary assistive device from a currently licensed medical professional. Only persons using psychiatric service animals and emotional support animals would be held to this different standard. This amounts to discrimination against people with one particular sort of disability who use service animals as necessary assistive devices.

Allowing us to be treated differently sets a dangerous precedent and permits the continued stigmatization of people with mental illness. The land-based counterpart of the ACAA—the Americans with Disabilities Act—clearly states that we are not required to provide documentation as this creates an additional barrier for people with disabilities. Why should it be required for air travel?

I am currently on a waiting list to receive a highly trained service dog from a program of national standing. Sometime in the next year to two years, I will be paired with a service dog that is trained in basic obedience, public access skills, and a host of other behaviors specific to my needs as a person living with post-traumatic stress disorder. My health care professionals, supportive members of my family, and I eagerly await the addition of this living, caring, responsive, medically assistive animal. We expect the service dog will allow me a greater range of freedom to move about in public with less fear, to sleep more soundly, and to provide needed assistance for me as I do my day-to-day as a social worker in a hospital emergency department.

A hospital emergency department can accommodate my use of a psychiatric service animal with no additional intrusive documentation requiring disclosure of my private health information. Why should airlines be allowed to request a higher level of documentation than a place that I work particularly when one considers that people exposed to my private health information at work have training to appropriately handle my private health information and persons working for airlines may not? What are the airlines to do with the collection of private health information they will amass? How will

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this information be protected from intentional or accidental disclosure?

Because of the nature of my disability (PTSD caused by an attack against my person), disclosure of the very fact that I have a disabling condition that responds best to certain types of accommodations provokes a great deal of anxiety for me. Were the ACAA truly striving to make air travel accommodations easier for passengers with disabilities—as they so proudly proclaimed in a press release from early May, 2008—they would not require me to disclose my private health information with a written declaration from my health provider and they would not require notification 48 hours in advance. I would be able to present at my local or destination airport **JUST LIKE ANY OTHER** passenger with a visible or invisible disability for travel.

Air travel is the fastest and most cost-effective way for me to collect the service dog after our intensive training. It is also the mode of transportation my partner and I use two to three times per year to visit family. Allowing airlines to decide who has proper documentation for their medically necessary service animals is clearly outside the "scope of practice" for an airline. It has the potential to turn the start of a relaxing vacation into an anxiety-provoking access challenge not faced by other persons using service animals for different reasons. I submit to you that this is unfair discrimination against persons with a particular kind of medical condition who use a particular kind of assistive device.

Because the ACAA lacks provisions for emergency travel, would I be denied same-day air travel to attend my grandmother's funeral? Or would I not be allowed to travel with my service animal should one of my parents have a medical crisis? Or would my husband and I not be allowed to take advantage of fun "last minute" travel packages because I had not notified the airline at least 48 hours in advance of my intention to travel with a medically-necessary service animal? Would we no longer be allowed to fly "stand by" to assist airlines with their 'overbooking' issues?

The ACAA rules would, in essence, require me to inform my health care provider of my intention to travel far enough ahead so that I had the necessary documentation with my protected health information. The ACAA rules do not require this of **ANY OTHER DISABLING CONDITION**, including those for which service animals are used.

People using wheelchairs, crutches, leg braces, oxygen, seeing-eye dogs, hearing dogs, seizure alert dogs, diabetic alert dogs, pacemakers, colostomy bags, walkers, hearing aids and cochlear implants, electronically controlled pain management systems, and a whole host of other medically necessary assistive devices are not required to current documentation from a licensed health care professional. Allowing discrimination against people with mental illness who use medically necessary assistive animals causes more difficulties than it solves. It also undermines the basic human rights protected by the ADA and other disability law.

I urge you to reconsider and rescind the documentation and time notification

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requirements attached to psychiatric service animals because it fundamentally discriminates against a particular group of people using a medically necessary intervention to mitigate or ameliorate the effects of their particular disability.

Most Sincerely,
Robin DeBates
Talent, Oregon

To Whom It May Concern,

I am very much outraged by the revised rule for people with mental disabilities and their service dogs. I just can't believe that I am being so discriminated against. I don't understand how this could not be considered discrimination when a group of people with a certain type of disability are being singled out and are the only disability required to show their papers. Let's try a scenario, let us say that most people in the world are disabled, and you, being one of the few "normal" people left, were asked to present proof that you were in fact "normal". How would that make YOU feel? Would you feel threatened? I can guarantee you that this revised rule makes me feel so.

Transportation Secretary Mary E. Peters said, "This revised rule expands the protections people with disabilities will enjoy while traveling by air" How, how can this protect people with disabilities? This brings extra attention to us, which in many cases is exactly what we are trying to avoid. I know with my anxiety and panic disorders, the last thing I want, is to be singled out in this way.

A mental disability is just that, a disability. In many ways it is even more humiliating than having a physical disability, even though I can do no more about it than I would be able to about physical one. Having a mental disability has been very hard for me; I quit leaving my house because of my problems. I couldn't even go buy my groceries without having panic attacks and being totally debilitated in the middle of a crowded store. My service dog allows me to have MUCH more independence. I am now able to leave my house and be around the public, go grocery shopping, go to the zoo, etc...

It still makes me angry that the world continues to judge the world by what it can see, most of time the mental scars are deeper and leave a larger scar than the physical ones. Being asked for my paperwork for my service dog would send me into a panic attack, and would be very intrusive. I ask that you please reconsider this rule, that, to say the very least, I find very offensive.

Sincerely,
Wendy Corbridge
1585 N. 400 E.
North Logan, UT 84341

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To Whom It May Concern,

I am outraged at the new regulations for air travel with my psychiatric service dog for several reasons. I am unable to work due to multiple psychiatric disabilities and have found that my Service Dog assists me greatly in my daily life.

Here are some problems that I have with the new Air Carrier Access Rules (ACAA) regulations:

If this was written just for Emotional Support Animals I would not have an issue, but to put Psychiatric Service Dogs in the same category as an ESD does these hardworking Service Dogs a great injustice!

Emotional Support Animals (ESD) are not allowed into public facilities etc. My Service Animal is allowed wherever I need to go, as long as it is working. There is a huge difference between an ESD and a PSD (Psychiatric Service Dog). However, they are in the same category in this ACAA. This I feel is a huge error. A Service Animal is trained for public access to behave and to assist its handler. That is a huge difference from an Emotional Support animal that is only helps out in the home environment, without any necessary training or manners and gives cuddles or calmness to the owner. ESDs and PSDs are a whole world apart. How can you lump them together? To do so does a great disservice to the hardworking Psychiatric Service Dog.

Why must I, with my Psychiatric Service Animal give 48 hours notice to the airlines? Do any other type of service animals need to give notice of their teams pending arrival to the airport. Why are people with hidden psychiatric disabilities being made to stand out? There are many service dog teams in the world for people with other invisible disabilities who need give no notice of their arrival. Why for a mentally ill person?

When I go to the store do I have to call them and tell them 2 days in advance that I will be shopping on Wednesday? NO, it is my right to utilize their public shopping center along with other able customers. This doesn't even begin to mention, what if there is an emergency where there isn't 48 hours to plan the travel. Must I miss an important event, i.e. funeral or return of loved soldier, because of this new rule?

