



# Federal Register

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**Wednesday,  
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**Part II**

## **Department of Transportation**

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**Office of the Secretary**

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**14 CFR Part 382**

**Nondiscrimination on the Basis of  
Disability in Air Travel; Proposed Rule**

**DEPARTMENT OF TRANSPORTATION****Office of the Secretary****14 CFR Part 382**

[Docket No. OST-2005-20952]

**Nondiscrimination on the Basis of Disability in Air Travel**

**AGENCY:** Office of the Secretary (OST), U.S. Department of Transportation (DOT).

**ACTION:** Request for Comments; Draft Technical Assistance Manual.

**SUMMARY:** On April 5, 2000, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21) required DOT to provide a technical assistance manual to air carriers and individuals with disabilities concerning their rights and responsibilities under the Air Carrier Access Act and DOT regulations. Several years after the enactment of AIR-21, DOT received funding to develop the Technical Assistance Manual (TAM). This TAM responds to a Congressional mandate and incorporates input from stakeholders. The TAM is being published in the **Federal Register** to insure a full opportunity for public comment before the document is published in final form.

**DATES:** Comments must be received on or before 30 days from the date of publication in the **Federal Register**. The Department will consider late-filed comments only to the extent practicable.

**ADDRESSES:** Please include the docket number of this document in all comments submitted to the docket. Written comments should be sent to Docket Clerk, Department of Transportation, 400 7th Street, SW., Room PL-401, Washington, DC 20590. For confirmation of the receipt of written comments, commenters may include a stamped, self-addressed postcard. The Docket Clerk will date-stamp the postcard and mail it back to the commenter. Comments will be available for inspection at this address from 10 a.m. to 5:30 p.m., Monday through Friday. Comments can also be reviewed through the Dockets Management System (DMS) pages of the Department's Web site (<http://dms.dot.gov>). Commenters may also submit comments electronically. Instructions appear on the DMS Web site.

**FOR FURTHER INFORMATION CONTACT:** Mike Spollen or Omar Guerrero, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, 400 7th Street, SW., Room 4116,

Washington, DC 20590. Phone: (202) 366-9349; TTY: 1-800-455-9880; Fax: (202) 366-7152. E-mail: [mike.spollen@dot.gov](mailto:mike.spollen@dot.gov) or [omar.guerrero@dot.gov](mailto:omar.guerrero@dot.gov).

**SUPPLEMENTARY INFORMATION:****Background**

On April 5, 2000, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21) amended the Air Carrier Access Act (ACAA) and required, among other things, that DOT provide a technical assistance manual to air carriers and individuals with disabilities concerning their rights and responsibilities under the ACAA and 14 CFR part 382 (Part 382). See 49 U.S.C. 41705(c). Responding to this legislative mandate, in September 2003, DOT awarded a contract to the Key Bridge Foundation (KBF) to create a TAM and model training program (MTP) relating to air travel by passengers with disabilities.

In addition, AIR-21 extended the ACAA to cover foreign air carriers. Although a final rule modifying Part 382 to cover foreign air carriers has not yet been issued, a notice of proposed rulemaking (NPRM) proposing to extend the provisions of Part 382 to foreign carriers, among other revisions to Part 382, was published on November 4, 2004. 69 FR 64364. The public comment period on the NPRM closed on March 4, 2005. 70 FR 4058. The NPRM proposing to modify Part 382 to cover foreign air carriers is a separate rulemaking and completely distinct from the publication of this TAM. If the NPRM proposals are adopted, however, it will necessitate significant revisions to the TAM, which is based on the current rule.

In addition to the NPRM revising Part 382 and extending it to cover foreign air carriers, the Department is also currently working on two separate NPRMs which address possible additional accommodations for: (1) Passengers who are deaf, hard of hearing and deaf-blind; and (2) passengers who require inflight medical oxygen. Any final rules resulting from these two NPRMs will also necessitate changes to the TAM.

**Purpose of the Technical Assistance Manual**

The TAM is designed to serve as an authoritative source of information about the services, facilities, and accommodations required by the ACAA and the provisions of Part 382. The manual does not expand air carriers' legal obligations or establish new requirements under the law. The primary purpose of the manual is to

provide guidance to air carriers' employees and contractors who provide services, facilities, and accommodations to passengers with disabilities. The manual should give air carriers a better understanding of their responsibilities under the law and a greater awareness about the perspective of an air traveler with a disability, particularly through Chapter 7 titled "Interacting with People with Disabilities". This manual is also designed to provide air travelers with disabilities useful information about their rights under the ACAA and Part 382.

**Development of the Technical Assistance Manual**

In connection with the development of the TAM, DOT and KBF consulted and held meetings with representatives from the disability community, air carriers, and contractors providing disability-related services to air carriers. Prior to this publication of the TAM in the **Federal Register**, a preliminary draft was shared with these stakeholders for their initial review and comment. In early November 2004, KBF posted a draft of the TAM on its Web page at <http://www.airtravelrights.info> and solicited written comments on the draft from a wide range of stakeholders. Those written comments have been thoroughly considered by DOT and incorporated where appropriate.

The TAM is a guidance document which contains an overview of part 382 and provides examples of how the law applies to different factual scenarios. The manual follows the chronological path of an air traveler with a disability from making a reservation through the completion of the trip. The manual also addresses the complaint resolution process, should an air traveler with a disability decide to make a disability-related complaint. In addition, the TAM contains a separate chapter on sensitivity and awareness issues when interacting with people with disabilities. This final chapter of the TAM contains general tips and also tips for communicating and interacting with individuals with specific types of disabilities.<sup>1</sup> Finally, the TAM contains six appendices providing additional information and, in some cases, resources for specific audiences. Organizing the information in this sequential manner makes it easier for

<sup>1</sup> When the TAM is published in its final form, it will contain an Alphabetical Index and a part 382 Index as well as specific page numbers for the various subject areas listed in the Table of Contents. However, because the pagination of the TAM is not yet final, the Table of Contents simply lists the topics covered in the TAM and the indices are not included in this publication of the document.

employees and contractors of air carriers—as well as air travelers with disabilities—to find the information most relevant and useful to them.

### Discussion of Stakeholders' Comments

DOT received comments from a broad range of stakeholders such as air carriers, industry-related associations, and disability community organizations. Specifically, DOT received comments from (i) one group made up of four trade associations for air carriers (Air Transport Association of America (ATA), Regional Airline Association (RAA), National Air Carrier Association (NACA), and Air Carrier Association of America (ACA)); (ii) five air carriers (JetBlue Airways, MN Airlines, LLC d/b/a Sun Country Airlines, Continental Airlines, SkyWest Airlines, and Delta Air Lines); (iii) six disability community organizations (Association of Blind Citizens, Paralyzed Veterans of America, Self Help for Hard of Hearing People, National Association of the Deaf, United Spinal Association, and International Association of Assistance Dog Partners); (iv) two members of the public; and (v) the Access Board. DOT read and considered each comment fully. Indeed, DOT has accommodated almost all of the stakeholders' comments. Below is a summary of the comments DOT received on the overall document and the reasons that DOT decided to accommodate or not to accommodate those comments.

#### 1. General Comments

DOT received general comments on the TAM conveying: (i) An overall positive impression of the TAM with requests for additional and different examples; (ii) some confusion about the difference between the NPRM on foreign air carriers issued in November 2004 and this TAM; (iii) questions about the organization of the information in the TAM and concern that there may be some redundancy; and (iv) a recommendation for standard training in connection with the TAM.

Most of the commenters seemed to find the document to be of high-quality and the issues to be thoroughly presented. In particular, a number of stakeholders remarked on the usefulness of the examples throughout the TAM where specific provisions of part 382 are applied to factual scenarios, the frequently asked questions and answers section of the TAM as well as the sensitivity and awareness components of the TAM. With respect to the examples, a few stakeholders suggested additional examples and sought a change to the facts contained in certain existing examples.

Several stakeholders noted some redundancy within the TAM, *i.e.*, certain subjects are addressed in more than one section of the manual. Moreover, one disability community organization representative suggested addressing this issue by coding certain sections of the TAM to reflect which type of carrier personnel should be knowledgeable about a particular section.

Many stakeholders sought some modification of the provisions of part 382 itself. Moreover, the air carrier associations and several carriers expressed concern that publication of the TAM at this time would be premature and suggested delaying its publication pending the conclusion of the NPRM proposing to extend coverage of part 382 to foreign carriers. They also sought assurances from DOT that the TAM would not expand air carriers' legal obligations under part 382, the TAM's use would not be mandatory, and DOT would not pursue enforcement action against any carrier determined to be out of compliance with part 382 in connection with its cooperation in the development of the TAM. Finally, two commenters expressed the need for a standard, basic training session for part 382 to be used by all air carriers.

*DOT Response:* Generally, DOT does not believe that it would be advantageous to add new examples or change the facts contained in the existing examples as each example addresses a specific issue that DOT's Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (Enforcement Office), the office responsible for ensuring that the regulated airlines comply with the ACAA and part 382, has determined to be a priority. Also, the examples, as written, are straightforward and brief. DOT does recognize that the TAM does not cover all circumstances that occur with air travelers with disabilities. However, rather than adding new examples, DOT has incorporated additional frequently asked questions and answers in Appendix III.

With regard to comments concerning redundancy in the TAM, DOT recognizes that following the path of a trip requires raising a particular topic more than once, *e.g.*, service animals come up in the advance notice section as well as later in the section about seating assignments and accommodations. The same subject may appear in different sections, but each subject is discussed in the context of the particular stage of the trip. Each section of the TAM is designed to "stand alone" (*e.g.*, a carrier employee may only need to read the sections covering his or her

specific job functions) and contains cross references to other sections, when necessary. Finally, DOT notes that it decided not to use a coding system approach and opted for the present chronological layout because it permits the reader easy access to relevant sections and subject areas upon which he or she may specifically wish to focus. The Alphabetical Index and part 382 Index should also be helpful to the reader.

