

Research Brief



Policy, Implementation, and Enforcement Issues Related to Accessibility in Air Travel for Individuals with Disabilities

Research Brief
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Introduction

Although federal regulations have existed for over three decades to reduce barriers and improve accessibility during air travel, many individuals with disabilities continue to find air travel challenging to nearly impossible (Dempsey et al., 2021). In fact, the main concerns of passengers with disabilities regarding air travel have not changed in the last 25 years.

Introduction

Although federal regulations have existed for over three decades to reduce barriers and improve accessibility during air travel, many individuals with disabilities continue to find air travel challenging to nearly impossible (Dempsey et al., 2021). In fact, the main concerns of passengers with disabilities regarding 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 of the respondents had their mobility aids returned broken or damaged, and nearly half reported experiencing disability stereotyping by airline personnel (National Council on Disability, 1999). More recently, Major and Hubbard (2019) 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.

The significant concerns of air passengers with disabilities are not unfounded. Over the last decade, the number of disability-related complaints received by air carriers has more than doubled from 14,006 per year to 36,930 complaints (U.S. Department of Transportation [DOT], 2019). Most disability-related complaints involve an airline's failure to provide assistance, seating accommodation issues, service animal problems, and improper handling of assistive devices (DOT, 2019).

Although the number of individuals utilizing air travel for transportation has increased, this does not fully account for the increase in disability-related complaints. Between 2017 and 2018, disability-related complaints increased 7.5% while the number of boarded passengers increased only 4.99% (DOT, 2019). Therefore, it is important to explore whether the increase in disability-related complaints is attributable to issues in policy, implementation, or enforcement. The aim of this research brief is to synthesize existing legislation related to accessible air travel for individuals with disabilities; describe current accessibility policies of major United States (U.S.) airlines; analyze enforcement procedures under these laws; and provide recommendations to improve accessibility in air travel.

Federal Policies for Accessible Air Travel

Several pieces of federal legislation have been established to govern accessibility in airports and among airlines operating within the U.S. 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) prohibit discrimination based on disability, mandate accessibility standards, and set accommodation requirements. Each piece of legislation covers a different aspect of the air travel experience, making the governance of accessibility in air

travel complex.

Most airports operated in the U.S. 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, 1973). In 2021, airports in 49 states received federal funding for infrastructure projects and therefore must comply with Section 504 (Federal Aviation Administration, 2021). Title II and III of the ADA prohibit discrimination based on disability for public entities and places of public accommodation (Americans With Disabilities Act of 1990, 1990). U.S. airports operated by local, state, or federal governments cannot deny services to an individual based on disability under Title II of the ADA (Americans With Disabilities Act of 1990, 1990). Aspects of air travel subject to Title II of the ADA include airport terminals, surrounding parking lots, and ground transportation to and from the airport. 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). Airport restaurants, shops, lounges, and conference centers are considered places of public accommodation.

All flights operated by U.S. airlines and all flights operated by foreign airlines that begin or end in the U.S. must comply with the ACAA. The ACAA prohibits discriminatory practices by airlines against individuals with disabilities and outlines minimum service and accessibility requirements (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 Under the Air Carriers Access Act

The ACAA defines airline responsibilities in relation to accommodations for passengers with disabilities. (Part 382 - Nondiscrimination on the Basis of Disability in Air Travel, 2008). Passengers must be allowed to self-identify as individuals with disabilities, are not required to provide proof of said disabilities, and cannot be denied transportation based on their disabilities, except in limited circumstances (14 CFR §382.19-31). Disability-related services and accommodations required by the ACAA must be offered free of charge. Additionally, airlines are required to provide passengers with disabilities prompt access to the same information provided to other passengers (14 CFR §382.53) including making any public service provided via telephone also available via text telephone (TTY) (14 CFR §382.43).

Newly built aircrafts must also comply with accessibility standards, which vary greatly based on the

size of the aircraft. The number of movable aisle armrests, accessible lavatory requirements, and seating accommodations are addressed. Currently, single-aisle airplanes are not required to have an accessible lavatory, although these aircrafts are more frequently being used for longer routes including transatlantic flights (Pallini, 2022).

Airlines are required to provide timely assistance boarding, deplaning, and making flight connections. Preboarding must be offered to passengers with disabilities who require additional time to board (14 CFR §382.93). Assistive devices have priority over other items for in-cabin storage (14 CFR §382.67) and stowage within the cargo compartment (14 CFR §382.125). Assistive devices and mobility aids must be promptly returned (14 CFR §382.125) to the passenger in the same condition in which they were received by the carrier (14 CFR §382.129). Notably, the ACAA does not define a timeframe for prompt return of assistive devices.

