



**ADA Audio Conference Series
December 10, 2019**

The Air Carrier Access Act (ACAA) and Travelers with Disabilities: Travel by Air with Service Animal

This session is scheduled to begin at
2:00pm Eastern Time

Real-Time Captioning and the PowerPoint Presentation are available through the Webinar Platform.
Audio is available through the webinar platform/telephone/Mobile App.

1

Participating via the Webinar Platform



- The audio for today's webinar is being broadcast through your computer. Please make sure your speakers are turned on or your headphones are plugged in.
- You can control the audio broadcast via the Audio & Video panel. You can adjust the sound by "sliding" the sound bar left or right.
- If you are having sound quality problems check your audio controls by going through the Audio Wizard **which is accessed by selecting the microphone icon on the Audio & Video panel.**



2

Participating via a Mobile Device

MOBILE Users (iPhone, iPad, or Android device and Kindle Fire HD)

Join** the session using the Blackboard Collaborate Mobile App (Available Free from the Apple Store, Google Play or Amazon)

OR

Join the session by opening the session link in a browser on your mobile device.



**The accessibility of the mobile app is limited for voice over users and no captioning is displayed.

3

Listening to the Audio via Telephone

If you do not have sound capabilities on your computer or prefer to listen by phone.



4

Captioning



- Real-time captioning is provided during this webinar.
- The caption screen can be accessed by choosing the “CC” icon in the Audio & Video panel.



- Once selected you will have the option to resize the captioning window, change the font size and save the transcript.

5

Submitting Questions



- If you are listening by phone you will be instructed by the Operator on how to ask a question.
- Webinar participants may type and submit questions in the Chat Area Text Box or press Control-M and enter text in the Chat Area. You will not be able to see the question after you submit it but it will be viewable by the presenters.
- If you are connected via a mobile device you may submit questions in the chat area within the App
- Questions may also be emailed to webinars@ada-audio.org



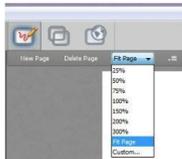
Please note: This webinar is being recorded and can be accessed on the ADA Audio Conference Series website at www.ada-audio.org within 24 hours after the conclusion of the session. The edited written transcript will be posted at this same site within 7 business days following the conclusion of the session.

6

Customize Your View



Resize the whiteboard where the presentation slides are shown to make it smaller or larger, by choosing from the drop down menu located above and to the left of the whiteboard. The default is "fit page".



7

Customize Your View, *continued*



- Resize/Reposition the Chat, Participant and Audio & Video panels by "detaching" and using your mouse to reposition or "stretch/shrink".
- Each panel may be detached using the  icon in the upper right corner of each panel.

8

Setting Preferences

- Depending on your system settings you may receive visual and audible notifications when individuals enter/leave the webinar room or when other actions are taken by participants. This can be distracting.
- To turn off notifications (audible/visual)
 - Select "Edit" from the tool bar at the top of your screen
 - From the drop down menu select "Preferences"
 - Scroll down to "General"
 - select "Audible Notifications" Uncheck anything you don't want to receive and "apply"
 - Select "Visual Notifications" Uncheck anything you don't want to receive and "apply"
 - For Screen Reader User – Set preferences through the setting options within the Activity Window (Ctrl+slash opens the activity window)

9

Technical Assistance



• If you experience any technical difficulties during today's session:

- In webinar platform: Send a private chat message to the host by double clicking "Great Lakes ADA" in the participant list. A tab titled "Great Lakes ADA" will appear in the chat panel. Type your comment in the text box and "enter" (Keyboard - F6, Arrow up or down to locate "Great Lakes ADA" and select to send a message); or
- By Email webinars@ada-audio.org ; or
- Call 877-232-1990 (V/TTY)

10

GREAT LAKES ADA PRESENTATION:
The Air Carrier Access Act (ACAA) and Travelers with Disabilities:
Travel by Air with Service Animal
December 10, 2019



U.S. Department of Transportation
Office of Aviation Enforcement and Proceedings

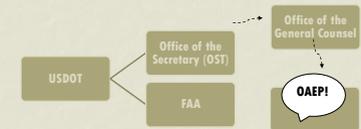
Robert Gorman, Senior Attorney



11

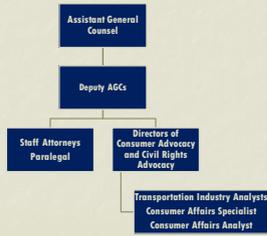
What is the Office of Aviation Enforcement and Proceedings ("OAEP" or "Enforcement Office")?

