

**The Current State of Air Travel for Americans with Disabilities:
Considerations for Policy, Enforcement, Implementation, and Advocacy**

Julie L. Pfeiffer, PT, DPT, MS¹, Walt Bower, Ph.D.², and Phillip Rumrill, Ph.D.³,
CRC.

^{1, 2, 3}Human Development Institute, University of Kentucky

Author Note

Julie L. Pfeiffer, PT, DPT, MS is a Research Assistant at the Human Development Institute at the University of Kentucky. She is also a licensed physical therapist with expertise in neurological rehabilitation.

Walt Bower, Ph.D. is the Preservice Training Coordinator at the Human Development Institute (HDI) at the University of Kentucky. He directs the family mentorship program and coordinates HDI's Consumer Advisory Council quarterly meetings.

Phillip Rumrill, Ph.D., CRC, is a Professor of Counselor Education and Director of Research and Training in the Human Development Institute at the University of Kentucky. Dr. Rumrill has been a rehabilitation educator and disability studies researcher for 30 years. His research interests include the employment of people with disabilities, applied self-advocacy interventions, and the needs of Americans with neurological disabilities.

Correspondence concerning this article should be addressed to Phillip Rumrill, Human Development Institute, University of Kentucky, 120 Graham Avenue, Lexington, KY 40506, United States. Email: phillip.rumrill@uky.edu

Abstract

For over thirty years, Federal legislation has existed to improve accessibility during air travel. Yet, disability-related complaints continue to increase. Americans with disabilities report physical, organizational, and service barriers during air travel. Therefore, it is necessary to explore whether this problem is attributable to policy, enforcement, implementation, and/or advocacy issues.

Keywords: Accessible transportation, accommodations, flight

The Current State of Air Travel for Americans with Disabilities: Considerations for Policy, Enforcement, Implementation, and Advocacy

Engracia Figueroa, a prominent advocate for the inclusion and independence of people with disabilities, was flying home to Los Angeles after advocating for the rights of domestic workers at a march in Washington, D.C. in July, 2021 (Reyes, 2022). Upon landing in Los Angeles, Figueroa discovered that United Airlines workers had broken her \$30,000 custom power wheelchair (Miranda, 2021). Figueroa required a custom power wheelchair designed specifically for her body to perform everyday activities following a spinal cord injury and left leg above knee amputation (Reyes, 2022). She was forced to sit in an airport transport chair that stripped Figueroa of her independence for nearly five hours at the Los Angeles International Airport while filing a damage report and waiting for United Airlines to provide the required loaner wheelchair (Miranda, 2021). Sitting for multiple hours in the transport chair with poorly supported posture and without the ability to perform pressure relief led to the reopening of a pressure wound (Reyes, 2022). Figueroa experienced “excruciating” pain and was admitted to the hospital shortly after returning home (Miranda, 2021). As Figueroa fought with United Airlines to replace her severely damaged power wheelchair, she had no alternative but to use an ill-fitting loaner wheelchair for several months. During this time, the pressure wound became infected. The infection then spread into her hip bone, requiring emergency surgery. On October 31st, 2021, just over three months after her wheelchair was broken, Engracia Figueroa died from complications of emergency surgery (Reyes, 2022). She was 51 years old.

Background

Full participation in work, leisure, and family roles is largely dependent on physical proximity, which can be achieved through various modes of transportation (Urry, 2002). Air

travel has become a vital form of transportation for participation in these roles. In 2017, half of all airline passengers reported flying for leisure activities, followed by work and non-leisure purposes like college, family events, and medical appointments (Salas, 2021). For persons with disabilities, accessible public transportation has been shown to increase participation in recreation and leisure activities (Páez & Farber, 2012). However, air travel continues to be challenging, and sometimes impossible, for many individuals with disabilities (Dempsey et al., 2021).

The air travel experience is often divided into four phases: pre-travel, pre-flight, in-flight, and post-flight. Barriers to air travel can occur in any of these phases and often vary depending on the individual's type of disability (Davies & Christie, 2017; Dempsey et al., 2021; Poria et al., 2010). Significant stress during air travel is caused by periods of waiting, crowds, and sensory stimuli for Autistic passengers, typically during the pre-flight and in-flight phases (Dempsey et al., 2021). Individuals with mobility impairments often report boarding and deboarding the aircraft to be the largest barrier to participation in air travel (Davies & Christie, 2017; Poria et al., 2010). Wheelchair users frequently experience physical pain and bodily injury with manual handling during transfers to and from the aisle chair that is required pre-flight and post-flight (Davies & Christie, 2017; Poria et al., 2010). Blind passengers report difficulties with receiving reliable information about changes to flight information because of ambient airport noise (Poria et al., 2010). Due to these concerns and inadequate accommodations provided by airlines, individuals with disabilities are limiting their use of this form of transportation, which in turn limits their participation in important life roles (Van Horn, 2007).