DOT appreciates the reason that various stakeholders recommended that the publication of the TAM be delayed until the rulemaking regarding part 382 has been completed. However, there has already been too lengthy a delay in the publication of this TAM. Congress required DOT to provide a technical assistance manual to air carriers and individuals with disabilities in April 2000, and it is likely that the rulemaking regarding part 382 will not be finalized until 2006. Therefore, DOT opts not to delay completion of the TAM. The TAM will be revised, as needed, after the rulemaking is completed.

With respect to concerns expressed by stakeholders about situations where DOT becomes aware that a carrier is not in compliance with the ACAA and part 382 through its cooperation in the development of the TAM, DOT restates the position set forth in a December 16, 2003, letter to ATA, RAA, NACA, and ACA that it will consider enforcement action, "only if a carrier, after being given notice and a chance to comply, does not come into compliance with the ACAA and part 382."

For those stakeholders recommending a standard training course in connection with the TAM, DOT is pleased to announce that it is currently working with KBF to develop a model training program (MTP) using the TAM as a training tool and promoting it as a resource on the job for employees and contractors of air carriers. The MTP will integrate "best practices" from part 382 training models currently used by air carriers. In addition, the MTP will incorporate techniques to supplement air carriers' part 382 training models. The MTP will also use the TAM as a framework, including the appendices, and emphasize the value of the manual as a practical guide for both employees and contractors of air carriers as well as for air travelers with disabilities.

#### 2. Chapter 1: Understanding How To Use This Manual

Several commenters suggested revising the definition of "assistive device." For example, one carrier sought a "reasonableness" standard, especially where limited storage space is available

for assistive devices. One disability organization suggested adding examples of devices to the definition of assistive device. Another carrier sought to streamline the definition of "service animal" to conform to the explanation of service animals later in the TAM. This carrier also suggested adding a definition for "emotional support animal."

*DOT Response:* Although DOT has clarified the definition of an assistive device, it handles inquiries about what type of device or equipment constitutes an assistive device on a case-by-case basis. Any piece of equipment that assists a passenger with a disability in carrying out a major life activity qualifies as an assistive device. DOT does explain in the TAM that an assistive device may include medical devices, medications, and bags or cases used to carry them. DOT has also streamlined the language regarding service animals in the TAM to ensure that the definition of a service animal as used throughout the TAM is consistent with the definition of a service animal provided in Appendix VI titled "DOT Guidance Concerning Service Animals in Air Transportation" published on May 9, 2003. It is important to keep in mind that, while the TAM is the appropriate vehicle under which to clarify or explain existing definitions, it would not be appropriate for DOT to change an existing definition set forth in part 382 through the TAM. Revisions to existing definitions can only be done through a rulemaking process such as the NPRM proposing to extend part 382 to foreign carriers.

### 3. Chapter 2: Learning the Basics About the Law Protecting Air Travelers With Disabilities

Several commenters sought to add or modify specific language, *e.g.*, removal of the phrase "or disease" from the discussion of "substantial limitation," the substitution of the term "psychiatric illness" for "mental illness," and what constitutes "timely" enplaning and deplaning assistance. In addition, several carriers expressed concern that the TAM implies that carriers are required to accommodate more than one wheelchair in the cabin of the aircraft.

One carrier also expressed concern that the statement about allowing a service animal to sit in close proximity to its user, as written, could be interpreted to mean that the service animal can sit anywhere close to its user. This carrier indicated that the passenger should be aware that the service animal must "sit" and not "stand" during the flight.

*DOT Response:* DOT respectfully declines to modify the cited phrases and refers commenters to the preamble of the originally issued part 382 regulation dated March 6, 1990, for a detailed discussion on a number of issues and clarification of certain definitions. 55 FR 8027. In addition, such definitional or language modifications would be more appropriate for consideration in a rulemaking process.

DOT has modified the language in the TAM regarding stowage of passengers' wheelchairs in the cabin of the aircraft because part 382 may require that more than one passenger's wheelchair be stowed in the cabin. Specifically, § 382.21(a)(2) requires that aircraft of a certain size and age have a space to stow at least one passenger's folding wheelchair in the cabin. In addition, § 382.41(e)(1) requires carriers to permit passengers to stow wheelchairs or parts of wheelchairs in the overhead bin or under seats, consistent with FAA safety regulations. Finally, § 382.41(e)(2) provides that if a closet or other approved stowage area is provided in the cabin for carry-on items and if that space would accommodate a wheelchair, then the carrier must designate priority stowage space for at least one passenger's folding wheelchair. Therefore, when these sections are read together, a carrier could be required to accommodate more than one wheelchair in the cabin.

With respect to the seating of a passenger accompanied by a service animal, DOT disagrees with the commenter and interprets the regulation to permit service animals to occupy space within close proximity of the passenger. Moreover, DOT disagrees that there is an outright prohibition on service animals standing. Whether a service animal must sit depends on the size of the service animal and where it is located. DOT refers the commenter to Appendix VI titled "DOT Guidance Concerning Service Animals in Air Transportation" and the FAA Flight Standards Information Bulletin for Air Transportation titled "Location and Placement of Service Animals on Aircraft Engaged in Public Air Transportation." FAA FSAT #04-01A.

### 4. Chapter 3: Assisting Air Travelers With Disabilities Planning a Trip

One disability organization requested that the word "required" rather than "allowed" be used by DOT when addressing situations where carriers may ask passengers for medical certificates (*i.e.*, when are medical certificates required rather than when are medical certificates allowed). Moreover, this disability organization

suggested changing the example to indicate that a CRO "should" consult with medical personnel rather than stating that the CRO "would likely" consult with medical personnel to make the determination as to whether a medical certificate would be required of the passenger.

One carrier suggested adding information about battery types and requirements under 49 CFR 173.159(d) and other applicable FAA safety regulations when discussing mobility aids and assistive devices. Additionally, this carrier suggested adding language stating that a service animal is not permitted to occupy an empty passenger seat, that service animals should remain in their owners' immediate control, that service animals should not be permitted to eat or drink from a passenger's tray table, and that owners should carry a leash for their service animals.

*DOT Response:* DOT views the word "allowed" as appropriate when referring to situations where carriers may ask passengers for medical certificates since carriers are not required to ask passengers for medical certificates but are allowed to do so under certain circumstances (*e.g.*, passenger needs medical oxygen during the flight). In addition, in the example provided, DOT believes it would be appropriate to keep the wording as is and have the example in the TAM state that a CRO "would likely" consult with medical personnel to make the determination as to whether a medical certificate would be required of the passenger. By doing so, it allows carriers greater discretion and avoids a one-size-fits-all approach in determining when medical advice is necessary.

With regard to the request to add information about FAA safety regulations when discussing mobility aids in this chapter, DOT declines to do so because a detailed discussion on battery-powered wheelchairs has been provided in a subsequent chapter of the TAM. With respect to the comments about service animals, DOT refers the commenter to Appendix VI titled "DOT Guidance Concerning Service Animals in Air Transportation" published in May 2003.

### 5. Chapter 4: Assisting Air Travelers With Disabilities at the Airport

One carrier sought clarification as to whether a passenger who has already paid for the flight and volunteers to serve as an attendant receives a refund from the carrier for serving as the attendant. In addition, a disability organization suggested identifying the specific areas within the terminal (*e.g.*, ticket counters and baggage claims) that

are covered by the Standards for Accessible Design under the Americans with Disabilities Act (ADA) and those areas that are not, but are covered under Title III of the ADA (e.g., shops and restaurants). With regard to making flight connections, this disability organization also suggested that passengers should be permitted to use their own wheelchairs or assistive devices when making connections as long as it would not delay the connecting flight. The concern seemed to be that "automatic" use of a ground wheelchair limits the independence of the passenger and the ability of the passenger to access a restroom in the terminal when making flight connections.

*DOT Response:* In situations where the carrier determines that it is necessary for a passenger with a disability to travel with an attendant, contrary to that passenger's self-assessment that he or she is capable of traveling independently, the carrier could find a carrier employee available to serve as an attendant or ask for volunteers among the passengers already ticketed. DOT interprets § 382.35(c) as requiring a carrier to provide a passenger (already ticketed for travel on the flight) who volunteers to serve as an attendant a refund for the price of his or her ticket so long as the volunteer is serving as an attendant for a person whom the airline determines must travel with an attendant despite that person's self-assessment.

As for the request that DOT list all of the areas within the terminal that are covered by the ADA, DOT declines to do so because such a list would be too limiting since all terminal facilities and services owned, leased, or operated by a carrier at a commercial service airport (including parking and ground transportation) must comply with the Standards for Accessible Design under the ADA. DOT has incorporated the suggestion that it include language in the TAM stating that with regard to making flight connections, passengers should be permitted to use their own wheelchairs or assistive devices to the extent practicable. Section 382.41(f) requires carriers to provide for the timely return of passengers' wheelchairs and other assistive devices as close as possible to the door of the aircraft so that passengers may use their own equipment to the extent practicable.

#### 6. Chapter 5: Assisting Air Travelers With Disabilities Boarding, Deplaning, and During the Flight

One carrier asked whether individuals with prosthetic devices are qualified to occupy the aircraft emergency exit row

seating. A disability organization appears to seek a revision to the law by asking about the feasibility of moveable armrests where tray tables and video entertainment systems are installed, suggesting a requirement that allows the bulkhead seats not used by a passenger accompanied by a service animal or a passenger with a fused or immobilized leg to be reserved for use by other passengers with disabilities, and recommending that the requirement that carriers train employees "to proficiency" be defined further to render it a meaningful standard.

*DOT Response:* With regard to the question as to whether individuals with prosthetic devices are qualified to occupy the aircraft emergency exit row seating, the FAA exit row seating requirements in 14 CFR 121.585 explain, among other things, that a carrier may not seat a person in an exit row seat if the person lacks sufficient mobility, strength, or dexterity in both arms and hands, and both legs to perform a number of tasks such as pushing, shoving, pulling or otherwise opening emergency exits. DOT would advise the commenter to review the FAA exit row seating requirements and ask for clarification if needed from the FAA about the type of individuals that may not qualify to occupy the aircraft emergency exit row seat. The FAA, as the entity within DOT that is responsible for issuing rules pertaining to aviation safety, has the authority to interpret 14 CFR 121.585. In instances where DOT's Enforcement Office receives a complaint of discrimination against a carrier for not allowing a passenger with a disability to sit on an exit row seat, the office generally reviews the FAA exit row seating requirements, confers with the FAA as needed, and makes a determination on a case-by-case basis as to whether the carrier violated the ACAA and Part 382 by denying a passenger with a disability the opportunity to sit in an exit row seat.