Simplified Structure



12

Office Structure



13

Office of Aviation Enforcement and Proceedings

- **Subject Areas:**
 - Aviation consumer protection, civil rights (disability and discrimination), competition
- **Practice Areas:**
 - enforcement, rulemaking, guidance, outreach (e.g. industry and public communications), complaint handling

14

Office of Aviation Enforcement and Proceedings

- **Web site:** www.transportation.gov/airconsumer
- **Helpful travel information**
 - Flying with a Disability
 - How to File a Consumer Complaint
 - Bumping
 - Tarmac Delays
 - Flight Delays and Cancellations
- **Complaint portal**

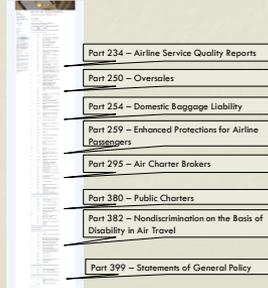
15

Notable Statutory Authorities

- **49 U.S.C.:**
 - **40127/41705** (prohibition on discrimination, [Air Carrier Access Act](#))
 - **41712** (prohibition on unfair and deceptive practices)
 - **46301** (authority to issue civil penalties)
- Other interesting statutes: 41113/41313 (Family Assistance), 41703 (Cabotage)

16

A Sampling of Our Regulations



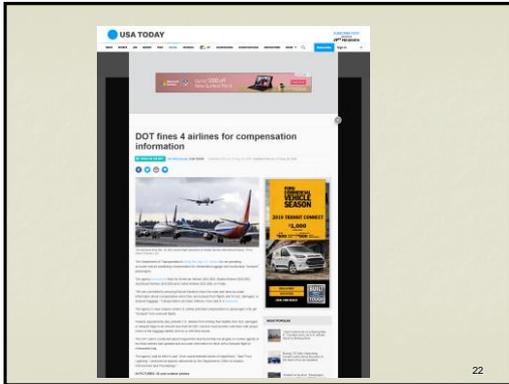
17

How does DOT become aware of problems?

- Consumer Complaints
- Airport Inspections
- On-site Airline HQ Inspections
- Formal complaints
- Complaints from Competitors and Other Entities
- Media Reports
- Coordination with other Offices/Agencies (BTS, X, FAA, etc.)



18



Outcomes

- reduction in tarmac delays
- more transparency in fare advertising
- accessible air travel – kiosks, improved wheelchair assistance
- ensuring passengers receive refunds
- responses to consumer complaints
- Better information to passengers (delay status, changes, waivers of fees, baggage and ancillary fees, changes in frequent flyer policies, signage)



www.transportation.gov/airconsumer

Air Travel Consumer Report is a monthly publication with statistics:

- Delayed and canceled flights, Mishandled baggage, Oversales, Consumer complaints to DOT, Security complaints to TSA, Loss, injury or death of pets



www.transportation.gov/airconsumer

Other Publications:

- *Fly-Rights*
- *Tell It To The Judge*
- **Disability Training Materials and Helpful Information**



25

ADA vs. ACAA

Americans with Disabilities Act (ADA)

- **Places of public accommodation**
 - **Hotels**
 - **Restaurants**
 - **Airports**
- **Enforced by USDOJ**

26

ADA vs. ACAA

Air Carrier Access Act (ACAA)

- **Air transportation**
 - **On aircraft (seating, assistive devices, service animals)**
 - **Reservations/information**
 - **Traversing airport (wheelchair service)**
- **Enforced by DOT; rules are directed at airlines**

27

ADA vs. ACAA

ADA definition of service animal

- Dog*
- Individually trained to perform task or function
- Emotional support animals (ESAs) NOT recognized

28

ADA vs. ACAA

ACAA definition of service animal

- US carriers required to recognize service animals regardless of species
 - Exception: Airlines may ban "certain unusual service animals (e.g., snakes, other reptiles, ferrets, rodents, spiders)"
 - Foreign carriers are only required to accept dogs
- ESAs ARE recognized as service animals

29

ADA vs. ACAA

ADA Regulations - documentation

- Places of public accommodation may NOT ask for medical or other documentation

30

ADA vs. ACAA

ACAA Regulations - documentation

- Airlines **MAY** ask for medical documentation:
 - ESAs and Psychiatric Service Animals (PSAs) **ONLY**
 - Contents set out by rule (382.117(e))
 - 48 hours before flight (382.27(c)(8))
 - Also, airlines may require check-in 1 hour ahead of regular check-in for ESAs/PSAs