Why must I provide documentation of my medical illness to a stranger on why it is necessary for me to use a Service Dog? Do I go up to my cashier at the grocery store and say "Hello, I have Post Traumatic Stress Disorder, Bipolar Disorder with Psychosis, Obsessive Compulsive Disorder, Borderline Personality Disorder, etc. and the DSM codes for those are..... and these are the 30+ tasks that I have trained my service dog to do to assist me when I hallucinate/blackout/etc, etc, etc....by the way where are the eggs?" No I don't, why is that? Because it is my right as an American to go to the grocery store without having to give my life history and to tell everyone that I was raped

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and live a daily existence that literally is equal to a torture chamber in my own body! And yet now the ACAA wants me to tell these things to a stranger at ticketing booth at an airline, where they have no confidentiality rules keeping them from snickering to their friends and family on the way home what this crazy woman's doctor said about her reason for needing a Service Dog. Please forgive me for thinking that this is a huge infringement on my personal rights.

Does the person with epilepsy, diabetes, Parkinson's, or fibromyalgia who utilizes a service animal have to jump through all of these hoops? There are many invisible disabilities that people are benefiting from using a Service Animal from and I find it unfair and discriminatory that people such as myself with Psychiatric illnesses are the only ones who are being harassed by this ridiculous ACAA regulation.

A definition of a service animal would be 'Any animal individually trained to do work or perform tasks for the benefit of an individual with a physical or mental disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals who are deaf or hard of hearing to intruders or sounds, pulling a wheelchair or fetching dropped items.' Anyone who utilizes a Service Animal should have the same rights and privileges as other people utilizing the airlines.

Please reconsider and rewrite this ACAA regulation to not discriminate against PSD.

Sincerely,

Candice Milhausen
515 N. Court Ave, Apt 7
Alma, MI 48801
(989) 463-0274

Dear DOT:

It has been brought to my attention that the revised ACAA regulations improve the rights of many while actually increasing the discrimination against those with a specific type of disability. This is unacceptable.

Why should I - or anyone else with a mental illness - have to expose our mental health history just to fly with our service animals? After all, a psychiatric service animal is a service animal. Why should our doctors have to expose their licenses just because they're treating someone with a mental health problem who's chosen to fly with their psychiatric service animal? Why do we have to give at least 48 hours notice simply because we're mentally ill and have service animals? Why do we have to prove to the airlines that we're disabled and need our service animals? Why were only the mentally ill singled out for all these extra requirements?

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Who's going to protect our privacy or more importantly our rights? The airlines can with these new rules easily choose to disallow our service animals - or even us - because of our class of disability. Discrimination against mental illness and the mentally ill is still a problem. Even if an airline didn't prevent us from flying, many of us could be hurt if the airline chose to leak our medical info.

It's not like this solves anything either. There are many classes of invisible disability. There are many types of service animals that do difficult to explain or demonstrate work/tasks. Even if the issue is poorly trained or poorly presented service animals, that's not a problem limited to the mentally ill and psychiatric service animals.

Ultimately, I don't see what this ACAA revision does other than legislate discrimination against the mentally ill.

Sincerely,
 Danetta Amschler
 3016 1st Ave. #202
 Seattle, WA 98121

To Whom It May Concern,

I have carefully read the new ACAA Regulations that are being considered. I have reviewed them with my colleagues in the field of Psychology and Psychiatry. I sincerely urge you to immediately cancel any and all ACAA Regulations that limit access of people with mental illness who utilize a Service Dog. No other disabled person utilizing a Service Dog is subjected to these new rules. I read in the new regulations that airlines are prohibited from requiring documentation from ANY disabled Service Dog handler. Please do not single out those with a Mental Illness utilizing Service Dogs and keep the ACAA Regulations fair and equal to every disabled person utilizing a Service Dog. Thank you for reading my letter.

Respectfully,
 Linda J. Jedju, R.N.
 64 Woodlawn Street
 Rochester, NY 14607

To Whom It May Concern:

I would like to make my voice heard on this issue. I thought that the thinking that mental illness was all 'in your head' and one could just 'snap out of it' had long gone. How sad

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that this piece of legislation shows how much that antiquated kind of thinking still exists in the world.

It is discrimination at it's worst...if one can't see the disability, it is simply not real. Speaking for myself, I am a law-abiding, contributing member of society who earns more than a good living, who has mental disabilities and employs the use of a service dog to overcome them. My service animal insures that I can continue to be a contributing member of society. He has saved my life more than once.

If this testimonial does not speak to our legislators, then let them think on this: I have post traumatic stress disorder, traumatic brain injury, and bipolar disorder. These three are the most commonly claimed disabilities for returning veterans. PTSD sufferers with service animals recover in less time, with less permanent damage than those without them. Do we really want to create another generation of veterans that we must silence with ignorance and intolerance? Do our citizens deserve less?

Alise Stewart
310 Mountain View Rd.
Troutville, VA 24175
540-309-3206

To whomever it may concern:

As a person with disabling mental illness that uses a Service Dog, I am very disturbed by the implications of the newly released Air Carrier Access Rules published by the Department of Transportation!

There is so much stigma attached to having a mental illness that I find that having to disclose my illness to a stranger or other person in order to fly with my much needed Service Dog to be very degrading. I feel that these new rules violate my civil rights. It is demeaning to have to disclose to anybody that I have a mental illness or what my disability is just to have access with my Service Dog.

If these new rules are supposed to make it easier to fly for those of us who are disabled and use Service Dogs, why is a whole group of disabled people being singled out and discriminated against?

Please change these rules to give the same rights to all disabled people traveling with Service Dogs!

Tracey Martin
1066 W. Selfridge blvd
Clawson, MI 48017

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To Whom It May Concern:

I am a Psychiatric Service Dog Handler and Trainer, these new rules for those of us the have Mental Health Diagnosis is a complete outrage!! I thought that we were making progress with the Stigma that has always went with Mental Illness but I guess that this proves we haven't really made much progress at all. We should we have to be force to disclose our diagnosis to anyone?? If at the time we are ready to board a plane we have the appropriate health certificate why should we be required to have any other documents? I am not sure how they have imposed these new Regulations that are clearly against the Federal ACAA law. Who do these people feel they are to need to know my diagnosis? Surely there is a way that we can get this reversed. Please feel free to let me know if there is anything that I can do to help expedited getting this changed.

Thank you for your work on this matter.