DOT has not adopted any of the comments seeking revisions to various sections of Part 382 as the TAM is a guidance document and is not the appropriate vehicle under which to change, expand, or reduce air carriers' legal obligations under Part 382.

#### 7. Chapter 7: Interacting With People With Disabilities

Two disability organizations expressed concern about incidents in which "meet and greet" staff have left passengers with disabilities unattended, particularly deaf-blind passengers. The comments appear to seek further

clarification of the connecting assistance requirement under Part 382.

*DOT Response:* DOT has added language in the TAM to explain that § 382.39(a)(3) states that carriers must not leave a passenger with a disability unattended in a ground wheelchair, boarding wheelchair, or other device in which the passenger is not independently mobile for more than 30 minutes. See Chapter 4, Section C. In addition, to encourage carriers to provide appropriate guidance to deaf-blind passengers, DOT has added language to Chapter 7 addressing this issue. Otherwise, presently, Part 382 contains no requirement that carriers not leave passengers with disabilities unattended when providing connecting assistance, including deaf-blind passengers. Accordingly, it would not be appropriate for DOT to expand Part 382 to require carriers not to leave deaf-blind passengers unattended through the TAM because the TAM is a guidance document and is not the appropriate vehicle under which to change, expand, or reduce air carriers' legal obligations under Part 382.

#### 8. Appendix III: Frequently Asked Questions

Several disability organizations suggested additional topics for frequently asked questions. For example, one disability organization requested that a carrier's responsibility to passengers with disabilities traveling in a group be better defined. For example, it posed the scenario in which some passengers with disabilities traveling in a group are forced to travel on a different flight because the aircraft they were intending to fly on could not accommodate all of the assistive devices of the entire group.

*DOT Response:* DOT appreciates the suggestions for additional frequently asked questions and has considered each suggested question. Although DOT has increased the number of frequently asked questions in the TAM based on comments received, it believes that adding all of them would not assist in further clarifying the information in the TAM. With respect to the comment about the group of air travelers with disabilities traveling together, DOT refers the commenter to § 382.33(b)(7) which explains that a carrier may require up to 48 hours advance notice when a group of ten or more qualified individuals with disabilities make reservations and travel as a group to provide the carrier sufficient time to make the required accommodations. This requirement is also addressed in Chapter 3 of the TAM.

Issued this 7th day of April, 2005, in Washington, DC.

**Samuel Podberesky,**

*Assistant General Counsel for Aviation Enforcement and Proceedings, U.S. Department of Transportation.*

**What Airline Employees, Airline Contractors, and Air Travelers With Disabilities Need To Know About Access to Air Travel for Persons With Disabilities**

*A Guide to the Air Carrier Access Act (ACAA) and Its Implementing Regulations, 14 CFR Part 382 (Part 382)*

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**Chapter 1: Understanding How To Use This Manual**

- A. Introduction
- B. Background
- C. Keyword Definitions

**A. Introduction**

*Purpose of the Manual*

This manual is a guide to the Air Carrier Access Act (ACAA) and its implementing regulations, 14 CFR part 382 (part 382). It is designed to serve as a brief but authoritative source of information about the services, facilities, and accommodations required by the ACAA and the provisions of part 382. The primary purpose of the manual is to help you, employees/contractors of air carriers and employees/contractors of indirect air carriers that provide services or facilities to passengers with disabilities, to assist those passengers in accordance with the law. Knowing your legal responsibilities will help ensure consistent compliance with the law and protect the civil rights of air travelers with disabilities when providing services, facilities, and accommodations to them.

Throughout the manual, rather than talking about air carriers' or indirect air carriers' employees/contractors such as yourself in the third person, the word "you" is used. In most instances, the word "you" refers to personnel who deal directly with the traveling public. Moreover, the obligations and responsibilities under the law as set forth in the manual must be read within the context of each specific employee's duties on the job.

A second purpose of this manual is to offer air travelers with disabilities information about their rights under the ACAA and the provisions of part 382. Accordingly, in addition to the other useful information in this manual, Appendix I contains a list of "Tips for Air Travelers with Disabilities" to help ensure a smooth and comfortable trip. In addition, Appendix III provides a list of "Frequently Asked Questions" and answers and Appendix IV contains a list of "Recent DOT Enforcement Orders Related to the ACAA." These DOT enforcement orders are useful because they provide examples in which DOT has interpreted some of the provisions of the ACAA and part 382 under particular circumstances.

**B. Background**

*U.S. Air Carriers*

In 1986, Congress passed the ACAA, which prohibits discrimination by U.S. air carriers against qualified individuals with disabilities. 49 U.S.C. 41705. In 1990, the Department of Transportation (DOT) issued Part 382, the regulations defining the rights of passengers with disabilities and the obligations of U.S. air carriers under the ACAA. Since then, these regulations have been amended a number of times. DOT has also issued guidance to air carriers on the ACAA and Part 382 in a variety of ways: preambles to regulatory amendments, industry letters, correspondence with individual carriers or complainants, enforcement actions, website postings, and informal conversations with the public and air carriers.

*Foreign Air Carriers*

On April 5, 2000, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century ("AIR-21"; Pub. L. 106-181) amended the ACAA to cover foreign air carriers. Although a final rule modifying part 382 to cover foreign air carriers has not yet been issued, in May 2000 DOT's Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (Enforcement Office) issued a notice informing the public of its intent to use the provisions of part 382 as guidance in investigating any complaints of non-compliance with the ACAA by foreign carriers. In addition, in July 2003 DOT amended part 382 by adding a new section 382.70, that requires both U.S. carriers and foreign carriers to record and report to DOT on written disability-related complaints that they receive. At the present time, section 382.70 is the only provision of Part 382 that specifically states that it applies to foreign carriers. Finally, a notice of proposed rulemaking (NPRM) proposing to extend the other provisions of Part 382 to foreign carriers was published on November 4, 2004. Therefore, while the majority of this manual does not expressly apply to foreign carriers, they should look to this document and Part 382 in satisfying their general nondiscrimination obligations under AIR-21 and DOT's May 2000 guidance.

*Development of Technical Assistance Manual*

In 2000, Congress required DOT to create a technical assistance manual to provide guidance to individuals and entities with rights or responsibilities under the ACAA. This manual responds to that mandate. In creating this manual, DOT held meetings with representatives

from the disability community, air carriers, and organizations that contract with air carriers to provide disability-related services. Those who attended the meetings made suggestions for this manual. All of these suggestions have been thoroughly considered by DOT and incorporated where appropriate.

### ACCESS

A step-by-step process for resolving issues involving passengers with disabilities appears later in this manual. Whether the issue is a matter of law, customer service, or both, the ACCESS checklist will be useful in identifying the needs of passengers with disabilities and determining what accommodations the air carriers are required to provide as a matter of law. See chapter 6, section B.

### How To Use This Manual

This manual is structured in the same sequence as the steps a passenger would encounter on a trip, *i.e.*, requirements concerning

- Planning a flight,
- The airport experience,
- Enplaning, deplaning, and making connections,
- Services during a flight, and
- Responding to disability-related complaints.

This manual contains the following tools to assist you in quickly and easily finding the answer to your questions:

- A Table of Contents at the beginning of the manual;
- An Alphabetical Index at the back of the manual; and
- A part 382 Index listing the citations to part 382 at the back of the manual.

Also, the following appendices appear at the end of the manual:

- Appendix I: “Tips for Air Travelers with Disabilities” as they relate to the most commonly-used accommodations, facilities, and services that carriers are required to make available to such passengers;
- Appendix II: A list of concerns applicable mainly to air carrier management, as opposed to frontline customer service personnel;
- Appendix III: A list of “Frequently Asked Questions” and answers;
- Appendix IV: A list of “Recent DOT Enforcement Orders Related to the ACAA”;
- Appendix V: The full text of Part 382; and
- Appendix VI: The DOT document “Guidance Concerning Service Animals in Air Transportation.”

### Themes of This Manual

#### Legal Requirements and Customer Service

This manual highlights the difference between actions you must take according to the law as stated in part 382 and actions that you may choose to take in an effort to provide superior customer service to passengers with disabilities. Legal requirements are generally designated by the words, “must” or “shall” in the manual. Words such as “should” or “may” indicate accommodations that part 382 does not require but that DOT recommends and that you may decide to provide as a matter of good customer service.

#### Safety

Where applicable, this manual discusses how to properly and lawfully consider aircraft and passenger safety when providing transportation to passengers with disabilities. Part 382 does not require or authorize you to disregard FAA safety regulations. Where different treatment of passengers with disabilities or other restrictions are mandated by an FAA safety regulation, part 382 allows you to comply with the FAA safety regulation. For example, if an FAA safety rule provides that only persons who can perform certain functions can sit in an exit row, then you can request that an individual unable to perform those functions (regardless of whether that individual has a disability) sit in another row. If the passenger refuses, you can properly deny transportation to such passengers.

However, where an optional carrier action that is not required by FAA rules would result in different treatment of passengers with disabilities, or in other restrictions, then the ACAA and the provisions of part 382 prohibit you from implementing the optional carrier action even if it might ensure safety. For instance, suppose ABC Airways required only passengers with disabilities—not all passengers—to provide correct answers to a quiz about the content of a safety briefing and a passenger with a disability either refused to respond or failed such a quiz. It would not be appropriate to deny transportation to a passenger with a disability on such grounds unless the carrier’s policies and procedures consistently treated all passengers in a similar manner.

In short, part 382 is consistent with FAA safety requirements as it allows you to follow FAA safety rules and to ensure that the safe completion of the flight or the health and safety of other passengers are not jeopardized. Determinations about whether an FAA

rule requires different treatment of a passenger with a disability for safety reasons often depend on the circumstances you encounter. Therefore, it is important that you seek information from passengers with disabilities and their traveling companions and make a reasonable judgment considering all available information.