The main concerns of passengers with disabilities during air travel have not changed in the last 25 years. A survey conducted by the Paralysis Society of America in 1996 revealed that more than half the respondents had their mobility aids returned broken or damaged and

49% reported experiencing disability stereotyping by airline personnel (Bristo, 1999). Van Horn (2007) found that passengers with disabilities continued to encounter barriers at the airport and with airlines during the early 2000s where physical obstacles, service/personnel problems, and long lines were indicated as the primary obstacles (Van Horn, 2007). More recently, a survey found that loss of or damage to wheelchairs, need for additional disability-related training for employees, and increased wait times during the travel process continue to be prevalent concerns of passengers with disabilities (Major & Hubbard, 2019).

These concerns are not unfounded. The total number of disability-related complaints received by domestic and foreign air carriers has more than doubled from 14,006 to 36,930 in the last decade with the total number of complaints increasing each year (United States Department of Transportation, 2019). The majority of complaints are related to an airline's failure to provide assistance, seating accommodation issues, service animal problems, and stowage and handling of assistive devices (United States Department of Transportation, 2019). In 2019, US air carriers reported damaging or losing an average of 29 wheelchairs and scooters each day. The percentage of assistive devices lost or broken is more than 2.5 times the percentage of baggage lost or damaged over the same timeframe (United States Department of Transportation, 2020). The number of disability-related complaints increased 7.5% between 2017 and 2018 while the number of boarded passengers increased only 4.99% over the same calendar year indicating that the increase in disability-related complaints is not due solely to the increase in individuals utilizing air travel for transportation (United States Department of Transportation, 2019).

Therefore, it is vital to explore whether the increase in disability-related complaints is attributable to regulation, implementation, enforcement, and/or advocacy issues. The purpose of this policy review is to summarize existing Federal statutes related to accessible air travel

for Americans with disabilities; analyze enforcement issues under these laws; describe current accessibility and accommodation policies and procedures of major US airlines; and provide recommendations for change at national, state, and local levels.

Table 1

Federal policies governing accessibility in air travel in the United States

Federal Policies

Federal policies governing accessibility in air travel in the United States				
	Section 504	ADA		ACAA
		Title II	Title III	
Airports Operated by Public Entities				
Receive federal financial assistance	X			
Airport Terminals		X		
Surrounding Parking Lots		X		
Ground transportation to/from		X		
Restaurants, shops, conference center			X	
Airports Operated by Private Entities				
Receive federal financial assistance	X			
Airport Terminals			X*	
Restaurants, shops, conference center			X	
All Airlines flying to/from/within the United States				X
*Only for new construction or alterations				

Three major Federal legislative acts govern accessibility in U.S. airports and among airlines: Section 504 of the Rehabilitation Act of 1973 (Section 504), the Air Carriers Access Act of 1986 (ACAA), and the Americans with Disabilities Act of 1990 (ADA). These Federal laws prohibit discrimination based on disability, mandate accessibility through uniform design standards, and set training requirements for airline personnel. However, the governing of accessibility in air travel is complicated as different policies regulate various components

of the travel experience as seen in Table 1.

Most airports operated in the United States are subject to regulations defined by Section 504 and the ADA. Section 504 prohibits exclusion, denial of benefits, and discrimination toward qualified individuals with a disability by programs receiving Federal financial assistance ("Section 504 of the Rehabilitation Act of 1973"). In 2021, airports in 49 states received Federal funding for infrastructure projects through the FAA's Airport Improvement Plan and therefore must comply with Section 504 (Federal Aviation Administration, 2021).

The ADA prohibits discrimination based on disability in various areas of life. Titles II and III of the ADA set forth regulations for programs and services provided by public entities as well as places of public accommodation ("Americans with Disabilities Act of 1990," 1990). Under Title II of the ADA, U.S. airports operated by local, state, or Federal governments cannot deny services to any individual based on disability ("Americans with Disabilities Act of 1990," 1990). All but one commercial airport in the U.S. is owned or operated by local, state, or regional authorities. Components of air travel subject to Title II of the ADA include airport terminals, surrounding parking lots, and ground transportation to and from the airport. Privately operated airports are not subject to Title II of the ADA.

Title III of the ADA prohibits discrimination on the basis of disability in privately-held places of public accommodation ("Americans with Disabilities Act of 1990," 1990). Within airports, both privately and publicly operated, restaurants, shops, lounges, and conference centers are considered places of public accommodation. Airport terminals are not considered places of public accommodation under this regulation. As set forth by subparts B and C of Title III of the ADA, terminals in privately operated airports are not prohibited from discriminating against individuals on the basis of disability. However, Title III subpart D

does require newly constructed or altered places of public accommodation and commercial facilities to comply with ADA accessibility standards ("Americans with Disabilities Act of 1990," 1990). Although privately operated airport terminals are not considered places of public accommodation, they are considered commercial facilities. Therefore, private airport terminals are subject to the new construction and alterations accessibility requirements under subpart D of Title III of the ADA if they are newly constructed or undergo renovation ("Americans with Disabilities Act of 1990," 1990). Although the ADA covers public transportation services, such as city buses and subway stations, and private transportation services, including hotel shuttles and airport buses, air carriers are not covered under the ADA.