Eva Moore
PO Box 215
Edison, Ohio 43320
(419) 946 – 6649

To Whom It May Concern:

I am amazed at the sense of freedom from my disabling conditions that I experience since working with my service dog Winston. I recently heard that new rules are being implemented for air travel. I think it's great that so much progress has been for people with disabilities. Things have progressed so people legally could start recognizing and exhibiting their abilities to compensate their disabilities. I'm absolutely appalled that the ACAA's new rules will have limit to my access to air travel due to the fact that my disability is psychiatric in nature. For instance, if a relative gets sick or dies and I need to fly down immediately, under the new rules I will not be able to. I would need to give a 48-hour notice that is inhumane and discriminatory to me because of my mental illness and my use of a service dog. Although airline personnel are not allowed to ask what my specific type of mental health disability is I believe it is against my rights for me to have to disclose to any airline personnel that my disability is, in fact, psychiatric in nature. This is stigma and violates my privacy, as an individual with a disability. It is discriminatory that I shall not be permitted to fly with my service animal on a moments notice like non-disabled passengers. Furthermore it is a violation of my rights as a human being that I need to give notice before I am flying due to the nature of my disability. I feel that airlines are trying to single out passengers with mental illness. I do not want to be treated less favorably due to my illness. Would a passenger who is flying with their wheelchair need to give a 48-hour notice? Would a diabetic individual

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need to for warn the airlines of their arrival? Would a blind person need to provide a letter from their primary care doctor stating their percentage of blindness that is current in a year, providing their providing license and state provided in? Would a person who has HIV be required to state this before boarding? No, No, No, No, No!!!! Why am I being treated any differently? Because I am mentally ill!!!! This is ludicrous and inhumane to put such requirements on individuals who travel with an aid of a service animal due to a disability that is psychiatric in nature. I support inclusion. These new rules support exclusion and seclusion. Thank you for taking the time to read this letter and for your consideration.

Sincerely,
Melanie D. Jannery
44 Front Street – Apartment #1
Burlington, Vermont 05401

Dear DOT:

I am writing to express my dismay at the new changes to the ACAA regulations that would require advance travel notification and documentation on the part of handlers of Psychiatric Service Dogs (PSDs). Individuals using PSDs are members of a protected class, people living with a qualifying disability, and it is unacceptable to place undue restrictions on their freedom of movement based on the type of disability that they have. Furthermore, these changes represent a dangerous legal precedent that could contribute to the erosion of civil rights for those living with a mental health disability.

We are told that these changes would help prevent abuse, but would they really? The new regulations would require extensive documentation and up to 48 hours of advance notice on the part of handlers of PSDs, but it does not extend these requirements to people with other invisible disabilities, such as those with seizure disorders. This will not prevent people from pretending that their companion animal is an SD, given that they still have the option to falsely claim any number of other invisible disabilities. There is still the same potential for abuse, only now there is an entire class of individuals marginalized based upon their disability. Is this really what civil rights law has become?

I myself am a handler of a PSD. A few years ago I had a family emergency and had to be on the next plane out of town. Were these regulations in place at that time, I would have been unable to travel and would have missed the last precious hours of a loved one's life. I would not have had time to contact my doctor for a specially crafted note; and I would not have had 48 hours to spare. And what about PSD handlers that work in business and industry? If their work requires them to travel on short notice, these regulations could have serious consequences for their employment.

I humbly ask that you reconsider these changes to the ACAA on the grounds that they

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are discriminatory and will have no positive effect in preventing abuse involving counterfeit service animals.

Sincerely,

Jes Peters
581 State Route 32 North
New Paltz, NY 12561

To Department of Transportation:

I have recently read the amended ACAA rules to apply to foreign carriers and am concerned with the section entitled "Guidance Concerning Service Animals". My first concern is that an "assistance animal" by definition does not include "emotional support animals". An "assistance animal" is trained to mitigate a person's disability while trained for public access. An "emotional support" animal is just that- a support device for a person's emotional state-not trained for public access, therefore not granted the same rights.

I also am concerned about the purpose of differentiating between "service animals" and "psychiatric service animals". It is generally known that mental illnesses are imbalances in the brain- a "physical" medical problem. The distinction made is not logical and indeed, is discriminatory towards those who have "mental" disabilities vs. "physical" disabilities.

The document also states that asking the question "what is your disability" *implies you are asking for a medical label or the cause of the disability, which is intrusive and inconsistent with the intent of the ACAA*. But requiring a letter on letterhead from a licensed mental health professional stating (1) *that the passenger has a mental health-related disability listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM IV); (2) that having the animal accompany the passenger is necessary to the passenger's mental health or treatment; (3) that the individual providing the assessment of the passenger is a licensed mental health professional and the passenger is under his or her professional care; and (4) the date and type of the mental health professional's license and the state or other jurisdiction in which it was issued* discloses the type of disability- therefore, requiring this type of documentation is intrusive and inconsistent with the intent of the ACAA, as stated so in the DOT's own document.

While not allowing airlines to request these types of documents would, at first, seem to be limiting and restrictive to the airlines, there are guidelines that are consistent with the ADA and the ACAA allowing airlines to bar any type of animal from boarding. These are found in the document, i.e., 2. *Determine if the service animal presents either • a "direct threat to the health or safety of others," or • a significant threat of disruption to*

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the airline service in the cabin (i.e., a "fundamental alteration" to passenger service). See §382.19(c) and service animals are trained to behave properly in public settings. For example, a properly trained guide dog will remain at its owner's feet. It does not run freely around an aircraft or an airport gate area, bark or growl repeatedly at other persons on the aircraft, bite or jump on people, or urinate or defecate in the cabin or gate area. An animal that engages in such disruptive behavior shows that it has not been successfully trained to function as a service animal in public settings. Therefore, airlines are not required to treat it as a service animal, even if the animal performs an assistive function for a passenger with a disability or is necessary for a passenger's emotional well-being.

Just as there are guidelines for airlines to restrict or bar individuals from boarding an airplane in place, there are already guidelines for barring animals from boarding an airplane- WITHOUT requiring additional documentation or disclosure of one's disability.

I would like to point out one other portion of the document, although I have already addressed my concerns about the wording of the paragraph. Again, using the terms EMOTIONAL SUPPORT and PSYCHIATRIC SERVICE ANIMAL in the same place is discriminatory.

Ask the passenger whether he or she has documentation as a means of verifying the medical necessity of the passenger traveling with the animal. Keep in mind that you can ask but cannot require documentation as proof of service animal status UNLESS (1) a passenger's verbal assurance is not credible and the airline personnel cannot in good faith determine whether the animal is a service animal without documentation, or (2) a passenger indicates that the animal is to be used as an emotional support or psychiatric service animal.

As for my own personal experiences on flying, I have not had any problems with traveling with my Service Animal- although I have not traveled alone- I usually have my husband with me. I do happen to have mental illnesses, which are considered disabling. Although I do take medication for them, I do require my Service Animal to mitigate them in addition to the medication. He has been owner trained and professional trainers have overseen his training. My Service Dog is well trained, well behaved and has been welcome on all my flights. Although I personally have not had any problems with any other animals on any flights, I have been exposed to allegedly "service animals" in public settings. I quietly informed the owners they had the right to ask ANY disruptive influence to leave the premises, a right the airlines have also.

I hope you will take this letter seriously, as there are legal guidelines here that are at issue.

Sincerely,
Elaine Jordan
P.O. Box 235

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Somerset TX 78069
210-535-4075

Dear DOT Policymakers:

The new air travel restrictions will severely hamper my ability to visit and support my elderly relatives in times of illness. I need the freedom that every other citizen has to freely travel throughout our country in order to have a meaningful life in spite of my psychiatric disability. My Psychiatric Service Dog is necessary for me to do this. Why should one group of disabled passengers be required to disclose personal medical information, when no other passengers are required to do so? The new restrictions that would take effect next year must not occur- they are discriminatory against one type of disabled Americans.