The FAA safety mandates can be found in the Code of Federal Regulations (14 CFR parts 60 through 139), FAA guidance interpreting these regulations, and Airworthiness Directives (*see* <http://www.faa.gov>, click on “Aircraft Guidance” and then click on “Airworthiness Directives”).

#### Security

This manual addresses security procedures, particularly those enacted after the terrorist hijackings and tragic events of September 11, 2001, which affect or may affect the types of accommodations and services provided to passengers with disabilities. Similar to the situation involving FAA safety requirements, part 382 is consistent with security requirements mandated by the Transportation Security Administration (TSA). For example, TSA has strict rules as to which persons can go beyond the screener checkpoints, but these TSA rules are consistent with part 382 and do not invalidate your obligation to provide enplaning and deplaning assistance requested by passengers with disabilities, including assistance beyond screener checkpoints. You do have discretion in how that assistance is provided. You can provide (i) a “pass” allowing an individual who needs to assist a passenger with a disability to go through the screener checkpoint without a ticket; (ii) assistance directly to the passenger; or (iii) both.

#### Contractors

This manual recognizes the important role that contractors play in providing services, equipment, and other accommodations to passengers with disabilities. A contractor is an entity that has a business arrangement with an air carrier to perform functions that the ACAA and part 382 would otherwise require the air carrier to perform with its own employees. Contractors provide a variety of services on behalf of air carriers in furnishing assistance to persons with disabilities. For example, contractors often provide wheelchair service, assist passengers with disabilities on and off aircraft, transport passengers with disabilities between departure gates, and work as baggage handlers who handle passengers’



wheelchairs and other assistive devices. Contractors must provide the same services, equipment, and other accommodations required of an air carrier and its employees by the ACAA and part 382. As an employee of a contractor, you are therefore required to follow the mandates of the ACAA and part 382 when providing services, equipment, and other accommodations to passengers with disabilities. If you do not follow the mandates of the ACAA and part 382, the air carrier is subject to enforcement action by DOT for your failure.

### C. Keyword Definitions

Following is a list of key words whose definitions will help you fully understand this manual.

**Air Carrier:** Any United States company that provides air transportation, either directly or indirectly or by a lease or any other arrangement. [Sec. 382.5]

**Air Carrier Airport:** A public, commercial service airport which enplanes annually 2,500 or more passengers and receives scheduled air service. [Sec. 382.5]

**Air Transportation:** Interstate, overseas, or foreign air transportation, or the transportation of mail by aircraft, as defined in the Federal Aviation Act (recodified as 49 U.S.C. 40101 *et seq.*). [Sec. 382.5]

**Assistive Device:** Any piece of equipment that assists a passenger with a disability in carrying out a major life activity. Assistive devices are those devices or equipment used to assist a passenger with a disability in caring for himself or herself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, or performing other functions of daily life. Assistive devices may include medical devices, medications, and bags or cases used to carry them.

**Complaints Resolution Official (CRO):** One or more individuals designated by each air carrier who must be thoroughly familiar with the requirements of part 382 and the air carrier's policies and procedures addressing part 382 and the provision of services, facilities, and accommodations to passengers with disabilities. A CRO must have the authority to resolve disability-related complaints on behalf of an air carrier. A CRO must be available to address disability-related complaints presented by passengers or other individuals. A CRO must be available [1] in person at the airport; or [2] via telephone or TTY at all times an air carrier is operating. [Sec. 382.65]

**Contractor:** A contractor is an entity that has a business arrangement with an

air carrier to perform functions that the air carrier would otherwise be required to perform with its own employees under the ACAA and part 382. For example, carriers often have business arrangements with companies to provide wheelchair service to passengers with disabilities or to handle baggage. [Sec. 382.7]

**Contractor Employee:** An individual that works for an organization that has a business arrangement with one or more air carriers to provide services, facilities, and other accommodations to passengers with disabilities. [Sec. 382.7]

**Department or DOT or U.S.**

**Department of Transportation:** The Federal agency that works to ensure a fast, safe, efficient, accessible, and convenient transportation system that meets the Nation's vital national interests and enhances the quality of life of the American people. DOT has nine operating administrations, in addition to the Office of the Secretary of Transportation (OST): Bureau of Transportation Statistics, Federal Aviation Administration (FAA), Federal Highways Administration, Federal Railroad Administration, Federal Transit Administration, Maritime Administration, National Highway Transportation Safety Administration, Research and Special Programs Administration, and the St. Lawrence Seaway Development Corporation. [Sec. 382.5] The responsibility for implementing the ACAA resides in OST.

**DOT Disability Hotline or Hotline:** The toll free telephone hotline system that provides general information about the rights of air travelers with disabilities, responds to requests for information, and assists air travelers with time-sensitive disability-related issues. Members of the public may call 1-800-778-4838 (voice) or 1-800-455-9880 (TTY) from 7 a.m. to 11 p.m. eastern time, seven days a week to receive assistance regarding air travel by individuals with disabilities.

**FAA:** The Federal administration that oversees the safety of our Nation's civil aviation system. Safety is the first and foremost mission of the FAA and includes the issuance and enforcement of regulations and standards related to the manufacture, operation, certification, and maintenance of aircraft. [Sec. 382.5]

**Facility:** All or any portion of aircraft, buildings, structures, equipment, roads, walks, parking lots, and any other real or personal property, normally used by passengers or prospective passengers visiting or using the airport, to the extent that the carrier exercises control

over the selection, design, construction, or alteration of the property. [Sec. 382.5]

**Indirect Air Carrier:** A company not directly involved in the operation of an aircraft that sells air transportation services to the general public, such as tour and charter operators. [Sec. 382.5]

**Individual With a Disability:** Any individual who:

- Has a physical or mental impairment that, on a permanent or temporary basis,
- Substantially limits one or more major life activities,
- Has a record of such an impairment,

or

- Is regarded as having such an impairment. [Sec. 382.5]

**Qualified Individual With a Disability:** An individual with a disability who:

- Accompanies or meets a traveler using airport facilities;
- Seeks information about schedules, fares, or policies;
- Attempts to use facilities or services offered to the general public by an air carrier;
- Has a ticket, or makes a good faith attempt to buy a valid ticket for a flight;
- Arrives with a valid ticket for the flight; and
- Meets reasonable,

nondiscriminatory requirements applicable to all passengers. [Sec. 382.5]

**Service Animal:** Any animal that is individually trained or able to provide assistance to a qualified person with a disability or any animal shown by documentation to be necessary for the emotional well being of a passenger. With respect to emotional support animals, although carriers may require documentation to verify that an animal is an emotional support animal, such documentation is not required under the law.

Dogs, cats, and monkeys are among those that have been individually trained and act as service animals. Service animals may assist people with disabilities by, for example:

- Guiding persons with vision impairments;
- Alerting persons with deafness to specific sounds;
- Alerting persons with epilepsy of imminent seizure onset;
- Pulling a wheelchair;
- Assisting persons with mobility impairments with balance; and
- Providing emotional support for persons with disabilities. [Sec. 382.55]

**Text Telephones (TTY) or Telecommunications Devices for the Deaf (TDD):** TTYs, also called TDDs, are devices that allow individuals who are unable to use a regular telephone to make or receive telephone calls by enabling them to type their



conversations. The TTY benefits people who are deaf, hard of hearing, or speech impaired and individuals seeking to communicate with them. The conversation is typed back and forth and is displayed on a lighted display screen, a paper print-out in the TTY/TDD device, or a computer screen using specialized TTY software. A TTY may also be used to place a relay call to a party with a regular telephone. See Chapter 4, Section D.

**Transportation Security Administration (TSA):** An administration within the Department of Homeland Security that is charged with protecting the security of the Nation's transportation systems to ensure freedom of movement for people and commerce. The Aviation and Transportation Security Act, signed into law on November 19, 2001, brought airport security (including the responsibility to hire, train, manage, and discipline security screeners) under the direct authority of the TSA.

## Chapter 2: Learning the Basics About the Law Protecting Air Travelers With Disabilities

- What does the Air Carrier Access Act (ACAA) say? The ACAA prohibits U.S. and foreign air carriers from discriminating against an air traveler with a disability on the basis of such disability (49 U.S.C. 41705).
- What is 14 CFR part 382 (part 382)? Part 382 is a detailed set of rules that define air carriers' responsibilities under the ACAA and ensures that individuals with disabilities will be treated without discrimination consistent with the safe carriage of all passengers.
- Who has to follow part 382? The following organizations and individuals must comply with part 382: (1) Air carriers and their employees (*e.g.*, ticket and gate agents, flight attendants, baggage handlers, pilots, etc.); (2) authorized agents of an air carrier (*e.g.*, travel agents); (3) organizations and their employees that have business arrangements with air carriers to provide disability-related services (*e.g.*, wheelchair service, baggage handling, etc.); and (4) indirect air carriers and their employees (*e.g.*, tour operators) that provide facilities, services, or other accommodations to passengers with disabilities.
- Who is protected by part 382? Part 382 protects three categories of individuals with disabilities: (1) Individuals who have a physical or mental impairment that, on a permanent or temporary basis, substantially limits one or more major life activities; (2) individuals who have a record of such

impairment; and (3) individuals who are regarded as having such an impairment, whether they have the impairment or not.

- What is a physical or mental impairment? Physical impairments include (1) physiological disorders or conditions; (2) cosmetic disfigurements; or (3) anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

Examples of physical impairments include orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, HIV disease, drug addition, and alcoholism.

Mental impairments include mental or psychological disorders, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Physical characteristics such as the color of one's eyes, hair, or skin, baldness, and left-handedness do not constitute physical impairments. Similarly, neither age nor obesity alone constitutes a physical impairment. Disadvantages due to cultural or economic factors are not covered by part 382. Moreover, the definition of "physical or mental impairment" does not include personality traits such as poor judgment or a quick temper, where these are not symptoms of a mental or psychological disorder.