All flights operated by U.S. airlines and all flights operated by foreign airlines that begin or end in the U.S. are subject to the ACAA. The ACAA prohibits discriminatory practices by air carriers against individuals with disabilities and outlines minimum service and accessibility requirements to which air carriers must adhere ("Air Carrier Access Act of 1986," 1986). Rules related to aircraft and airport facility accessibility, seating and service accommodations, stowage and handling of assistive devices, service animals, and personnel training as it relates to passengers with disabilities are outlined in the ACAA.

Requirements of the ACAA

Specifically, regulation 14 CFR part 382 of the ACAA set requirements of air carriers in relation to passengers with disabilities ("Part 382 - Nondiscrimination on the Basis of Disability in Air Travel," 2008). Subpart B addresses nondiscrimination requirements and access to services for individuals with disabilities. Passengers must be allowed to self-identify as an individual with a disability and are not required to provide proof of said disability (14 CFR §382.23) or advanced notice of intention to travel (14 CFR §382.25),

except in limited circumstances. The number of individuals with disabilities on a flight cannot be limited (14 CFR §382.17) and air carriers cannot deny transportation to individuals with disabilities unless transporting them would result in a safety concern or violate an FAA safety regulation (14 CFR §382.19). If an individual with a disability is denied service because of a safety concern, the air carrier must provide a written explanation for the refusal within 10 calendar days of the incident (14 CFR §382.19). Airlines may not require a person with a disability to travel with another person except in limited circumstances in which safety is a concern (14 CFR §382.29). When an individual with a disability, or someone acting on the individual's behalf, requests an accommodation required by Part 382 the airline must provide the disability-related accommodation and cannot charge for such services (14 CFR §382.31). However, air carriers cannot require individuals with disabilities to accept special accommodations or services.

Subpart C and D of the ACAA outline requirements related to access to information. Passengers with disabilities must be provided prompt access to the same information provided to other passengers (14 CFR §382.53). Such information includes, but is not limited to, gate assignments, flight delays, volunteer solicitation on oversold flights, and emergencies (14 CFR §382.53). Any service the air carrier provides to the public via telephone must also be made available via text telephone (TTY) (14 CFR §382.43). Websites owned or controlled by air carriers selling tickets to the U.S. public must conform to the Web Content Accessibility Guidelines 2.0 Level A and Level AA (14 CFR §382.43). Additionally, the carrier website must inform consumers how to obtain an accessible copy of the ACAA regulations (14 CFR §382.45).

Air carriers must also comply with accessibility standards for newly built aircraft, which vary greatly based on size of the aircraft. Aisle armrests must be movable on at least

half of the aisle seats, proportionately equitable in all classes, on new aircrafts with 30 or more seats (14 CFR §382.61). Airlines may not keep anyone out of a specific seat or require anyone to sit in a particular seat on the basis of disability, except to comply with FAA or foreign-government safety requirements (14 CFR §382.87). Service animals must be allowed to accompany a passenger with a disability in the cabin, consistent with FAA safety requirements (14 CFR §382.117). Accessible lavatories are only required for newly built aircrafts with two or more aisles (14 CFR §382.63). Additionally, only aircraft with an accessible lavatory which also have 60 or more seats are required to have an on-board wheelchair (14 CFR §382.65). It is unfortunate to note that, under these requirements, it is acceptable for an aircraft to have an accessible lavatory but no means for an individual with a mobility impairment to access said lavatory. Single-aisle aircrafts are also more frequently being used for longer routes including transatlantic flights to and from the U.S. (Pallini, 2022). There is no requirement that passengers are afforded access to a bathroom on these multi-hour-long flights.

Airlines are required to provide timely assistance boarding, deplaning, and making flight connections including providing proper equipment and trained personnel. Preboarding must be offered to passengers with disabilities who self-identify as requiring additional time to board (14 CFR §382.93). Where level-entry boarding is not available, there must be ramps or mechanical lifts to service most aircrafts at U.S. airports with over 10,000 annual enplanements (14 CFR §382.95). Mobility aids and assistive devices stored in the cabin must conform to the FAA rules on the stowage of carry-on baggage; however, mobility aids and assistive devices may not count against any limit on the number of pieces of carry-on baggage (14 CFR §382.121). Wheelchairs and other assistive devices must be given priority over other items for storage in cabin stowage areas (14 CFR §382.67) and within the cargo

compartment (14 CFR §382.125). Airlines must accept battery-powered wheelchairs, including the battery, for stowage in the cargo compartment (14 CFR §382.127). Assistive devices and mobility aids must be promptly returned (14 CFR §382.125) to the passenger with a disability in the same condition in which they were received by the carrier (14 CFR §382.129). The ACAA does not define a timeframe for prompt return.