Thank you very much,

Elaine A. Malkin
603 Battle ridge Rd.
Canaan, ME 04924

Dear Department of Transportation (DOT) -

I would like to tell you about myself and what I go through when trying to travel with a service dog. I use a service dog to help me where medication has failed me. I am allergic to everything we have tried (12 different medication families), except my dog Fallon who I am not allergic to. I suffer from Bipolar, Obsessive Compulsive Disorder (OCD), General and Social Anxiety Disorder with Panic Attacks, Agoraphobia. Now individually these things, you would think, would not cause someone to be disabled. However, all of them together make life, as most people know it nearly impossible for me. Combine that with an inability to take medication and I am a total mess.

My family and I do not get to travel much as I am unable to work due to my disabilities. The stress of it is far more than I can handle on a day-to-day basis. When we do get a chance to travel we need to take a lot of time to plan it all out. For example, we are planning a trip to Orlando Florida this summer for nine days. We are flying on a different airline than we normally do, so I am very unsure as to what they will say about my service dog. This means I need to call them to ask. I have a really hard time talking to people in the phone that I do not know. Then since I have had trouble in the past with what people on the phone saying not being the same as what they tell me at the gate I will have to go to the airport before our flight to ask. I hate large crowds of people and it often causes severe panic attacks. I will have to subject myself to that to find out for

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sure what they will require from me. I need to have enough time to make those preparations. If nothing else to prepare myself to know what I need to present to them when we get there.

Most people can just buy their tickets, and then go to the airport once, board their flight and be done with it. However, this is not the case for my family and me. I have two small children, and a husband. It is already stressful for us to travel with the children. Add on top of that all of the other things I have to deal with and the fact that I use a service dog in order to even leave my house, and you have got one fantastically stressful situation. It is almost guaranteed that I will have one panic attack and very possible to have more than one. That by itself is very scary and terrible to try to deal with. Then you add on top of that the fact that my children ask me what is wrong, we have to stop in our tracks so I can try to regain my composure with the help of Fallon. Then all of my other issues make traveling one of worst experiences of my life.

That is only in my home airport, and does not account of what I will have to deal with in the airport when we arrive, with our baggage possibly getting lost and any problems they give me once we arrive or on our returning flight. Add even more on top of that with the stress of worry about how we will be welcomed once we arrive with my service dog Fallon. It is exhausting, and terrible to think about. This is why we choose not to travel very often. However, if I did not have Fallon to help me, I would likely never leave my home at all, which is exactly what happened for months before I got Fallon. I was house bound for approximately 9 weeks, and barely leaving the house for things as appointments to see my therapist and psychiatrist, and the kids' appointments. That was all I was able to do for a really long time.

Now that Fallon, my Psychiatric Service Dog, is growing and learning and is now able to help me more I have been able to do more things. I have a chemical imbalance in my brain that causes me to react to things much differently than "normal" people. This does not mean that I try to make things harder on those around me. In fact the opposite is true. I try very hard to look out for those around me. When having Fallon with me, I make sure to brush him and often give him a dry bath before I set foot in a store. He has very trim nails as to not scratch floors. He is kept clean as to not aggravate people's allergies to dogs. He wears a tag silencer pouch so he does not make noise when he walks. I keep up with his training and we take classes all the time to make us better as a team and him sharp on his abilities. He has all of his shots and flea prevention not only for his health but for the health of any other dog or person we may encounter. We do not allow any nonsense behaviour from Fallon so he will not draw attention to himself and cause others stress by his presence.

I have lots of online support from those on the listserve on Psychiatric Service Dog Society (PSDS). It is a great support system when the rest of the world likes to test us and make things harder for us with service animals. We get lots of resistance from other types of service dog handlers because they feel that we are not "deserving" of the use of a service dog. I have even met a therapist who felt that way as well. Needless to say

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she was not a very good therapist and I no longer see her. My psychiatrist even had to stick up for me with her that these things are not all in my head, so to speak. However, isn't it true that your brain is an organ without which we all could not survive?

Now on top of all of that mess we have to deal with on a regular basis, we get news that there are new regulations being put upon us, those of us who deal with Mental Disabilities, and we were not given a chance to say anything about it. Now we will have even more problems than we have faced in the past. Even more stress, anxiety, and even more worry about how we will be treated. I feel that this will make me want to travel even less. It is expensive to do so, but will affect my children because they will not get those experiences because their mother deals with ridicule for the difficulties she has. That is a lot of guilt to deal with. Driving takes so much time, that we will likely not travel very far after these new regulations go into effect.

It will be quite difficult to get the letter that is now going to be required. My new medical insurance does not cover mental health since my husband changed jobs recently. This means that I need to find a doctor who is supportive of Psychiatric Service Dogs, and also willing to write a detailed letter about such a device for me to use. My current mental health facility will not take those without insurance. I have found that this will take about 6 months of being seen by that mental health professional before they would be comfortable with signing such a letter, and then charge a "fee" for writing such a letter. This means that such a letter each time I want to travel will cost my family and me more than the trip itself because we do not travel often enough to have a letter that is current before each time we want to travel. I will have to get such a letter and hope that my doctor will not charge me a fee each time I want a letter and another 6 months of treatment before that time as well.

Along with that, what will happen if we have a family emergency and we need to be there right away to say good-bye to a family member who is dying? My family would have to go on ahead of me while I "give the airline 48 hours notice that I will be boarding" and then also hope that my letter will be sufficient for them. If not, I will be out of the price of my ticket, and have to drive there alone. This means that I would miss out and my husband and children will be alone. We live 2 days away from most of my husband's family if I drive. That is a long time in a car. Not to mention that I tend to dissociate while driving and would be unsafe for me to drive for that long alone. Of course I do have Fallon with me and he helps a little, but have not traveled with him that long before and I could not know how he would do with it.

I am outraged that I can be discriminated like this! None of the other classes of people with service dogs/animals are asked to provide such information about them and why they are disabled. None of the other disabled patrons without service dogs need to give 48 hours notice. Why then are we now chosen as we use a service dog as part of our treatment as Psychiatric Service Dog handlers to be singled out and required to give such unreasonable things? I would be very worried for an airline or all places to have a letter containing such personal information on me knowing they will likely not protect my

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privacy in having that information. I believe that people breaking the rules are a totally separate issue than allowing PSD's (Psychiatric Service Dogs) on an aircraft.

I see that there are at least three major issues with these regulations:

1. I would be discriminated against as a PSD handler and a disabled person in the community.
2. PSD and ESD (Emotional Support Animals) no longer have the distinction they clearly have.

An Emotional Support Animal is usually prescribed to otherwise non-disabled patrons who have a disabling fear of flying or some sort of phobia that in itself is not disabling. These animals can be anything that has some basic manners, but do not have any real training or the need to have any real training to qualify. These animals are considered pets. So they are likely just as misbehaved as any household pet you can encounter at your friend or relatives house. Basically as long as the animal is not biting everyone and everything it sees they can be let on the plane with only a Doctors note.

A Psychiatric Service Dog/Animal is on that has thousands of hours of training to assist with tasks and/or therapeutic work to mitigate the disabled handler. These dogs are often clearly marked. These animals are very well behaved, and have a very strong bond with their handler from all of the months and years of training. These animals are typically easy to spot because of their extensive training.