- What is a substantial limitation on major life activities? To qualify as a "disability" under part 382 a condition or disease must substantially limit a major life activity. Major life activities include, but are not limited to, activities such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

- When does an impairment "substantially limit" a major life activity? There is no absolute standard for determining when an impairment is a substantial limitation. Some impairments obviously limit the ability of an individual to engage in a major life activity.

*Example 1:* A person who is deaf is substantially limited in the major life activity of hearing.

*Example 2:* A person with traumatic brain injury may be substantially limited in the major life activities of: (a) Caring for himself or herself; and (b) working, because of memory deficiency, confusion, contextual difficulties, and the inability to reason appropriately.

*Example 3:* An individual who is paraplegic may be substantially limited in the major life activity of walking.

- Are temporary mental or physical impairments covered by part 382? Yes.

*Example:* While on a skiing trip, Jane breaks her leg and is placed in a cast that keeps her from bending her leg and walking without the use of crutches. Jane will eventually recover the full use of her leg, but in the meantime she is substantially limited in the major life activity of walking. Because Jane's broken leg will substantially limit a major life activity for a time, Jane would be considered to have a disability covered by part 382 during that time. You would be required to provide her certain services and equipment under part 382 if requested (*e.g.*, enplaning and deplaning assistance, connecting wheelchair assistance, seating with additional leg room in the same class of service to the extent required by part 382, safe stowage of her crutches in the aircraft cabin in close proximity to the passenger).

- Who is a person with a "record of" a disability under part 382? Part 382 protects individuals from discrimination who have a "record of" (history of) a physical or mental impairment that substantially limits a major life activity or who have been classified, or misclassified, as having such an impairment. Therefore, individuals who do not have an actual current impairment that substantially limits a major life activity would still be protected under part 382 based upon a past diagnosis (or a misdiagnosis) of an impairment that substantially limits a major life activity. Individuals with a history of cancer or epilepsy are examples of people with a record of impairment.

*Example:* Adam, a passenger who has had severe epileptic seizures in the past that rendered him unable to work, is denied transportation by airline personnel because of their concern that he may have a seizure on board the aircraft. This denial of transportation would be unlawful if based solely on the fact that Adam has had seizures in the past, because epilepsy may be controlled by medication. Airline personnel can lawfully deny transport to Adam only if they reasonably believe, based on the information available, that his seizure disorder poses a real safety risk to him or other passengers.

- When is a person "regarded as" having a disability? Part 382 also protects an individual who is "regarded as" having a physical or mental impairment that substantially limits a major life activity, whether or not that person actually has an impairment. People can be "regarded as" disabled if: (1) Their non-limiting or slightly limiting impairments are viewed by others as substantially limiting; (2) they have no impairments but are viewed by

others as having a substantially limiting impairment; or (3) their impairments become substantially limiting because of the attitudes of other people.

*Example 1:* John, an individual with a mild heart condition controlled by medication, is denied transportation because airline personnel believe that flying will cause John to have heart problems necessitating diversion of the aircraft during flight. John is not substantially limited in any major life activity by his condition. John has informed the air carrier personnel that his heart condition is controlled by medication and that for the past five years he has flown on a near weekly basis without incident. Even though John does not actually have an impairment that substantially limits a major life activity, he is protected by the provisions of part 382 because he is treated as though he does. The airline personnel's refusal to provide transportation to John must be reasonable under the facts and circumstances presented. Arguably, excluding John from the flight was unreasonable because John had informed the airline employee that he was taking medication and that he had flown frequently in the recent past without incident. The reasonableness of the decision depends on John's credibility and any additional information provided. Regardless of the reasonableness of the decision, the airline employee is legally required under section 382.31(e) to provide a written explanation to John within 10 calendar days setting forth the specific safety or other reason(s) for excluding John from the flight.

*Example 2:* Karen, an individual born with a prominent facial disfigurement, has been refused transportation on the grounds that her presence has upset several passengers who have complained to gate agents about her appearance. Karen's physical disfigurement becomes substantially limiting only as a result of the attitudes of others and she is protected by the provisions of part 382. Refusing to provide transportation to Karen would violate section 382.31 because you must not refuse to provide transportation to a qualified individual with a disability, such as Karen, solely because her appearance may offend or annoy other passengers. As in the example above, and regardless whether the decision to refuse transportation was correct, you must provide Karen with a written explanation of the specific basis for the refusal within 10 calendar days of the incident.

- How do I determine whether a person is an individual with a disability? Provide an opportunity for the passenger to self-identify by asking how you can best assist him or her.

- How do I assist a passenger with a disability? Ask the passenger how you can best assist him or her. A passenger with a disability has the most information about his or her abilities, limitations, level of familiarity with the airport and airline, and needs in connection with traveling by air.

- May I ask an individual what his or her disability is? Only to determine if a

passenger is entitled to a particular seating accommodation pursuant to section 382.38. Generally, you may not make inquiries about an individual's disability or the nature or severity of the disability. However, you may ask questions about an individual's ability to perform specific air travel-related functions, such as enplaning, deplaning, walking through the airport, etc.

*Example 1:* You may not ask a person, "What is your disability?" You may not ask, "Do you have diabetes?"

*Example 2:* You may ask, "Can you walk from the gate area to your aircraft seat?" You may ask, "Are you able to transfer from the aisle chair over a fixed aisle seat armrest?" You may ask, "Can you walk from this gate to your connecting gate?" You may ask (by writing a note if necessary), "Do you need me to notify you if I make any announcements over the public address speaker?"

*Example 3:* Susan asks for a bulkhead seat because the condition of her leg necessitates her need for greater legroom. You may ask, "Are you unable to bend your leg or is your leg fused or immobilized?" [Sec. 382.38]

- What are some of the requirements of part 382 that you should be aware of? Following are some of the principal requirements of part 382. It is important to note that the requirements of part 382 listed below are not meant to be exhaustive. Rather, it is a list of requirements governing situations that you are likely to encounter on a regular basis.

- You must not discriminate against qualified individuals with a disability. [Sec. 382.7(a)(1)] You must not require a passenger with a disability to accept special services (including, but not limited to, pre-boarding) not requested by the passenger. [Sec. 382.7(a)(2)] Instead, you may ask a passenger with a disability if he or she would like a particular service, facility, or other accommodation. In addition, you must not exclude a qualified individual with a disability from or deny the individual the benefit of any air transportation or related services that are available to other passengers. [Sec. 382.7(a)(3)] For example, if you choose to provide ground transportation and overnight accommodations to passengers because of a flight cancellation, you must ensure that the ground transportation to the hotel, and the hotel itself, are accessible to a passenger with a disability.

- You must not refuse transportation to a passenger solely on the basis of a disability. [Sec. 382.31(a)]

- You must provide transportation to an individual with a disability who has an impairment that affects his or her appearance or results in involuntary behavior except under limited circumstances specified below. You must provide transportation to such

individuals with disabilities even if the disability may offend, annoy, or inconvenience crewmembers or other passengers. [Sec. 382.31(b)] However, if the person's disability results in involuntary behavior that would or might be inimical to the safety of the flight, then the person may properly be refused transportation. [Sec. 382.31(d)]

- You shall not limit the number of individuals with disabilities on a particular flight. [Sec. 382.31(c)]

- If transportation of a passenger with a disability would endanger the safety of the aircraft or the health or safety of its passengers or violate an FAA safety regulation, you may refuse transportation to the individual with a disability. [Sec. 382.31(d)]

- You shall not require a passenger with a disability to travel with an attendant or to present a medical certificate, except in very limited circumstances. [Secs. 382.35(a) and 382.53(a)]

- You shall not exclude a passenger with a disability from any seat in an exit or other row solely on the basis of his or her disability except to comply with FAA safety rules. FAA safety rules establish criteria that must be met in order for a passenger to occupy a seat in the emergency exit rows. [14 CFR 121.585] If a passenger with a disability meets these FAA criteria, he or she must be allowed to sit in an emergency exit row. As with any other passenger, you must look at the individual passenger with a disability and reasonably assess whether he or she meets FAA criteria for exit-row seating. [Sec. 382.37(a)]

- You must provide timely enplaning, deplaning, and connecting assistance to passengers with disabilities requesting such assistance. As part of this duty, you must provide equipment (e.g., wheelchairs, electric carts, and aisle chairs) and personnel (e.g., individuals to propel wheelchairs and aisle chairs and individuals to assist passengers with disabilities in carrying and stowing their baggage). [Secs. 382.39(a)(1) and 382.39(b)(5)]

- You must allow a passenger with a disability to stow his or her cane or other assistive device inside the cabin of the aircraft close to his or her seat if it fits, consistent with FAA safety rules on carry-on items. [Sec. 382.41(c)]

- You must allow passengers to safely stow their wheelchairs or parts of wheelchairs (e.g., wheels, seats, etc.) in the overhead bin or under seats. [Sec. 382.41(e)(1)]

- You must ensure that there is space for at least one passenger with a disability to stow a folding wheelchair in the cabin of the aircraft if the aircraft has a designed seating capacity of 100

or more seats and the aircraft was ordered after April 5, 1990, or delivered after April 5, 1992. [Sec. 382.21(a)(2)]

- If there is a closet or other approved stowage area for passengers' carry-on items of sufficient size to accommodate a folding, collapsible, or break-down wheelchair, the carrier must designate priority stowage space for at least one wheelchair in that area. A passenger with a disability who takes advantage of the offer of the opportunity to pre-board may stow his or her wheelchair in this area with priority over other carry-on items brought onto the aircraft by other passengers and flight crew enplaning at the same airport. A passenger with a disability who does not pre-board may use this space to stow his or her wheelchair on a first-come, first-served basis along with other passengers stowing their carry-on items. [Sec. 382.41(e)(2)]

- You must have a copy of part 382 available at every airport you serve. Upon request by a passenger at the airport, you must make a copy available for review. [Sec. 382.45(d)]

- You must provide blind or visually-impaired passengers and passengers who are deaf, hard of hearing, or deaf-blind, timely access to the same information given to other passengers at the airport or on the airplane. This includes, but is not limited to, information concerning gate assignments, delayed flights, and safety. [Secs. 382.45(c) and 382.47]

- You must allow service animals to accompany passengers with disabilities in the cabin consistent with FAA safety requirements. You must allow the service animal to sit in close proximity to its user, as long as the service animal does not block the aisle or other emergency evacuation route in violation of FAA safety regulations. Often this will mean that the service animal will sit under the seat in front of the disabled passenger to avoid obstructing an aisle or other space. Some service animals are held by their users in their arms as an adult would hold a human infant (limited to infants under two years of age) of roughly the same size. [Sec. 382.55]

- You must make available a Complaints Resolution Official (CRO) at the airport—in person or by telephone or TTY—to address disability-related complaints that arise during the travel process at all times when your flights are operating at that airport. You must provide a CRO to a passenger even if the passenger does not use the term "Complaints Resolution Official" or "CRO." When a passenger with a disability uses words such as "supervisor," "manager," "boss," or

"disability expert" in connection with resolving a disability-related issue, you must provide a CRO. [Sec. 382.65]

- You must not charge for services that are required by part 382. This means, for example, you must not ask for a tip when providing wheelchair service to a passenger. You may, however, impose a reasonable charge for services not required by part 382, i.e., optional services. Examples of such optional services include medical oxygen for use on board an aircraft or stretcher service. [Sec. 382.57]

- When am I required to provide disability-related accommodations to an individual? You are required to provide such an accommodation when: (1) An individual with a disability or someone acting on his or her behalf, such as a travel companion, family member, or friend, requests an accommodation required by part 382; or (2) you offer such a required accommodation to a passenger with a disability and he or she accepts such accommodation.