The ACAA also requires training to be provided to airline and contractor personnel of carriers that operate aircrafts with 19 or more passenger seats and who deal with the traveling public (14 CFR §382.141). Airline personnel must be trained “to proficiency” on the requirements of the ACAA and other Federal regulations related to passengers with disabilities (14 CFR §382.141). Proper use of accommodation equipment including safe boarding and deboarding assistance procedures, ability to recognize requests for communication accommodations, and how to respond respectfully to passengers with disabilities are required training under the statute. Airlines are responsible for developing their own disability-related training programs but must consult with disability organizations during the creation of training materials (14 CFR §382.141). Well-defined training outcome measures and minimum training hours are not provided.

Another important regulation, outlined by Subpart K, defines complaint and enforcement procedures under the ACAA. Anytime a passenger brings a complaint or concern about discrimination on the basis of disability to the attention of any airline personnel, that personnel must inform the passenger of their right to contact a Complaints Resolution Official (CRO) (14 CFR §382.151). CROs, who are specially trained on ACAA regulations and compliance, must be available in person, by phone, or by TTY service to address disability-related complaints. Airlines are required to have at least one trained CRO available at each airport in which they operate. When a passenger informs a CRO of an

alleged ACAA violation, the CRO must make a determination of agreement or disagreement that a violation occurred (14 CFR §382.153). No matter the determination, the CRO must provide a written response to the passenger within 30 calendar days of the complaint (14 CFR §382.153). The written response must also inform the passenger of the right to pursue Department of Transportation (DOT) enforcement (14 CFR §382.153). Even if airlines are compliant with these procedures, there is no guarantee that the alleged violation will be investigated by the DOT.

Implementation of the ACAA by Airlines

The public-facing websites of the four U.S. air carriers with the highest numbers of disability-related complaints (Delta, American, United, and Southwest) were analyzed to determine strategies for implementation of the ACAA by the airline industry. Three of the four airlines highlighted their dedication to providing a safe and positive experience for all passengers in a statement at the top of the webpage dedicated to accessible travel. Delta stated, “We believe travel is for everyone. It’s our priority to deliver the best services to ensure accessibility for all Delta customers. Before boarding, in the air, at your destination and anywhere in between, our gate agents and attendants will be available to assist.” (Delta Airlines Inc., 2022a). All airlines agreed, in rhetoric, that they have a responsibility, that is a top priority, to provide individuals with disabilities a safe and accessible flight experience. However, there is little evidence that the policies and procedures of said airlines are designed to achieve this stated belief.

In general, the airlines’ accessible travel webpages tend to include minimal information about the responsibilities of airlines in serving individuals with disabilities, especially services provided for individuals who are Deaf or hard of hearing, blind or low vision, or have cognitive and developmental disabilities. For these passengers, the airlines

place much of the responsibility on the individual. Southwest and Delta identify the process by which passengers can self-identify a disability and request accommodations at the time of booking. Additionally, Southwest asks that passengers who “require assistance identify themselves and the type of assistance they require upon arrival at the airport, at the gate, onboard the aircraft, and at any connection points” (Southwest Airlines Co., 2022). Several of the airlines imply that self-identification of the passengers’ needs at these various points in the journey will allow the airline to better assist the passenger and provide the appropriate accommodations. Yet, the airlines rarely specify what the passenger can expect from the airline in terms of type of assistance or accommodations that will be available, timeframe for receiving assistance, and communication of needs between airline personnel at various stages of travel.

Most of the information provided to the public concerning accessibility and accommodations are related to individuals with mobility impairments, which may be related to the fact that nearly half of all disability-related complaints received by airlines concern passengers who use wheelchairs (United States Department of Transportation, 2019). Some airlines provide detailed recommendations of procedures the passenger should follow to ensure safe and proper stowage of their wheelchairs in the cargo compartment (Delta Airlines Inc., 2022a). Yet, the same specificity is not provided for the procedures taken by the airline to ensure safe handling. Additionally, the accessible travel webpages are riddled with broad and vague statements. American makes the blanket statement, “If you’re traveling with any medical device, a wheelchair or other mobility device we’re here to help – we offer pre-boarding, deplaning and airport assistance” (American Airlines, 2022). Although air carriers likely have detailed internal policies and procedures related to “pre-boarding, deplaning, and airport assistance,” the airline websites do not present these policies to the public. By not

elaborating on the type of assistance provided, American can publicize that they value passengers with disabilities while doing the bare minimum to assist passengers. Other broad statements are used to shift the responsibility from the airlines to the passenger in determining the accessibility of a particular flight. Delta reports that “many of our larger aircraft have an onboard wheelchair-accessible lavatory. This feature depends on the age, size and configuration of the airplane” (Delta Airlines Inc., 2022b). Instead of listing the accessibility features of each aircraft in their fleets, the airlines place the responsibility on the passenger to call the company’s representatives to determine if a wheelchair-accessible lavatory is available on their flight.