Do these two types of animals sound like they should be the same to you? I sure would hate to see everyone's hard work to train their dogs go down the tube, so to speak, because they are now being grouped together with the untrained dogs and animals called ESD's. What a shame to have thousands of hours wasted in the blink of an eye like that. Some people seem to think just because we have emotional issues (as a majority of mental health issues deal with this) that our dogs only have "lovey dovey" things they do and did not get trained to do them. However, it is only through our countless hours and years even training and shaping these dogs do we develop such a close bond with them, that they can "sense" our needs. Most think it could be a chemical signature. But only through time can they know what is "normal" for us and what is not.

Some people may think that it is a breeze to train a dog to do the things we train them for. However, I have found through my own training experiences that it is one of the most difficult things you can do. There are not many resources for those how train "Psych Dogs" (as I often call them). Personally I go through classes to help and because it can be fun for Fallon. He deserves the best, and the best is what he gets. Service dogs are most often some of the most taken care of dogs in the country and in other countries as well I am sure.

My dog gets the best and most prompt vet care, the best food on the market, groomed daily, the coolest little gadgets, the best gear I can find, a super safe seat belt, three crates, four dog beds, and more toys than some kids have. He gets the best training,

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the most love, and he gets to be with me all the time and is never alone. In return for that he gives me unconditional love no matter what I look or feel like that day. He is there right by my side even when I don't ask him to, lying on my feet because he knows that helps me. He helps me when nothing or no one else will. He is very reliable. I never have to worry if he is going to be "busy" that night like I would friends or family. He is never angry if I talk too much or pet him too much. He just reminds me nicely that I need to do something else now. He carries my most important things since I often forget where they are. He gives better hugs than my husband. I would not be able to leave my home for fear of a panic attack, a flash back from seeing a man or woman who look like those who have hurt me in the past and not knowing how to deal with it.

I still have issues, but now I am starting to know the causes for these things and more, as well as how to calm down without having to run to my car and hide for hours before it all goes away, or try to drive home where it is safe. I can now come into an empty house without fear that I am going to be attacked. I don't have to worry about whether my children will pick up on these things and become afraid as well. I no longer have to fear about being a danger to others or myself. Fallon is there and he has no side effects other than the effort it takes to take care of him and to train him.

Not all dogs are cut out for this work. Many are not. I hope and pray everyday and Fallon will make it to the end. Could you imagine spending as much time as you do a child to raise, teach, care for, and love only to find out that they are not a good fit for you? It would be heart breaking! Yet this happens often. So we again have to start at the beginning. But it is all worth it to find that one dog that can make the grade.

Please, if you are going to require such notice and documentation, do so to all Service Dog teams, and all disabled patrons. Do not single me out and then tell me that it doesn't matter that I trained my dog or not. We as a community have enough worries and hardships to go back on our rights.

Warm Regards,

Nicole Danielle Berto-Penner
1847 16th Ave NE
Issaquah, WA 98029

To Whom It May Concern,

As a handler with mental illness who uses a Psychiatric Service Dog to mitigate my disability, I am horrified and outraged at the new rules stating that handlers of PSDs must notify their carrier 48 hours in advance of traveling and provide a letter from their psychiatrist attesting to their mental illness.

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This is discrimination in its lowest form. I understand that only persons with a psychiatric disability will be so inconvenienced. Additionally, the letter that you request from the physician is extremely invasive.

I would like to formally protest this new ruling, as a user of a PSD, and one who travels by air at least once a year. (The fact that a new letter would be required every year is also grossly discriminatory.) If you are requiring letters from physicians, why not get them from the blind, hard of hearing, mobility impaired, and others with disabilities? Then at least there would be some degree of fairness to these outrageous requirements.

I hope that you will consider this matter carefully, and revise the ACAA to eliminate these requirements for psychiatric service dogs.

Sincerely,

Valerie Stocking
2963 Plaza Blanca
Santa Fe, NM 87507-6518

To whom it may concern,

I am writing in regards to the new ACAA rules regarding individuals with psychiatric disabilities flying with their service animals. I am referring to the information beginning on page 182 discussing "Nondiscrimination on the Basis of Disability in Air Travel (14 CFR Part 382). Specifically, I want to address the issue of an emotional support animal (ESD) and a psychiatric service animal (PSD) and the apparent discrimination these new rules place solely on an individual with a psychiatric disability, one of a class of invisible disabilities. I want to show that these new rules place an undue burden on me as an airline passenger who chooses to fly with my service dog, stigmatizes me unfairly, and have the potential to cause unnecessary problems for me and my service dog, airline personnel and other passengers.

First, I want to point out that there is a significant difference between an ESD and a PSD. A PSD is a service animal just as one that provides services to an individual who is blind, deaf, or who has mobility impairment. In your own rules, you define the differences. Clearly, there is an issue here. A PSD is not a pet. My cats are pets; they provide emotional support by climbing in my lap, purring and letting me pet them. I didn't have to train them to do that; they do it on their own initiative when they want attention. I am a practicing professional in the field of American Sign Language and deafness for 26 years. I have extensive experience with a variety of service animals used by individuals with disabilities. My friends and colleagues who are blind, have mobility impairment or are Deaf or Hard-of-Hearing and use a service animal do not consider it a

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pet; neither do I consider my PSD a pet. Our respective service animals have undergone obedience training, appropriate public behavior training, and specific training to mitigate our respective disability-related needs. A service animal is a service animal regardless of the type of disability it is trained to mitigate. Discrimination is illegal; be it based on race, creed, skin color, religion, national origin or disability type.

These new rules subject me as a qualified individual with a disability (psychiatric) to additional and burdensome proof of the legitimacy of my service animal. The wording seems to emphasize additional authority of airline personnel over individuals flying with a PSD than other types of service animals that by itself discriminates against a specific type of service animal (and its owner/handler). It also forces me to provide information to an airline employee of my psychiatric disability, which no other individual with an invisible or 'hidden' disability is required to do. If I choose to fly without my PSD as I have on multiple occasions, no one asks me if I have a disability, no one suspects I have a psychiatric disability and I am not treated differently than other passengers. The presence of my PSD should not change that fact. The Americans With Disabilities Act, signed into law in 1990 prohibits discrimination on the basis of ANY disability. How then can you justify discrimination within the spectrum of disabilities based on psychiatric disability?

Why should I have to document on paper that I have "...a mental health-related disability listed in the...DSM-IV; that having the animal accompany [me] is necessary to [my] mental health or treatment; that the individual providing the assessment of the passenger (me) is a licensed mental health professional and that [I] am under his or her professional care; and the date and type of the mental health professional's license and the state or other jurisdiction in which it was issued" if someone with a seizure disorder or fibromyalgia isn't required to document similar information on paper and show it to airline personnel? It doesn't appear that an individual with a seizure disorder will be asked if the animal is necessary for their health or treatment. Yet I am required to prove my service animal is necessary and theirs is not. If my Deaf friend chooses to sit next to me with their service dog, are you going to ask they produce an audiogram when they book the seat, give you 48 hours notice they are flying with the service dog, and make them show a letter from the audiologist that the service dog is necessary for their health or treatment? A double standard is not appropriate in any situation; setting up a double standard for individuals with ANY disability is discrimination taken to an extreme, in my opinion.