### Chapter 3: Assisting Air Travelers With Disabilities Planning a Trip

- A. Advance Notice
- B. Information About the Aircraft
- C. Mobility Aids and Assistive Devices
- D. Service Animals
- E. Accommodations for Air Travelers Who Are Deaf, Hard of Hearing, or Deaf-Blind
- F. Communicable Diseases
- G. Medical Certificates: When Are They Allowed?
- H. Your Obligation To Provide Services and Equipment
- I. Attendants

#### A. Advance Notice

You cannot require passengers with disabilities to provide advance notice of their intention to travel or of their disability except as provided below. [Sec. 382.33(a)]

##### Advance Notice Only for Particular Services and Equipment

You may require up to 48 hours' advance notice and one hour's advance check-in from a passenger with a disability who wishes to receive the following services:

- Transportation for a battery-powered wheelchair on an aircraft with fewer than 60 seats;
- Provision by the carrier of hazardous materials packaging for the battery of a wheelchair or other assistive device;
- Accommodations for 10 or more passengers with disabilities who travel as a group; and
- Provision of an on-board wheelchair on an aircraft that does not

have an accessible lavatory for passengers with disabilities who can use an inaccessible lavatory but need an on-board chair to do so. [Secs. 382.33(b)(5)–(8)]

*Example:* While making his reservation, a passenger with a disability gave the reservation agent 48 hours' advance notice that he would need an aisle chair to access the lavatory on his upcoming flight. The flight is on an aircraft with more than 60 seats and it does not have an accessible lavatory. During the call, the passenger is made aware of the fact that the lavatory is inaccessible, but explains that he can use an inaccessible lavatory as long as he has access to a carrier-provided aisle chair. Because the passenger has complied with the advance notice requirement here, normally this information would have been entered into the passenger's reservation record (otherwise known as the passenger name record (PNR)) by the carrier and the request for an aisle chair would have been handled through that notification process. You are a new gate agent for your carrier and when this passenger approaches you at the gate more than an hour before the scheduled departure time of the flight and asks about the aisle chair, you are not sure how to reply. What should you do?

To begin, as a matter of good customer service, you should tell the passenger that you are not sure but you will find out for him. You should ask a colleague and, if necessary, contact a CRO. When you ask your colleague, you are told that all aircraft with more than 60 seats in your carrier's fleet maintain an in-cabin aisle chair. Once you receive this information you should assure the passenger that an aisle chair is available so he can use the inaccessible lavatory on the aircraft.

##### Advance Notice for Optional Services and Equipment

Although carriers are not required to provide the following services or equipment, if they choose to provide them, you may require 48 hours' advance notice and one hour's advance check-in for:

- Medical oxygen for use on board the aircraft;
- Carriage of an incubator;
- Hook-up for a respirator to the aircraft's electrical power supply; and
- Accommodation for a passenger who must travel on a stretcher. [Secs. 382.33(b)(1)–(4)]

If appropriate advance notice has been given and the requested service is available on that particular flight, you must ensure that the service or equipment is provided.

##### Make a Reasonable Effort To Accommodate, Even Without Advance Notice

In addition, even if a passenger with a disability does not meet the advance notice or check-in requirement, you must make a reasonable effort to furnish

the requested service or equipment, provided that making such accommodation would not delay the flight. [Secs. 382.33(c) and (e)]

*Example 1:* Mr. Thomas uses a battery-powered wheelchair. He travels frequently between Washington, DC, and New York for business. One day, he finds out that he has an important business meeting in New York and must travel up to New York that afternoon. He has no time to provide advance notice regarding the transportation of his battery-powered wheelchair and arrives at the gate 45 minutes before his flight is scheduled to depart. The aircraft for the flight has fewer than 60 passenger seats. What should you do?

Carriers may require 48 hours' advance notice and one-hour advance check-in for transportation of a battery-powered wheelchair on a flight scheduled to be made on an aircraft with fewer than 60 seats. Carriers may require the same advance notice for provision of hazardous materials packaging for a battery. However, airline personnel are required to make reasonable efforts to accommodate a passenger who fails to provide the requisite notice to the extent it would not delay the flight. Therefore, you must make a reasonable effort to accommodate Mr. Thomas as long as it would not delay the flight.

Mr. Thomas is a frequent traveler on this particular route and he knows that usually it is feasible to load, store, secure, and unload his battery-powered wheelchair and spillable battery in an upright position [Sec. 382.41(g)(2)] or detach, "box", and store the spillable battery [Sec. 382.41(g)(3)] within about 20–25 minutes. If this is the case, you must accommodate Mr. Thomas, his battery-powered wheelchair, and the spillable battery even though Mr. Thomas did not provide advance notice, since doing so would not delay the flight.

*Example 2:* Ms. Webster must travel with medical oxygen and shows up at the airport without providing advance notice of her need for medical oxygen. As a policy, your carrier does not provide medical oxygen on any flights. What should you do?

To begin, you should confirm that your carrier does not provide the optional service of medical oxygen for use on board a flight. If no medical oxygen service is available on your carrier, you should explain this to Ms. Webster and tell her that the carrier cannot accommodate her.

As a matter of customer service, you may direct Ms. Webster to another carrier that does provide medical oxygen service in that market. The passenger should be aware, however, that the provision of medical oxygen involves coordination with the passenger's physician to determine the flow rate and the amount of oxygen needed and arranging for the delivery of the oxygen by the carrier to the point of origin of the passenger's trip. Therefore, normally, it is not possible to accommodate a passenger who needs medical oxygen on a flight unless the advance notice is provided because the accommodation cannot be made without delaying the flight.

#### If Aircraft Is Substituted, Make an Effort To Accommodate

Even if a passenger with a disability provides advance notice, sometimes weather or mechanical problems require cancellation of the flight altogether or the substitution of another aircraft. Under these circumstances, you must, to the maximum extent feasible, assist in providing the accommodation originally requested by the passenger with a disability. [Sec. 382.33(f)]

#### B. Information About the Aircraft

You should be familiar with and be able to provide information about aircraft accessibility for passengers with a disability when they request this information. [Secs. 382.21 and 382.45] When feasible, you should provide information pertaining to a specific aircraft to be used for a specific flight. In general, you must take into account safety and feasibility when seating passengers with disabilities. [Secs. 382.37(a) and 382.38(j)]

If requested, you should be able to provide information on the following:

- Any limitations concerning the ability of the aircraft to accommodate an individual with a disability;
- The location of seats, if any, in a row with a movable aisle armrest and any seats which the carrier does not make available to individuals with a disability (e.g., exit rows);
- Any limitation on the availability of storage facilities in the cabin or in the cargo bay for mobility aids or other equipment commonly used by an individual with a disability; and
- Whether the aircraft has a lavatory accessible to passengers with a disability.

#### C. Mobility Aids and Assistive Devices

If, in assisting a passenger with a disability, a carrier employee or contractor takes apart the passenger's mobility aid or assistive device (e.g., a wheelchair), another carrier employee or contractor must reassemble it and ensure its prompt return to the passenger with a disability in the same condition in which the carrier received it. [Secs. 382.43(a) and (b)] You must permit passengers with a disability to provide written instructions concerning the disassembly and reassembly of their wheelchairs. [Sec. 382.41(h)] You cannot require passengers with disabilities to sign a waiver of liability for damage to or loss of wheelchairs or other assistive devices. [Sec. 382.43(c)] However, you may note preexisting damage to wheelchairs or other assistive devices.

#### D. Service Animals<sup>1</sup>

A service animal is (i) an animal individually trained and which performs functions to assist a person with a disability; (ii) an animal that has been shown to have the innate ability to assist a person with a disability, e.g., a seizure alert animal; or (iii) an emotional support animal. You should be aware that there are many different types of service animals that perform a range of tasks for individuals with a disability.

#### Service Animal Permitted To Accompany Passenger on Flight and at Seat Assignment

You must permit dogs and other service animals used by passengers with a disability to accompany the passengers on their flights. In addition, you must permit a dog or other service animal to accompany a passenger with a disability to the passenger's assigned seat and remain there as long as the animal does not obstruct the aisle or other areas that must remain unobstructed for safety reasons. [Sec. 382.55(a)] The service animal must be allowed to accompany the passenger unless it poses a direct threat to the health or safety of others or presents a significant threat of disruption to the airline service in the cabin. See also Appendix VI, DOT Guidance Concerning Service Animals in Air Transportation; FAA Flight Standards Information Bulletin for Air Transportation (FSAT) #04-01A, "Location and Placement of Service Animals on Aircraft Engaged in Public Air Transportation" <http://www.faa.gov/avr/afs/fsat/fsatl.htm>.