The accessible travel pages rarely discuss the rights of the passenger who uses a wheelchair or other assistive device. No airline reports that they are required to provide priority storage to wheelchair and assistive devices, both in cabin and within the cargo compartment. Some airlines discuss the option for personal wheelchairs stowed in the cargo compartment to be returned to the passenger at the gate of their destination (Delta Airlines Inc., 2022b; Southwest Airlines Co., 2022). However, none of the airlines report how quickly they must return wheelchairs to the passenger, although “timely” return of the wheelchair is required by the ACAA. Additionally, the ACAA requires that assistive devices be returned to the passenger in the same condition in which they were received. Both Delta and United identify how to report damage to an assistive device to the airline (United Airlines Inc., 2021). However, neither company identifies procedures the airline will follow for repairing or replacing damaged wheelchairs. Additionally, no airline reports their responsibility to fully compensate the passenger for loss or damage, or that the airlines’ liability is the original purchase price of the assistive device for domestic flights.

When it comes to the rights of the passenger to file a disability-related complaint, the

airlines are troublingly quiet. Three of the four airlines use deceptive language to describe the role and availability of Complaint Resolution Officials (CROs) while American had no mention of CROs on their accessibility website. Delta promotes the role of CROs as being “responsible for ensuring that disabilities policies and procedures are properly implemented” and meeting “the needs and concerns of our passengers with disabilities” (Delta Airlines Inc., 2022a). Delta does not mention that CROs are responsible for ensuring that the airline is in compliance with the ACAA. Additionally, airlines water down the role of CROs by using passive language including “concerns” and “questions” instead of “complaint,” which is the language used by the Office of Aviation Consumer Protection website. No airline clearly indicates the responsibility of airline representatives to inform passengers of the right to contact a CRO when bringing forth a disability-related complaint. In addition, airlines often direct passengers to talk with any airline personnel when an issue arises, which could be interpreted as an attempt to circumvent passengers from talking directly with a CRO. Southwest is the only airline to clearly state that passengers with a disability have the right to speak with a CRO.

To summarize, airlines appear to do the bare minimum to comply with Federal regulations concerning accessibility and discrimination against passengers with disabilities. In general, airlines are apt to document their rights as an air carrier under the ACAA but rarely identify their responsibilities to or the rights of passengers with disabilities. Air carriers appear to be in compliance with posting the required information, per the ACAA, to their accessible travel webpages. However, information related to the rights of passengers, specifically those frequently violated by airlines, are rarely discussed. Although not required by Federal regulations, Delta and United have created Advisory Boards to improve policies and procedures related to accessible air travel. Yet, it is difficult to determine how the

implementation of an Advisory Board has improved the airline's policies and procedures when reviewing the accessible travel website.

Enforcement of the ACAA

Unlike the ADA, the ACAA statute does not permit a private right of action ("Boswell v. Skywest Airlines," 2004; "Segalman v. Southwest Airlines," 2018; "Stokes v. Southwest," 2018). An individual who feels that they have experienced discrimination by an air carrier on the basis of disability does not have the right to file a lawsuit or take individual legal action to enforce the ACAA regulations. The courts have determined that the U.S. DOT is responsible for investigating potential ACAA violations and has the authority to initiate enforcement actions. Therefore, the only action an individual can take is to file a complaint of alleged ACAA violations with the offending airline and/or the DOT. In 2018, domestic air carriers reported receiving 30,950 disability-related complaints. By contrast, in the same year, the DOT received only 827 disability-related complaints filed directly with the DOT (United States Department of Transportation, 2020). The drastic difference in disability-related complaints reported by air carriers and those received by the DOT is a cause for concern as investigation of these complaints are handled differently.

When a passenger brings a disability-related complaint to the attention of a specific air carrier, airline personnel are trained to immediately resolve the issue. Resolution of the complaint often comes in the form of providing the requested accommodation or offering compensation, via airline vouchers or loyalty points, to assuage the customer. Even if the complaint is resolved to the passenger's liking, the air carrier is required to report all disability-related complaints to the DOT. Individual air carriers are responsible for organizing

each disability-related complaint into categories based on the nature of the complaint and the type of disability. Most complaints in 2018 alleged disability-related discrimination concerning ‘failure to provide assistance,’ ‘seating accommodation,’ and ‘service animal problems.’ Failure to provide assistance for passengers who used a wheelchair accounted for nearly half (47%) of all complaints (United States Department of Transportation, 2019). To ensure accuracy of individual air carrier reporting procedures and policies, the DOT will perform an audit “as it deems necessary” (United States Department of Transportation, 2019).

As required by the ACAA, the data submitted to the DOT by each regulated air carrier with passenger business to, from, and within the U.S. are compiled into the *Annual Reports on Disability-Related Air Travel Complaints*. According to the DOT this report is used in the following manner:

To conduct a comprehensive review of air travel service complaints annually to determine the extent to which regulated entities are complying with the laws that it enforces and to track trends or spot areas of concern that may warrant further action. This review may form the basis for investigations and possible enforcement action and regulatory actions. (Office of Aviation Consumer Protection, 2021)

As this passage indicates, the DOT does not investigate each complaint filed directly with the air carriers it regulates to determine if an ACAA violation has occurred. Instead, the DOT uses the aggregated data to investigate air carriers if annual data reveal a significant increase in total complaints or substantial variation in complaints by category from year to year (United States Department of Transportation, 2019). This process in investigating complaints relies heavily on the accuracy of reporting and categorizing of alleged ACAA violations by individual airlines.