Are you going to hold up the entire flight to call my mental health provider to verify the accuracy and authenticity of the letter I just provided to the airline personnel? Are you going to ask me to leave the plane if you get an answering machine, take the time needed to find my checked baggage and remove it from the cargo area, and anger the rest of the passengers by delaying departure by an hour for an unknown reason – other than a fellow passenger and their service animal being told they aren't permitted to remain on the flight? Are you going to compensate a large number of individuals who will probably miss connecting flights for direct and indirect costs relating to the delay?

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How are you going to explain to my fellow passengers that I am being denied passage solely on the basis of my disability being psychiatric in nature without violating my civil rights? Do you have protocol in place to deal with the fallout that will ensue at that moment and in future litigation?

Psychiatric disabilities carry a stigma that no other disability bears today. How do I know that the particular airline personnel I will deal with stigmatize and misunderstand psychiatric disabilities or not? Are they going to treat me differently because of it? How would you feel if you were in my shoes? Would you want to be singled out and have to provide sensitive, personal information that individuals with non-psychiatric disabilities aren't required to provide? Why should I have to be humiliated in a manner that no other individual with a disability that uses a service animal is forced to experience? People fear what they do not understand; most people do not understand psychiatric disabilities and easily react in fear when such information is disclosed, often reacting in a manner from personally held stereotypes and may yield needless disastrous effects for all parties. Second, a psychiatric disability is an invisible (or hidden) disability just as deafness, seizure disorders, diabetes, a severe cardiac condition or even Multiple Sclerosis, compared with those that are visible like blindness or mobility impairment. Why am I as an individual with a psychiatric disability being singled out and required to follow additional rules that others with invisible or hidden disabilities are not? Don't make the mistake of thinking that anyone with a mental illness is a larger threat to passengers and airline personnel than the individual in the next seat. My mental illness has already been diagnosed, and is being treated. Do you know the same about the individual in the seat next to me – or to you?

The regulations state: "Carriers shall accept as evidence that an animal is a service animal identifiers such as identification cards, other written documentation, presence of harnesses, tags or the credible verbal assurances of a qualified individual with a disability using the animal." The regulations go on to state that airline personnel may obtain credible verbal assurances from the passenger by asking questions regarding the animal's function or training, and having the individual describe how the animal performs this task or function. If I were to respond to someone asking me to describe what my service animal has been trained to do for me by saying (taking the verbiage directly from page 188): my animal alerts or responds to a disability-related need, why would that be considered less credible verbal assurance because I am identified as an individual with a psychiatric disability than if I said that my animal helps me to maintain balance, or that I cannot hear well and my animal alerts me to sounds in my environment? Is having bad balance (an invisible disability as well) or poor hearing more credible? An individual with a psychiatric disability is just as capable of providing credible verbal assurance as someone with a seizure disorder, a severe cardiac condition, poor hearing or MS. My ability to provide credible verbal assurance should not be questioned based on a psychiatric disability.

I take issue that the regulations say that documentation may be **requested** (emphasis mine) for service animals other than emotional support or psychiatric service animals

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but that documentation is **required** (emphasis mine) for emotional support and psychiatric service animals. The regulations also state that “the law allows airline personnel to ask for documentation...but DOT’s rules tell carriers not to require documentation as a condition for permitting an individual to travel with his or her service animal...” yet the rules **require** me, an individual with a psychiatric disability, to provide documentation to travel with my service animal. The regulations instruct airline personnel how to ascertain if a passenger is a qualified individual with a disability if the disability is not readily apparent. Is Deafness, MS or a seizure disorder readily apparent? The regulations themselves further discriminate against individuals with psychiatric disabilities: **“Keep in mind that you can ask but cannot require documentation as proof of service animal status UNLESS (1) a passenger’s verbal assurance is not credible and the airline personnel cannot in good faith determine whether the animal is a service animal without documentation, or (2) a passenger indicates that the animal is to be used as an emotional support or psychiatric service animal.”**

The employees at my grocery store, bank, Subway sandwich shop, hair salon, favorite Italian restaurant, hardware store, gas station, bus transportation system, taxi, San Francisco’s BART, car repair facility, local airport (when I go in the terminal to meet someone or see someone off), police station, courthouse, and every public establishment I patronize do not stop me at the door to ask what type of disability I have, why I have a service animal, what it does for me and why I need it there. They all say hello, allow us in to conduct business, use the bus, BART or taxi, take my money and say goodbye as we leave. Why should my PSD and I be treated differently just because I happen to want to use an airplane as my mode of transportation or business that I patronize?

If I have to travel by air to my next professional conference, I shouldn’t have to disclose my disability – in clear violation of The Americans With Disabilities Act – when I book my flight, show a note at the check in counter before I board my flight from my mental health provider that says I have a mental health-related disability listed in the DSM-IV and that having the animal accompany me is necessary to my mental health or treatment; that I am under the professional care of a licensed mental health professional (license type and information included). I should be able to greet the flight attendant, stow my bags, have a seat and focus on preparing for the conference. I shouldn’t have to worry that I have exactly the right documentation that the airline personnel will require, that I informed them at least 48 hours in advance that my service animal will be with me, and go down a huge checklist only to find out that I will be denied boarding because one thing on the list is missing. Oh, yes, and will I have to forfeit my hefty priced plane ticket because I notified the airline 47 hours instead of 48 hours in advance that my service animal will be accompanying me? Would you do any of this to someone who is blind or Deaf or has a seizure disorder? Of course not; that’s my point: only someone whose illness is psychiatric in nature.

Do you have a disability? Do you use a service animal? If your disability isn’t

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psychiatric, make business, personal or vacation plans without forethought about being accompanied by your service animal. If your disability is psychiatric, leave your service animal at home or with a professional animal care provider unless you want to be forced to disclose your diagnosis at the gate.

Sincerely,

Denise Wetzler
1836 N Stapley #85
MESD, AZ 85203-2676
480-827-7939

Thank you for posting the new proposed guidelines for nondiscrimination in Air Travel. As a service dog handler myself, there are two items that worry me.

One concern is your singling out psychiatric service dogs (PSDs) and emotional service animals (ESAs.) I understand your concern over passengers passing off pets as working animals, but targeting one specific disability is based on several false assumptions:

First, the social stigma surrounding mental illness has effectively rendered those with psychiatric conditions as second-class citizens. It makes no more sense for someone to fake a mental illness for special favors than it does for someone to fake being a right-wing Muslim in a post-911 airport. On the contrary, anyone who knows the pain of this stigma firsthand might be tempted to claim a different disability at the security checkpoint anyway just to sidestep the humiliation of having to announce his or her condition to a room of strangers.

The flip side of this is that the social stigma itself would be a powerful incentive to a passenger with a fraudulent service animal to claim one of several other conditions, including epilepsy, diabetes, MS, or even vision loss, as many who are legally blind can compensate with glasses and peripheral vision. So the logic of requiring documentation for PSDs and ESAs to avoid fraudulent working animals on board is flimsy at best.

My other point of concern is the acceptance of "credible verbal assurance" that a working animal is valid. I applaud the fact that service animals and ESAs do not need to be marked, especially on a long flight where a harness or vest would be uncomfortable. But any service dog handler will tell you that it is all too easy for someone who doesn't like animals to manufacture excuses to block access. For instance, my dog and I were once ejected from a restaurant as a "biohazard" after he shed a single white hair on a gray carpet. A vague term like "credible verbal assurance" is an open invitation to any staff member who doesn't like animals to take advantage of a passenger with a facial tic who "looks like he's lying," or someone with hearing loss who might not have heard a question correctly. Service animal handlers need more protection from discrimination,

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not less.