#### If Service Animal Cannot Be Accommodated at Assigned Seat

If a service animal cannot be accommodated at the seat of the passenger with a disability and if there is another seat where the passenger and the animal can be accommodated, you must offer the passenger the opportunity to move to the other seat with the service animal. Switching seats must be explored as an alternative before requiring that the service animal travel in the cargo compartment. [Sec. 382.37(c)]

#### Verification of Service Animals

Under particular circumstances, you may see a need to verify whether an animal accompanying a passenger with a disability qualifies as a service animal under the law. You must accept the following as evidence that the animal is indeed a service animal:

<sup>1</sup> See also Appendix VI.

- The credible verbal assurances of a passenger with a disability using the animal,

- The presence of harnesses or markings on harnesses,
- Tags, or
- Identification cards or other written documentation. [Sec. 382.55(a)(1)]

Keep in mind that passengers accompanied by service animals may not have identification or written documentation regarding their service animals. See also Appendix VI, DOT Guidance Concerning Service Animals in Air Transportation.

Carriers may require that passengers traveling with emotional support animals present current documentation (i.e., dated within a year of the date of travel) from a mental-health professional stating that:

- The passenger has a mental health-related disability;
- The passenger needs the animal for the mental-health condition; and
- The provider of the letter is a licensed mental-health professional (or a medical doctor) and the passenger is under the individual's professional care.

Even if you receive sufficient verification that an animal accompanying a passenger is indeed a service animal, if the service animal's behavior in a public setting is inappropriate or disruptive to other passengers or carrier personnel, you may refuse to permit the animal on the flight and offer the passenger alternative accommodations in accordance with part 382 and your carrier's policy (e.g., accept the animal for carriage in the cargo hold).

*Example 1:* A passenger arrives at the gate accompanied by a pot-bellied pig. She claims that the pot-bellied pig is her service animal. What should you do?

While generally speaking, you must permit a passenger with a disability to be accompanied by a service animal, if you have a reasonable basis for questioning whether the animal is a service animal, you may ask for some verification. Usually no written verification is required though.

You may begin by asking questions about the service animal, e.g., "What tasks or functions does your animal perform for you?" or "What has its training been?" If you are not satisfied with the credibility of the answers to these questions or if the service animal is an emotional support animal, you may request further verification.

You should also call a CRO if there is any further doubt in your mind as to whether the pot-bellied pig is the passenger's service animal.

Finally, if you determine that the pot-bellied pig is a service animal, you must permit the service animal to accompany the passenger to her seat as long as the animal doesn't obstruct the aisle or present any safety issues and the animal is behaving appropriately in a public setting.

*Example 2:* A deaf passenger is planning to board the plane with his service animal. The service animal is a hearing dog and is small enough to sit on the deaf passenger's lap. While waiting to board the flight, the hearing dog jumps off the passenger's lap and begins barking and nipping at other passengers in the waiting area. What should you do?

Since you have already made the determination that the hearing dog is a service animal and may accompany the deaf passenger on the flight, you may reconsider the decision if the dog is behaving in a manner that seems disruptive and infringes on the safety of other passengers. You should carefully observe the hearing dog's behavior and explain it in detail to a CRO (if the CRO is on the telephone). If, after careful consideration of all the facts presented, the CRO decides not to treat the dog as a service animal, you should explain your carrier's policy regarding traveling with animals that are not being allowed in the passenger cabin as service animals.

#### Requests for Seat Assignments by a Passenger Accompanied by a Service Animal

For a disabled passenger traveling with a service animal, you must provide, as the passenger with a disability request, either a bulkhead seat or a seat other than a bulkhead seat. [Sec. 382.38(a)(3)]

If carriers provide special information concerning the transportation of animals outside the continental United States to any passengers, you must provide such information to all passengers with a disability traveling with a service animal on the flights. [Sec. 382.55(a)(3)]

#### E. Accommodations for Air Travelers Who Are Deaf, Hard of Hearing, or Deaf-Blind

If your carrier makes available a telephone reservation and information service to the public, you must make available a text telephone (TTY) to permit individuals who are deaf or hard of hearing to make reservations and obtain information. The TTY must be available during the same hours as the telephone service for the general public and the same wait time and surcharges must apply to the TTY as the telephone service for the general public. [Secs. 382.47(a) and (b)]

#### F. Communicable Diseases

##### Passengers With a Communicable Disease Are Permitted on Flight

Except as described below, you must not (i) refuse transportation to; (ii) require provision of a medical certificate from; or (iii) impose any condition, restriction, or requirement not imposed on other passengers on, a passenger with a communicable disease or infection. [Sec. 382.51(a)]

##### If Direct Threat to Health or Safety of Others, Limitations May Be Imposed

Only if a passenger with a communicable disease or infection poses a direct threat to the health or safety of others, can you take any of the actions listed above. [Sec. 382.51(b)(1)] A direct threat means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.

If you are faced with particular circumstances where you are required to make a determination as to whether a passenger with a communicable disease or infection poses a direct threat to the health or safety of others, you must make an individualized assessment based on a reasonable judgment, relying on current medical knowledge or the best available objective evidence. If the presentation of a medical certificate would alleviate concerns over the passenger's condition, or reasonable modification of policies, practices, or procedures would lessen the risk to other passengers, then you should consider this in making such an individualized assessment. You should also confer with appropriate medical personnel and a CRO when making this assessment.

##### If the Passenger Poses a Direct Threat to the Health and Safety of Others

If, in your estimation, a passenger with a communicable disease or infection poses a direct threat to the health or safety of other passengers, you may (i) refuse to provide transportation to that person; (ii) require that person to provide a medical certificate stating that the disease at its current stage would not be transmittable during the normal course of a flight or, if applicable, describing measures that would prevent transmission during the flight [Sec. 382.53(c)]; or (iii) impose on that passenger a special condition or restriction (e.g., wearing a mask). You must choose the least restrictive of the three options set forth above that would accomplish the objective. [Sec. 382.51(b)(4)]

At all times, as a matter of good customer service, you should treat the passenger with courtesy and respect.

##### G. Medical Certificates: When Are They Allowed?

A medical certificate is a written statement from the passenger's physician saying that the passenger is capable of completing the flight safely without requiring extraordinary medical assistance during the flight. Except

under the circumstances described below, you must not require medical certification of a passenger with a disability as a condition for providing transportation.

You may require a medical certificate only if the passenger with a disability is an individual who:

- Is traveling on a stretcher or in an incubator (where such service is offered);
- Needs medical oxygen during the flight (where such service is offered); or
- Has a medical condition that causes the carrier to have reasonable doubt that the passenger can complete the flight safely without requiring extraordinary medical assistance during the flight. [Sec. 382.53 (a) and (b)]

#### Medical Certificate and a Passenger With a Communicable Disease or Infection

In addition, if you determine that a passenger with a communicable disease or infection poses a direct threat to the health or safety risk of others, you may require a medical certificate from the passenger. [Sec. 382.53(c)(1)] The medical certificate must be dated within 10 days of the flight date. [Sec. 382.53(c)(2)]

In the event that you determine the need for a medical certificate, you should indicate to the passenger with a disability the reason for the request. You should base your request on the reasons set forth under the law and outlined above.

At all times, you should treat the passenger from whom you are requesting a medical certificate with courtesy and respect.

*Example:* A passenger arrives at the gate with her six year old daughter. The girl's face and arms are covered with red lesions, resembling chicken pox. What should you do?

Generally, you must not refuse travel to, require a medical certificate from, or impose special conditions on a passenger with a communicable disease or infection. However, if a passenger appears to have a communicable disease or infection that poses a direct threat to the health or safety of other passengers, you may be required to make a determination about the best course of action.

The first thing you should do is interview the passenger and her mother to obtain basic information about the girl's condition. This exchange should be done discreetly and in a courteous and respectful manner. If you still have a question about the nature of the child's condition that will impact decisions about transportation, you should contact a CRO and explain the situation.

Here, the mother tells you and the CRO that the child has chicken pox but is no longer contagious. The CRO would likely consult with appropriate medical personnel to verify whether the child could be contagious based on the mother's statement.

If there is a reasonable basis for believing that the passenger poses a direct threat to the health or safety of others, you must choose the least restrictive alternative among the following options: (i) Refusing transportation to the individual; (ii) requiring a medical certificate; or (iii) imposing a special condition or limitation on the individual. If the medical support people indicate that there is a chance that the child is no longer contagious but only if a certain number of days have passed since the outbreak of the lesions, you could request a medical certificate before you permit the child to travel.

Having discussed the situation with the passenger and her mother and consulted the CRO and the medical support personnel, the request for a medical certificate appears to be reasonable under the circumstances and the least restrictive of the three options.

Keep in mind that Section 382.53(c)(2) specifies that the medical certificate be from the child's physician and state that the child's chicken pox would not be communicable to other passengers on the flight. The medical certificate must also include any conditions or precautions that would have to be observed to prevent the transmission of the chicken pox to other passengers and be dated within ten days of the date of the flight. If the medical certificate is incomplete or if the passenger is attempting to travel before the date specified in the medical certificate or without implementing the conditions outlined to prevent transmission, the child would not be permitted to fly.

#### H. Your Obligation To Provide Services and Equipment

When assistance getting on or off a plane, making flight connections, or receiving transportation between gates is requested by a passenger with a disability, or offered by carrier personnel and accepted by the passenger, you must provide it. [Sec. 382.39(a)] More specifically, you must provide, as needed, the following:

- Services personnel
- Ground wheelchairs
- Boarding wheelchairs
- Ramps or mechanical lifts. [Sec. 382.39(a)(1)]

Aircraft with more than 60 passenger seats having an accessible lavatory must be equipped with an operable on-board wheelchair. [Sec. 382.21(a)(4)] On-board wheelchairs must be equipped with footrests, armrests which are movable or removable, adequate occupant restraint systems, a backrest height that permits assistance to passengers in transferring, structurally sound handles for maneuvering the occupied chair, and wheel locks or another adequate means to prevent chair movement during transfer or turbulence. The on-board wheelchair must be designed to be compatible with the maneuvering space, aisle width, and seat height of the aircraft on which it is to be used, and

to easily be pushed, pulled, and turned in the cabin environment. [Sec. 382.21(a)(4)(iii)]

You must permit a passenger with a disability to provide written instructions and should accept oral advice from the passenger concerning the disassembly and reassembly of the passenger's wheelchair. [Sec. 382.41(h)] In addition, you should be familiar with how (i) a passenger accesses and uses a particular service or piece of equipment; (ii) the passenger's needs are being met by the service or piece of equipment; and (iii) that service should be provided or how that equipment operates, is disassembled, stored properly, and reassembled. Finally, consistent with good customer service, you should treat the passenger with a disability with courtesy and respect at all times by keeping the passenger informed about any problems or delays in providing personnel or equipment in connection with an accommodation.