In contrast, the DOT investigates each complaint its office receives directly from a passenger. When a passenger files a disability-related complaint with the DOT, the complaint is first forwarded to the airline. The airline is required to respond to both the passenger and the DOT concerning the alleged violation. An analyst and attorney then review the disability-related complaint and the airline's response to determine if an ACAA violation has occurred. In this process, the individual who files a disability-related complaint with the DOT can only wait, often for a year or more, for the DOT to investigate and potentially hand down an enforcement order, which may or may not include penalties to the airline.

In the last decade, fewer than 30 ACAA enforcement orders have been issued by the DOT against airlines even though disability-related complaints topped 247,000 during that time. Several of these enforcement orders resulted in a decision of no further action and/or a dismissal of the complaint filed as a result of the airline's intention to implement changes to policies and procedures. Each of the four airlines with the most disability-related complaints in 2018 has committed repeated ACAA violations that resulted in the issuance of an enforcement order.

In February of 2011, Delta Air Lines was assessed a \$2 million penalty for egregious violations in failure to provide assistance to passengers with disabilities during enplaning and deplaning (Knapp, 2011). Additionally, the DOT determined that Delta Air Lines failed to respond appropriately to written allegations of ACAA violations and demonstrated improper coding of disability-related complaints according to type of disability and nature of the complaint (Knapp, 2011).

In November of 2013, Southwest Airlines Co. failed to respond to passengers' disability-related complaints in a manner and timeframe required by the ACAA. Instead of addressing the specific complaints of each passenger, Southwest Airlines Co. merely

responded with a blanket statement of the airline's disability-related policy (Podberesky, 2013a).

United Airlines was fined \$2 million in January of 2016 for failure to provide adequate and timely assistance with boarding and deboarding the aircraft and moving within the airport terminal at five major U.S. airports. United Airlines also failed to return assistive devices, including wheelchairs, in a timely manner and in the condition in which United received them on numerous occasions (Workie, 2016).

In November of 2013, US Airways, which has since merged with American Airlines, violated the ACAA by failing to provide assistance moving within the terminal to passengers at their Philadelphia and Charlotte airports. US Airways was assessed a \$1.2 million civil penalty for these repeated ACAA violations (Podberesky, 2013b).

Actionable Steps

Through this review of the air travel experience of persons with disabilities, we have identified issues related to Federal policy, implementation, enforcement, and advocacy efforts. Although there are several larger issues, provided below are easy-to-implement recommendations that these authors believe can quickly reduce service gaps and improve the air travel experience for individuals with disabilities.

Recommendations for Policy

The current ACAA policy does not adequately address training of airline personnel. The ACAA designates that certain airline and contracted personnel must receive training on a variety of topics related to individuals with disabilities, depending on their job duties. Training may cover topics such as understanding Federal regulations, proper use of equipment used to accommodate individuals with disabilities, and respect for and awareness

of various types of disabilities. However, it is up to the individual airline's discretion regarding the breadth and depth of disability-related training as long as the airline trains to proficiency. This has created a lack of consistency in training among airline personnel who deal with the traveling public and across airlines.

Universal requirements should be issued by the DOT to improve compliance with disability-related training. Requirements should include a set of explicit disability-related competencies that personnel must demonstrate, set a minimum number of training hours personnel must complete, and require hands-on training. Universal competencies should also define performance actions personnel must reach to demonstrate proficiency. Competencies should continue to be individualized based on job duties. However, all airline personnel should receive training to better understand a variety of disabilities and public facing personnel must be required to demonstrate appropriate interactions with individuals with many types of disabilities.

Recommendations for Enforcement

In contrast to other Federal legislation that guarantees rights to individuals with disabilities (Section 504 and the ADA), the ACAA does not expressly grant individuals a private right of action. Additionally, several courts have determined that the ACAA does not provide an implied private right of action. Therefore, individual citizens have no power to enforce the ACAA. Section 504 and the ADA, which offer protections at airports that receive Federal funding or are operated by public entities, include a private right of action. Yet, there is no private right of action to enforce Federal legislation protecting individuals with disabilities on airplanes. Without a private right of action, enforcement of the ACAA is not as strong as intended. These authors agree with the various organizations who support amending the ACAA to expressly provide a private right of action. Although amendments to the ACAA

have been introduced on several occasions, the bills have not been passed. Representatives tend to respond more to personal stories from the constituents in their districts and states than they do to aggregate empirical data. Therefore, it is recommended that individuals with disabilities show support for an ACAA private right of action amendment by contacting their legislators and sharing their personal stories.