All in all, I thank you for the time and care you've put into updating your regulations. I hope that the comments you receive will be incorporated for a policy that's fair to everyone.

Respectfully,

Anna Hazelton
116 E. Oak St. #3
Louisville KY 40203

To Whom It May Concern:

I am writing to you about the rulings that have been made concerning Emotional Support Animals (ESA) and Psychiatric Service Animals (PSA) protocols which stigmatize and discriminate against people using these animals as part of their necessary and sometimes life-saving treatment. People with disabilities, whether physical or mental, need to be treated with the same respect and acceptance. No other disability group is being asked to follow this new protocol that specifically signals out those with mental health service animals. How can this be seen as anything other than discrimination?

I understand your concern that animal owners wanting to travel with their pets might try to take advantage of service animal allowances. However there are always people in every line of endeavor who will try to get something that is not their due. I don't think it is right to penalize the people who need and use these service animals. Why should they have to pay for the wrong doings of others? Just because some person decides to pretend that he is blind to collect money in the streets, should I then request documentation from every blind person with a tin cup before I decide to put my money into his cup?

I am writing to you as an outraged citizen but also I am writing to you as a licensed clinical social worker that understands the depth of the kind of disability that puts a person in the position of needing a psychiatric service animal. And I have seen the tremendous benefit they bring to their disabled owners. These people suffer stigma enough from the many facets of their disability without being signaled out and made to prove their right and need to board a plane with their animal.

I ask you to revise this unfair and oppressive ruling and treat mental health disabled service dog handlers as you would any of the rest of the disabled Service Dog handlers.

Sincerely,

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Joan Levy, LCSW, ACSW
 PO Box 160
 Kapaa, HI 96746

To Whom It May Concern,

Regarding the new ACA rules about Service Dogs, I'm outraged that this is even an issue. The blind, the deaf the handicapped do not need to state the disability or bring a doctors note. Just because you don't see a person's disability doesn't give others the right to decide who is or isn't disabled. You are acting as if having a mental conditions are by choice, not that people were born with this disability.

you provide walking canes, Braille, seeing eye dogs, hearing aids, TTY, you provide wheel chairs, prostheses, you have even gone as far as to train monkey to help quadriplegic's and many more services in accordance to the civil rights act for Disability rights. Why do the airlines have the right for this request?

If fact the other day I read that a man and his wheel chair bound Wife, couldn't even get a lift onto an airline. That her husband had to hoist his disabled wife onto the plain up a ramp. the Airline stated that it was against policy to aide or assist a disabled. And you people are worried over a service Animal. What is this world coming to heaven sake?

Tracy Jarvis
 P.O. Box 44533
 Kamuela, HI 96743

To Whom It May Concern,

I am writing to express my feelings about the new transportation act affecting a person with a mental disability that needs a service dog. This is blatant discrimination toward people who have mental disabilities severe enough to need a dog. Just because a person cannot see another persons disability should not mean that they have to have a doctor's note to prove that they need a service dog. This just adds more stress to a person's traveling ventures. If a person has a mental disability, then they could very likely be more affected by stress than others. This just causes undo stress to mentally disabled passengers and their dogs as well. The reason they have dogs, in some cases, is because they need to be warned about their mental disability. I have friends that need to have service dogs to function safely and making their lives harder does not help anyone in their situations.

Sincerely,

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Robyn Spencer
 947 Wilmington Ave Apt D
 Dayton, OH 45420

To Whom It May Concern:

I have been a therapist for 18 years. During that time I have worked with many people who have PTSD, Anxiety, Panic Disorders and Dissociative Disorders. One factor that makes life difficult for some folks with these disabilities is problems going out in public and being noticed.

Several clients I see have found that with an assistance animal they can actually get out of the house and go places without the fear and panic they had before. It is so helpful for them to have their dog with them in all environments to reduce dissociation, panic and anxiety. One of the biggest challenges they face is having to explain why they have a service dog. They are embarrassed and humiliated when people challenge them taking their dog places.

I think the regulations requiring someone to show that they have a mental illness violate the right to privacy. It is degrading to require someone to prove they are "crazy" in order to have their service animal accompany them on airplanes.

The people I work with face enough discrimination and humiliation having to fight to get help in the first place. Mental illness is still stigmatized in our society. There are so many people who live with disabilities such as depression, anxiety and post traumatic stress disorder that may barely make it through each day but hide their disability from friends and co-workers because of the embarrassment they experience having a mental illness.

The clients that are fortunate enough to be helped by a service dog have already been through enough embarrassment and humiliation trying to deal with their illness. It is *inhumane to make a person "prove that s/he is crazy" in order to travel with their trained assistance animal.*

Please change this policy so that people are not put through more humiliation.

Thank you,

Karen Marshall, LCSW
 LADYKARENM@aol.com

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To Whom It May Concern.

As the owner of N.W. Pawserverance, a business dedicated to assisting owner trainers with the training of Psychiatric Service Dogs and other dogs that help persons deal with living with some form of brain-oriented need I am appalled at this proposed change to the Airlines policy regarding persons using PSD It is totally outrageous that you are striving to single out and add another stigma to persons who already must deal with stigmas that we have only just begun to live down after hundreds of years of work. This is taking a step back into the dark ages where persons with mental problems were shut away in locked rooms and hidden by their own families from the general public. I do agree that there have been persons who have abused the system as it was but do not single out the people who need their dogs in trying to determine who does not need the dog. It is much better to allow all then to single out one class of disability.

Nancy Williams
1504 Agape Way
Grants Pass, OR. 97527

To Whomever It Concerns:

I am a user of a service dog who is trained in psychiatric assistance work along with tasks for a neurological physical disability. But this document has me greatly concerned in that because I have a psychiatric diagnosis I will be discriminated against if I dare declare to an airline what some of my service dog's tasks are. My neurological disability is an invisible disability.

What I see in this new ACAA rules is that mentally disabled people with psychiatric service dogs are required to meet the same guidelines as untrained emotional support pets . The DOT is claiming it is easier for people to fake the need for this type of assistance animal. But since a psychiatric disability is an invisible disability like diabetes, epilepsy, hearing assistance. Where is the proof that it is ONLY psychiatric service dogs that are the easiest to fake for fraudulent people to gain access to airplane travel for their pets? I have known show people to fake their show dogs as diabetic alert dogs and even try to borrow guide dog harnesses so they can pass their show dogs off as service dogs so they can avoid shipping their prize show dogs as cargo and save that expense.

So I see these new rules as a very discriminatory rule aimed only at people with psychiatric disabilities and their trained service dogs that mitigate their disability. This means The DOT has decided that individuals with psychiatric disabilities are relegated to less access than a normal person or other disabled person would have to airplane travel in an emergency or for a standby. An example such as if we have a family

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emergency or a death in the family and have to fly out quickly like any other normal person can. Instead we would have to notify the airline and wait 48 hours to have PERMISSION before we would be ALLOWED to fly with our trained psychiatric service dog. All because of the type of mental disability we have.