The ACAA also sets training requirements for airline and contractor personnel who deal with the traveling public (14 CFR §382.141). Personnel must be trained on the requirements of the ACAA and other federal regulations related to passengers with disabilities (14 CFR §382.141). Airlines are also required to have Complaint Resolution Officials (CROs), who are specifically trained on ACAA regulations and compliance, available to address disability-related complaints (14 CFR §382.153). Airlines are responsible for developing their own disability-related training programs but must consult disability organizations (14 CFR §382.141). Specific training outcome measures and minimum training hours are not defined in the ACAA legislation.

Accessibility Policies of Major U.S. Airlines

The public-facing websites of the four U.S. airlines with the highest numbers of disability-related complaints were analyzed to determine strategies used by the airline industry in implementing the ACAA. Three of the four airlines posted a statement dedicated to accessible travel in which the company's commitment to providing a safe and positive experience for all passengers was highlighted. Delta Air Lines, Inc. (2022a) stated, "we believe travel is for everyone. It's our priority to deliver the best services to ensure accessibility for all Delta customers." All airlines agreed, in rhetoric, that they have a responsibility to provide individuals with disabilities a safe and accessible flight experience. However, there is little evidence that the airlines' policies and procedures are designed with this commitment in mind.

Minimal information about the airline's responsibilities in serving individuals with disabilities is provided to the public. The airlines' accessible travel webpages rarely specify what passengers can expect in terms of assistance or accommodations that can be requested, timeframes for receiving assistance, and

communication of needs among airline personnel. Yet passengers are frequently asked to self-identify a disability and to request accommodations at the time of booking, “upon arrival at the airport, at the gate, onboard the aircraft, and at any connection points” (Southwest Airlines Co., 2022). Airlines imply that repetitive self-identification of needs at these various points will allow the airline to better assist the passenger and provide appropriate accommodations. In doing so, however, airlines can skirt responsibilities by shifting them to the passenger.

Most of the information provided to the public related to accessibility and accommodations concern individuals with mobility impairments. Three of the four airlines provide detailed recommendations of procedures passengers should follow to ensure safe and proper stowage of their wheelchairs in the cargo compartment. However, the same specificity is not provided for procedures passengers can expect from the airline to ensure safe handling. Airlines continue to shift responsibility to the passenger by using broad and vague statements related to accessibility. Delta Air Lines, Inc. (2022b) reports that “many of our larger aircraft have an onboard wheelchair-accessible lavatory.” Instead of listing the accessibility features of each aircraft in their fleets, the airline places the responsibility on the passengers to call the company’s representatives to determine if there is an accessible lavatory on their flight.

Furthermore, the accessible travel webpages rarely discuss the rights of the passenger. No airline reports that it is required to provide priority storage to wheelchairs and assistive devices. Southwest and Delta identify the option for stowed wheelchairs to be returned to the passenger at their destination gate. However, none of the airlines state how quickly a wheelchair will be returned. Although assistive devices must be returned to the passenger in the same condition in which they were received, no airline reports this requirement. Only Delta and United identify how to report assistive device damage to the airline. Still, no company identifies procedures that the airline will take to satisfy the requirement of repairing damaged devices or compensating the passenger.

When it comes to the rights of the passenger to file a disability-related complaint, the airlines are troublingly silent. Three of the four airlines provide minimal information to describe the role and availability of CROs, whereas American Airlines has no mention of CROs on their accessibility website. Delta (2022a) promotes the role of CROs as meeting “the needs and concerns of our passengers with disabilities” but does not mention the responsibility of CROs in ensuring compliance with the ACAA. Southwest is the only airline to clearly state that passengers have the right to speak with a CRO.

Enforcement of the ACAA

Unlike the ADA, the ACAA does not permit a private right of action (*Stokes v. Southwest Airlines*, 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 only action an individual can take is to file a complaint with the offending airline and the Department of Transportation (DOT). The DOT is then the only entity that can enforce the ACAA by investigating potential violations and initiating enforcement actions. In 2018, domestic air carriers reported receiving 30,950 disability-related complaints. In contrast, only 827 disability-related complaints were filed directly with the DOT that same year (DOT, 2020). This drastic difference in reporting is a cause for concern, as the investigation process differs based on where the complaint is filed.