Recommendations for Implementation

Implementation of the ACAA falls to the individual airlines. As has been shown in this review, the policies and procedures of individual airlines lack specificity and demonstrate little consistency across airlines. These aspects are likely contributing to the central concerns of individuals with disabilities during air travel, namely, damage to wheelchairs and lack of disability-related training of airline personnel. Two recommendations for airlines to improve ACAA policies and procedures are implementation of a streamlined wheelchair handling form and bringing more people with disabilities to the table as consultants. A standard wheelchair handling form should be used by all airlines to reduce differences in language and included information. A diagram of the wheelchair should be included on which the passenger indicates correct lifting points and how the wheelchair is to be safely tied down. The standard handling form should also include universal phrases that the passenger can select to describe how to operate, disassemble, and reassemble the wheelchair. Airlines must also increase not only employment of people with disabilities but also placement of people with disabilities in decision making positions. Doing so will give a stronger voice to the disability community when decisions are made concerning accessibility and accommodations.

Recommendations for Advocacy

In 2018, the DOT received 827 disability-related complaints while airlines received 36,930 disability-related complaints (United States Department of Transportation, 2019, 2020). This indicates that for every 1 complaint the DOT received related to disability, airlines receive nearly 45 complaints. This stark difference in complaint rates is likely due to passengers' being unaware of their right to file a complaint with the DOT. In part, this lack of complaints filed directly with the DOT may be related to lack of knowledge about the investigative processes of complaints based on how they are filed. As previously mentioned, each disability-related complaint filed directly with the DOT is investigated. The DOT will only investigate complaints received by the airlines if the aggregate data indicate a significant increase in overall disability-related complaints toward a specific airline or a spike in a specific category of disability-related complaints. Therefore, it is recommended that education of passengers about their rights and the process of investigation be increased.

Currently, the DOT educates passengers about their rights through the Aviation Consumer Protection website. However, this information may not be getting to the individuals impacted most. There is a current bill that will require airlines to post a passengers' bill of rights to their website and to provide this document to all passengers who request disability-related assistance. It is recommended that the DOT create explicit rules concerning where the bill of rights must be posted, including prominent display on the main accessibility website of airlines. This requirement would improve visibility of passengers' rights while preventing airlines from burying the posting several layers into the website.

Additionally, it is recommended that the DOT create a plain language explanation of the purpose of the Aviation Consumer Protection website that includes how to file a complaint and the process of complaint review. To improve education of passengers about

their rights, how to file a complaint, and the process of enforcement, the DOT should require airports to display this information on video boards, provide audio announcements, and include this excerpt on the passenger's bill of rights.

Advocacy should occur on two levels: self-advocacy from persons with disabilities and advocacy from service providers. Self-advocacy must include improved reporting of ACAA violations to the DOT by passengers with disabilities. For the DOT to properly enforce the ACAA, they must be made aware of the true frequency in which violations occur. This starts with increased consistency in reporting violations to both the airline and directly to the DOT. We recommend that passengers with disabilities take the following steps when encountering an alleged ACAA violation:

1. Document the alleged violation. Take pictures and videos of your wheelchair before and after stowage. Take detailed notes of circumstances and events.
2. Ask to speak directly with a CRO. Ensure that the CRO has been trained in compliance of the ACAA. Always keep a copy of the ACAA with you during travel to point to specific regulations.
3. File a complaint with the airline through their website, creating a paper trail. File as soon as possible, preferably within 24 hours of landing from a domestic flight. Keep a copy of all correspondence with the airline including receipt of filing the complaint, emails, and letters.
4. File a complaint directly with the DOT for every alleged violation. No alleged ACAA violation is too small to report.

Service providers, including but not limited to healthcare professionals, vocational rehabilitation professionals, and assistive technology and seating and mobility specialists,

should also improve advocacy for their clients. Service providers have a responsibility to provide current data and accessible information to their clients with disabilities who have participated in air travel in the past or indicate a desire to travel. The DOT has developed a variety of accessible disability-related training materials intended for the traveling public. We recommend that service providers distribute these materials along with the Passengers' Bill of Rights, when it is approved, to ensure that individuals are receiving complete information. Service providers should ensure that clients not only receive, but also understand, the information.

References


- Air Carrier Access Act of 1986, 100 Stat. 1080 (1986).
- American Airlines. (2022). *Mobility and medical devices*. Retrieved 3/29/2022 from <https://www.aa.com/i18n/travel-info/special-assistance/mobility-and-medical-devices.jsp>
- Americans with Disabilities Act of 1990, Pub. L. No. 101-336, § 2-3, 104 Stat. 328 (1990).
- Boswell v. Skywest Airlines, Inc., 361 F.3d 1263 (10th Cir. 2004).
- Bristo, M. (1999). *Enforcing the civil right of air travelers with disabilities: Recommendations for the department of transportation and congress*.
- Davies, A., & Christie, N. (2017). An exploratory study of the experiences of wheelchair users as aircraft passengers—implications for policy and practice. *IATSS research*, 41(2), 89-93.
- Delta Airlines Inc. (2022a). *Accessible Travel Services*. Retrieved 3/28/2022 from <https://www.delta.com/us/en/accessible-travel-services/overview>
- Delta Airlines Inc. (2022b). *Wheelchair Information*. Retrieved 3/29/2022 from <https://www.delta.com/us/en/accessible-travel-services/wheelchair-services>
- Dempsey, R., Healy, O., Lundy, E., Banks, J., & Lawler, M. (2021). Air travel experiences of autistic children/young people. *Annals of Tourism Research Empirical Insights*, 2(2), 100026.
- Federal Aviation Administration. (2021). *FAA Airport Improvement Program Grant Detail Report*. https://www.faa.gov/airports/aip/grantapportion_data/media/FY21-AIP-Grants-Only-Announced-Cumulative.pdf
- Knapp, R. A. (2011). *Delta Air Lines, Inc.; Violations of 14 CFR Part 382 and 49 U.S.C. §§ 41310, 41702, 41705 and 41712* (2011-2-10, Issue).