If there is supposedly such a problem with non-disabled people faking pets as psychiatric service dogs. Such fakers are not dumb and will just switch off to another way to pass off their pets as a service dog. One that won't require documentation. Example- diabetic alert, seizure alert, hearing assistance, developmental disabilities, traumatic brain injury, Alzheimer's assistance, MS and other mobility or sensory disabilities that are not readily apparent at a glance.

So dropping the 48-hour pre-notification to the airlines and just requiring all types of service dog users to present documentation of proof of need for a service dog would be less discriminatory if this is such a problem. Instead it seems the DOT has decided to pick on a very vulnerable part of the population of the service dog user community who have truly trained service dogs who are not pets but working animals needed for the handler to mitigate their disability in normal everyday access in public places. .

In my opinion this gives the airlines an easy way to be discriminatory and fearful of people with only psychiatric types of mental disabilities who need to use a trained psychiatric service dog to mitigate their disability.

Sincerely,

Nora Terrell
PO Box 1097
Bailey, Colorado 80421

To Whom It May Occur.....

I am a Canadian, who has visited the USA on a number of occasions. Almost always by airline. I am most disgusted, and question the validity of me having to disclose my "Mental Illness" in order to be accompanied by my Service Dog on an airplane in the US. My Service Dog is what allows me to leave the house, converse with people in a calmer fashion, tolerate being in crowds, visit friends and just live as a normal person. In fact most people wouldn't suspect there is anything amiss, as my dog and I work together in a smooth and practiced fashion, that isn't intrusive to others. When I am suffering from a Panic attack she will get my attention by nudging or jumping on me, until I switch my attention to her, and refocus. When I become confused, she also alerts me, and provokes me to pet her and focus on her, for a time long enough to get "it" together. I fail to see why my 'Invisible Handicap' should be anymore reportable or disclosable then a heart disease patient, diabetic, kidney disease, epileptic, or any other

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condition that Service Dogs have been trained to aid by being a Medical Alert dog.

Medical alert dogs are a branch of Service Dogs that prevent the worst case scenario....low or high blood sugar for diabetics, ketoacidosis in kidney patients, oncoming seizures in some epileptics and I could go on. Psychiatric Service Dogs are a valuable tool in allowing people with Mental Illnesses continue to function at their highest possible level. Without my Service Dog "Promise" I am nothing, I can't function out of my house, somebody else has to do my grocery shopping, errands etc... because I am agoraphobic and can't leave my house. This is not only intensely personal, it is also embarrassing the fuss that some people make when told about my condition.

There is judgment, as sadly there are many under educated and under informed people that do not understand that having a Mental Illness, is not a judgment of the quality of person you are. A Mental Illness is a chemical imbalance in the brain, some respond well to treatment, and some are kept under control with aids (drugs, meditation, Service Dogs etc) allowing that person to live their life.

We as a society are supposed to be progressing to greater acceptance, assimilation and understanding. "We Are The World" a song about just such an attitude stresses the importance of this, for the worlds continued well being. This is progress, and emotional growth that is needed to help prevent further wars and prejudice. You as an American, often consider yourself the 'World Leaders'... others are to look to you for standards of practice and proper societal behavior. "To be an American" is supposedly a proud and wonderful privilege. Well... unless you have a Mental Illness, and want to be a functioning member of society, using all reasonable aids available to me. What is next? Will the Mentally Ill go by the way of automatically being incarcerated/hospitalized?

I can easily spend my money up here in Canada or elsewhere in the World; there are few countries with such a Draconian outlook and treatment of people living with Mental Illnesses. I intend to spread the message..... Remember also, that acknowledged or not between 5-10% of ALL people will live with and suffer with a Mental Illness of some degree in their lives. Are you one of US, can you prove you are not?

Kim in British Columbia
kimmcamp@shaw.ca

To Whom It May Concern:

"Since beginning to work with my psychiatric service dog, I have been much more able to travel for pleasure than I was before I began using this treatment modality. Although I am not a US citizen, I have been choosing to vacation exclusively in the United States because of the clear and comprehensive legislation regarding service animals. In the past two years, I have made perhaps half a dozen trips to the United States, spending my tourism dollars there.

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Because Canadian laws require certification for service animals on an airplane, I have consistently chosen to fly with an American-flagged carrier each time I travel by air.

This was because the Air Carrier Access Act allowed any trained service animal to accompany its handler in the cabin; it specifically protected me from having to disclose the nature of my disability.

The new changes claim that psychiatric service animals are a "separate category", despite the fact that they "may be trained by their owners, sometimes with the assistance of a professional trainer, to perform tasks such as fetching medications, reminding the user to take medications, helping people with balance problems caused by medications or an underlying condition, bringing a phone to the user in an emergency or activating a specially equipped emergency phone, or acting as a buffer against other people crowding too close." The newly revised law draws no distinction in required accommodation between psychiatric service animals, individually trained to do work or perform tasks for a person with a disability, and pet animals that act as a comfort just by being present, without specific training. This is despite the fact that the ruling notes, for other disabilities, "There may be cases in which a passenger with a disability has personally trained an animal to perform a specific function (e.g., seizure alert). Such an animal may not have been trained through a formal training program (e.g., a 'school' for service animals). If the passenger can provide a reasonable explanation of how the animal was trained or how it performs the function for which it is being used, this can constitute a 'credible verbal assurance' that the animal has been trained to perform a function for the passenger. "

This "separate category" for psychiatric service animals means that not only must we have a doctor's note, very specifically disclosing personal medical information, but we must provide this to the airline two days ahead of when we must travel. I do not think it unreasonable to be concerned that an already stigmatizing condition would affect the treatment I received from the airline and its personnel. This assumes, of course, that my doctor will be willing to write such a note; in the past, psychiatrists have expressed reservations about providing this information to third parties.

Clearly, this new ruling suddenly forces me to disclose the nature of my disability not because of concerns about owner-trained animals, but because people with mental-health related disabilities are considered less deserving of basic human dignity and privacy concerning our medical needs. This is likely to strongly influence my choice of travel destinations after April of 2009."

Heather Wegemer
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Dear DOT Officials,

I do not have a service dog, but I have friends who do. I am appalled at the new law requiring PSD handlers to reveal that they have a mental disorder to board a flight with their SD. This is discriminatory. Psychiatric disorders continue to be stigmatized in our society. I fear that people who have to reveal this information will face discrimination out of the airline staff's own stereotyping, misconceptions, and irrational and uneducated fears. A disorder is a disorder, and people with psychiatric disorders should be treated with the same respect as anyone else. This is outrageous.

The government is completely ignoring a person's right to privacy, if that is even a right anymore. It is not an airline or TSA's business to know someone's disability. That is between a patient and his/her doctor.

Sincerely,

Holly Anderson
h.reason@sbcglobal.net

END OF TESTIMONY

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United Service Animal Users, Supporters, and Advocates

Partnering for reasoned advocacy

USAUSA@psych.dog



Brad Morris, Jenine Stanley, & Roger

Photo description: Outside on winter-worn grass, two people embrace and smile for the camera while one holds a harnessed guide dog's leash. Each person wears a kelly green scarf. On the left, a bearded man sitting in a power wheelchair wears a straw fedora, dark green blazer, bluish plaid blanket, and dark-plastic-framed glasses. In the middle, a woman with shoulder-length light red hair wears a black cardigan with light, thin stripes; her sitting Golden Retriever wears a look of biding patience.