When a passenger brings a disability-related complaint to the attention of a specific air carrier, the airline must report the complaint to the DOT. Airline personnel categorize each disability-related complaint based on the nature of the complaint and the type of disability. Aggregate complaint data is then submitted to the DOT by each regulated airline and compiled into the Annual Reports on Disability-Related Air Travel Complaints. This report is used by the DOT “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” (DOT, 2021). The DOT does not investigate each complaint filed with an airline to determine if an ACAA violation has occurred. Instead, the aggregated data is used to initiate an investigation if data reveal a significant increase in total complaints or a substantial variation in complaints by category from year to year (DOT, 2019). This process of investigation relies heavily on the accuracy of reporting and categorizing disability-related complaints by the airlines themselves.

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 subject airline. The airline must respond to the alleged violation before the DOT will review the complaint to determine if an ACAA violation has occurred. In the last decade, fewer than 20 ACAA enforcement orders have been issued by the DOT against U.S. airlines, even though disability-related complaints during that time exceeded 247,000.

Recommended Actionable Steps

Through this review of the air travel experience of persons with disabilities, issues related to federal policy, implementation, and enforcement efforts have been identified. Provided below are recommendations that various stakeholders can put into practice to improve air travel accessibility for individuals with disabilities.

Recommendations for Policy

As currently written, the ACAA does not adequately address training requirements for airline personnel who deal with the traveling public, thereby creating deficiencies in competence levels. Universal training requirements should be issued by the DOT to improve both compliance and consistency. Competencies should continue to be individualized based on job duties. However, requirements should include explicit disability-related competencies that personnel must independently demonstrate, set a minimum number of training hours personnel must complete, and require hands-on training for safe passenger transfer procedures and handling of assistive devices. Additionally, public facing personnel should be required to demonstrate appropriate interactions with individuals with a variety of disabilities.

Recommendations for Implementation

As has been shown in this review, policies and procedures used by individual airlines to implement the ACAA lack specificity and demonstrate little consistency across airlines. These problems are likely contributing to the most frequently cited concerns of individuals with disabilities during air travel, namely, damage to wheelchairs and lack of disability-related training of airline personnel. It is thus recommended that airlines implement a streamlined wheelchair handling form and bring 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 the form should 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 developing policies and procedures concerning accessibility and accommodations.

Recommendations for Enforcement

In contrast to other federal legislation that guarantees rights to individuals with disabilities, the ACAA does not expressly grant individuals a private right of action. Without a private right of action, enforcement of the ACAA is not as strong as intended. We 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, a bill has yet to be passed. 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 of impact.

Recommendations for Advocacy

Advocacy should occur in the form of self-advocacy by persons with disabilities and advocacy by 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, an accurate understanding of the frequency with which violations occur is paramount. To demonstrate repetitive violations of passenger rights, individuals with disabilities must increase consistency in reporting violations to both the airline and directly to the DOT. We recommend that passengers with disabilities file a complaint directly with the DOT for every alleged ACAA violation during air travel.

Service providers have a responsibility to provide current and accessible information to their clients with disabilities who have participated in air travel in the past or indicate a desire to travel in the future. The DOT has developed a variety of accessible disability-related training materials intended for the traveling public. We recommend that service providers distribute and discuss these materials with clients to ensure an accurate understanding about their rights during air travel.

Conclusion

This review of existing federal legislation, description of accessibility policies, and analysis of enforcement procedures within the airline industry demonstrates a need for a systemic reform of accessible air transportation to make safe and equitable air travel participation for all people with disabilities. We also presented recommendations to consider that helping professionals and advocates can implement to improve the air travel experience for passengers with disabilities. A greater understanding of the obstacles to accessible air travel and designing strategies to mitigate these inequities would significantly benefit the quality of life of people with disabilities, who deserve the same air travel experiences and opportunities that are available to other members of society.

HDI Research Briefs highlight the research activities at the Human Development Institute. Projects at HDI focus on building inclusive communities, addressing inequities, and improving the lives of all people who experience disability across the lifespan. Research priority areas include: early childhood and education, leadership and self advocacy, employment, health, universal design and assistive technology. With each issue of HDI Research Briefs, we will provide a cross-section of HDI's research activities. The brief reports are intended to give an overview of the research and emphasize the implications of the studies.

You can find more examples of our research at www.hdi.uky.edu

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