- Major, W. L., & Hubbard, S. M. (2019). An examination of disability-related complaints in the United States commercial aviation sector. *Journal of Air Transport Management*, 78, 43-53.
- Miranda, G. (2021). Disability rights activist says United Airlines damaged her \$30,000 wheelchair. *USA Today*.
- Office of Aviation Consumer Protection. (2021, February 18, 2021). *Air Travel Complaints*. Retrieved February 2, 2022 from <https://www.transportation.gov/airconsumer/complaint-process#:~:text=DOT%20requires%20airlines%20to%20acknowledge%20consumer%20complaints%20within,respond%20to%20consumer%20who%20file%20complaints%20with%20them>.
- Páez, A., & Farber, S. (2012). Participation and desire: leisure activities among Canadian adults with disabilities. *Transportation*, 39(6), 1055-1078.
- Pallini, T. (2022, January 8, 2022). Small aircraft are flying longer routes, including across the Atlantic. See inside the \$130 million Airbus A321neo pioneering the trend. *Business Insider*. <https://www.businessinsider.com.au/see-inside-airbus-a321neo-pioneering-long-haul-single-aisle-trend-2022-1>
- Part 382 - Nondiscrimination on the Basis of Disability in Air Travel, 14 C.F.R. § 382.17 - 382.153 (2008).
- Podberesky, S. (2013a). *Southwest Airlines Co.; Violations of 14 CFR 259.7(c), 14 CFR 382.155, and 49 U.S.C. §§ 41702, 41705, and 41712*.
- Podberesky, S. (2013b). *US Airways, Inc.; Violations of 14 CFR Part 382 and 49 U.S.C. §§ 41310, 41702, 41705 and 41712*.
- Poria, Y., Reichel, A., & Brandt, Y. (2010). The flight experiences of people with disabilities: an exploratory study. *Journal of Travel Research*, 49(2), 216-227.

- Reyes, E. A. (2022). An airline broke an activist's wheelchair. Her death months later amplified call for change. *Los Angeles Times*.
- Salas, E. B. (2021, July 21, 2021). *U.S. air passengers' main trip purposes in 2017, by type*. Statista. Retrieved from <https://www.statista.com/statistics/539518/us-air-passengers-main-trip-purposes-by-type/>
- Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 394.
- Segalman v. Southwest Airlines Co., No. 17-15196 (9th Cir. 2018).
- Southwest Airlines Co. (2022). *Customers with Disabilities*. Retrieved 3/29/2022 from <https://www.southwest.com/html/customer-service/unique-travel-needs/customers-with-disabilities-pol.html>
- Stokes v. Southwest Airlines, No. 17-10760 (5th Cir. 2018).
- United Airlines Inc. (2021). *Customer wheelchair equipment*. Retrieved 3/28/2022 from <https://www.united.com/ual/en/us/fly/travel/special-needs/disabilities/customer-wheelchair.html>
- United States Department of Transportation. (2019). *Annual report on disability-related air travel complaints received during calendar year 2018*. Retrieved from <https://www.transportation.gov/sites/dot.gov/files/2020-03/Summary%20Report%20of%20CY2018%20Disability%20Complaints.pdf>
- United States Department of Transportation. (2020). *Air Travel Consumer Report*. <https://www.transportation.gov/individuals/aviation-consumer-protection/february-2020-air-travel-consumer-report>
- Urry, J. (2002). Mobility and proximity. *Sociology*, 36(2), 255-274.
- Van Horn, L. (2007). Disability travel in the United States: recent research and findings. 11th International Conference on Mobility and Transport for Elderly and Disabled Persons

(TRANSED)–‘Benchmarking, Evaluation and Vision for the Future’, at the Palais des congrès de Montréal,

Workie, B. A. (2016). *United Airlines, Inc.; Violations of 14 CFR Parts 259 and 382 and 49 U.S.C. §§ 41310, 41702, 41705, and 41712.*

 **The Current State of Air Travel for Americans with Disabilities: Considerations for Policy, Enforcement, Implementation, and Advocacy** by Pfeiffer, Bower and Phillip Rumrill <https://rdsjournal.org/index.php/journal/article/view/1166> is licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/). Based on a work at <https://rdsjournal.org>.