31

ADA vs. ACAA

ADA – Direct threat

- Public accommodations may refuse a service animal if it poses a direct threat to the health or safety of others
- This determination must be made on individualized, case-by-case basis (e.g., aggressive behavior)

32

ADA vs. ACAA

ACAA – Direct threat

- Airlines may refuse a service animal if it poses a direct threat to the health or safety of others (or would cause significant disruption in cabin service)
- Rule is not clear on how airlines make this determination

33

Air Travel: Pet vs. Service Animal

- **Pets:**
 - Pet fee
 - Crated
 - May travel in cargo

34

Air Travel: Pet vs. Service Animal

- **Service Animal:**
 - Travel with no charge
 - Travel in cabin/without crate
 - On lap if small enough

35

Rising Problems?



- **Proliferation of online sales**
 - Vests, harnesses, "registration," certificates
- **Airlines report increases in fraud**
- **Airlines report increases in biting, barking, other improper behaviors**
- **Effects on legitimate service animal users**

36

Airline Response

- Species restrictions
- Number restrictions
- Requiring additional documentation (vaccination, training, behavior)

37

DOT Response

- Interim Statement of Enforcement Priorities Regarding Service Animals (published May 23, 2018)
 - Expressed interpretation of Enforcement Office on these and other service animal topics
 - Sought comment from public and stakeholders

38

Restrictions Imposed by Airlines After Interim Enforcement Notice

- Breed (e.g., banning "pit bull type" dogs)
- Age
- Weight
- Flight length (e.g., banning ESAs on flights over 8 hours)
- Requiring Use of airline's own medical form

39

DOT Response

- [Final Statement of Enforcement Priorities Regarding Service Animals](#) (published August 21, 2019) (“Final Statement”)

40

Final Statement – Guiding Principles

- Document is **guidance**: represents Enforcement Office’s interpretation of **existing** rule
- Not legally binding (the regulation is)
- Intended to provide clarity: identifies where rule is clear, and where it is not (or silent)

41

Final Statement – Guiding Principles

- Enforcement efforts focused on clear violations having the potential to adversely impact largest number of individuals
- “Department is committed to ensuring that air transportation system is safe and accessible for everyone.”

42

Final Statement – Highlights

- **Species:** Focus on ensuring that dogs, cats, and miniature horses are accepted for transport
 - What about rabbits, birds, etc.?
- **Breed:** Airlines may not categorically ban specific breeds

43

Final Statement – Highlights

- **Number:** Focus on ensuring that passengers may travel with one ESA and (if necessary) two task-trained service animals
- **Weight:** Airlines may not categorically ban animals over a certain weight (must be case-by-case)

44

Final Statement – Highlights

- **Age:** “clearly too young to be trained to behave in public”
- **Flight Length:** Airlines may not categorically ban service animals on long flights (asking for documentation for flights over 8 hours is OK)

45

Final Statement – Highlights

- **Paraphernalia:** Airlines may still ask questions of passenger, even if animal has vest (if disability is not clear)
- **Lobby check-in:** Airlines may ask ESA/PSA users to check in at the lobby before proceeding to gate
- **Advance notice:** OK for ESA/PSA users only

46

Final Statement – Highlights

- **Containment/movement restrictions:** handled on case-by-case basis
- **Documentation:**
 - Airlines **MAY** ask for documentation relating to an animal's vaccination, training, or behavior, **IF** it is reasonable to believe it will assist in determining direct threat
 - Monitoring this issue
 - Airlines **MAY NOT** insist on their own medical forms

47

New Rules on Horizon

- **May 23, 2018: Advance Notice of Proposed Rulemaking (ANPRM)**
 - Seeks comment on how to revise existing rule
 - Continue to recognize ESAs as service animals?
 - Species/number
 - Containment
 - Documentation AND MORE
 - 45 day comment period; 4500 comments!

48

New Rules on Horizon

- **Notice of Proposed Rulemaking (NPRM) coming soon**
 - Additional comment period
 - DOT analyzes comments
 - Final Rule

49

New Rules on Horizon

- www.transportation.gov/airconsumer/latest-news
- www.regulations.gov; [DOT-OST-2018-0068](#)

50

Questions

- You May Type and Submit questions in the Chat Area Text Box or press Control-M and enter text in the Chat Area

51



Thank you for participating in today's
ADA-Audio Conference Session

Next Session: January 21, 2020
"Employment First and the Americans with
Disabilities Act (ADA)"

Register at: www.ada-audio.org or call 877-232-1990 V/TTY

52