*Example:* A passenger using a battery-powered wheelchair arrives at the gate and requests that the footrests and joy stick be removed and stowed. He expresses concern because after his last flight, the airline personnel initially misplaced one of the components of the wheelchair when they disassembled it and stored it during the flight. What should you do?

Presuming the aircraft is the type that can accommodate the storage of a battery-powered wheelchair, you are required to stow his wheelchair properly on board and you may, if needed, provide an aisle chair. As a preliminary matter, you should receive training from your carrier on the use of equipment and services for passengers with a disability, including battery-powered wheelchairs. In addition to the formal training, it is worthwhile to review with the passenger how best to meet his needs. For example, you should ask the passenger to review the procedure for disassembling the wheelchair, storing parts during the flight, and reassembling the wheelchair. Once you are clear about the process, you should communicate with the appropriate employees to ensure that they understand the passenger's needs with respect to his battery-powered wheelchair. Your carrier should have a policy and process for ensuring that the battery-powered wheelchair is returned to the passenger at his destination in the same condition in which it was received by the carrier. Problems concerning the reassembly of expensive battery-powered wheelchairs can be minimized by following Section 382.41(g)(2), which governs the proper storage of such wheelchairs. See also Chapter 5, Section D.

#### I. Attendants

Except under limited circumstances, you cannot require a person with a disability to be accompanied by an attendant. [Sec. 382.35(a)] See chapter 4, Section E for a discussion of the



requirements for an attendant under the law.

#### Chapter 4: Assisting Air Travelers With Disabilities at the Airport

- A. Accessibility of Terminal Facilities and Services
- B. Security Screening for Air Travelers With a Disability
- C. Air Travelers With a Disability Changing Planes
- D. Accommodations for Air Travelers Who Are Deaf, Hard of Hearing, or Deaf-Blind
- E. Attendants

##### A. Accessibility of Terminal Facilities and Services

All terminal facilities and services owned, leased, or operated by a carrier at a commercial service airport, including parking and ground transportation, must comply with the Standards for Accessible Design under the Americans with Disabilities Act. [Sec. 382.23(e)] These terminal facilities and services must be accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. [Sec. 382.23(b)] For example, terminals must provide accessible inter-terminal transportation systems, e.g., shuttle vehicles and people movers. [Sec. 382.23(d)]

As appropriate to your specific responsibilities and duties when dealing with the traveling public and consistent with all carriers' obligation to ensure training to proficiency [Sec. 382.61(a)], you should understand how these services and facilities function as well as their uses by passengers with a disability. You should also know where they are located within or without the terminal.

Carriers must also ensure that there is an accessible path between the gate and the area from which aircraft are boarded. [Sec. 382.23(c)]

Carriers shall not (i) restrict the movements of individuals with disabilities in terminals; (ii) require them to remain in a holding area or other location in order to receive assistance; or (iii) mandate separate treatment for individuals with disabilities except as required or permitted under part 382. [Sec. 382.55(c)]

##### B. Security Screening for Air Travelers With a Disability<sup>1</sup>

Security Screening for Passenger With a Disability Same as for Other Passengers

You must undertake a security screening of a passenger with a

disability in the same manner as any other passenger. You must not subject a passenger with a disability who possesses an aid used for independent travel to a special screening procedure if the passenger and the aid or assistive device clear security without activating the security system. [Sec. 382.49(a)]

##### Screening Mobility Aid or Assistive Device

The statement of the law set forth above would not, however, prohibit you from examining a mobility aid or assistive device if, in your judgment, it may conceal a weapon or other prohibited item even if the mobility aid or assistive device does not activate the security system.

In the event a passenger's mobility aid or assistive device activates the security system, you must conduct the security search of the passenger with a disability in the same manner as you would for other passengers who activate the system.

##### If Passenger With a Disability Requests Private Screening

You must not require a private security screening for a passenger with a disability for any reason different from the reasons other passengers would be subject to a private security screening. However, if a passenger with a disability requests a private security screening in a timely manner, you must provide it in time for the passenger to board the flight. [Sec. 382.49(b)] If, however, you are able to conduct a security screening of a passenger with a disability without the need for a physical search of the person, you are not required to provide a private screening. [Sec. 382.49(c)]

Finally, under certain circumstances, safety considerations may require you to exercise discretion in making the above decisions. You must always seek assistance from the appropriate designated personnel in making such a decision.

##### C. Air Travelers With a Disability Changing Planes

As an employee of the delivering carrier, on request, you must provide assistance to a passenger with a disability in making flight connections and providing transportation between gates. [Sec. 382.39(a)] This is the case regardless whether the delivering carrier has an interline agreement with the other carrier. Where needed and to the

the area of providing security screenings of passengers. Should carriers resume this responsibility or in cases where carriers still retain some involvement in the security screening process, this section would be applicable to carriers and contractors of carriers performing this function.

extent required by law, you must provide services personnel, wheelchairs, and ramps or mechanical lifts. [Sec. 382.39(a)(1)]

**Note:** Carriers must not leave a passenger with a disability unattended in a ground wheelchair or other device in which the passenger is not independently mobile for more than 30 minutes. [Sec. 382.39(a)(3)]

*Example:* A passenger who developed a progressive onset of weakness in his legs during his flight requests a wheelchair when he deplanes to assist him in making it over to the gate of his connecting flight. What should you do?

Because the delivering carrier has an obligation to provide transportation to a passenger with a disability to the gate of his connecting flight, you must provide timely, accessible ground transportation so he makes it to his connecting flight. In addition, you should keep in mind that once the wheelchair service is provided, you cannot leave the passenger unattended for more than 30 minutes if he is not independently mobile. As a matter of good customer service, you should treat the passenger with courtesy and respect throughout this process.

##### D. Accommodations for Air Travelers Who Are Deaf, Hard of Hearing, or Deaf-Blind

Carriers are responsible for ensuring that passengers with disabilities, including those with vision or hearing impairments, receive the same information in a timely manner that the carrier provides to other passengers in the terminal or on the aircraft, including but not limited to, information about ticketing, flight delays, schedule changes, connections, flight check-in, gate assignments and the checking and claiming of luggage. [Sec. 382.45(c)] Passengers with disabilities who are unable to obtain such information from the audio or visual system used by carriers in airports or on aircraft must request such information to be provided in an accessible manner.

##### TTY

You must make available a TTY to permit individuals who are deaf or hard of hearing to obtain information from carriers. See also chapter 3, section E. The TTY must be available during the same hours as the telephone service for the general public and the same wait time and surcharges must apply to the TTY as the telephone service for the general public. [Secs. 382.47(a) and (b)] The TTY must also be available if the passenger who is deaf or hard of hearing wishes to contact a CRO. [Sec. 382.65(a)(2)] In addition, you should inform the individual about the DOT Hotline that is accessible by a TTY. You should be familiar with the use of the

<sup>1</sup> In the wake of the events of September 11, 2001, in most cases, TSA has taken over for carriers in



TTY and its location(s) within the terminal.

In addition, you should be aware of the option of using a relay operator to connect one party who is using a TTY and one party who is using a voice-operated telephone. By dialing 711 on any telephone (TTY or voice operated) you can contact a relay operator who serves as a “go between” between a person using a TTY and a person using a voice-operated telephone.

*Example:* A passenger who is deaf complains to you about another employee whom she believes has been rude and humiliated her when she asked for an alternate means of communication because she was unable to hear what was being said to passengers waiting to board the flight. What should you do?

As a matter of good customer service, you should apologize to the passenger for any insensitive behavior on the part of carrier personnel. In general, you should carefully observe and gauge the manner in which this passenger who is deaf communicates. When communicating, try to use the same method, e.g., speaking slowly, communicating in writing or with the assistance of an aid or device, etc. Try to find out what happened and what information she missed by communicating in an accessible manner.

You may also consult with a CRO to see about sign language or other assistive services that might be available for this passenger. If the CRO is made available by telephone and the passenger requests, TTY service must be available for the passenger to communicate directly with the CRO. You should also notify the appropriate flight crew regarding ensuring that the transmittal of information onboard is accessible to this passenger.

#### E. Attendants

You should know that it is generally not appropriate to require a passenger with a disability to be accompanied by a personal care attendant. [Sec. 382.35(a)] Even if you have concerns about a passenger’s ability to access the lavatory or the passenger’s need for extensive special assistance which airline personnel are not obligated to provide, e.g., assistance in eating, assistance within the lavatory, or provision of medical services [Sec. 382.39(c)], you must not require the passenger with a disability to travel with a personal care attendant except in the circumstances described below.

Safety Considerations May Necessitate an Attendant

In the interests of safety, however, you may require that a passenger with a disability travel with an attendant as a condition of receiving air transportation if the passenger is:

- Traveling on a stretcher or in an incubator (where such service is offered);

- Mentally disabled and unable to comprehend or respond appropriately to safety instructions;

- Severely impaired with respect to mobility and would be unable to assist in the passenger’s own evacuation from the aircraft; or

- Deaf and severely impaired with respect to vision such that the passenger could not adequately communicate with airline employees to permit transmission of the safety briefing. [Secs. 382.35(b)(1)–(4)]

If Carrier Contends That Attendant Is Required for Safety Reasons and Passenger Disagrees

If, after careful consultation with a CRO and any other personnel required to be consulted by the carrier, you determine that a passenger with a disability must travel with an attendant for one of the reasons described in Section 382.35(b) (see above), then the carrier may require that the passenger be accompanied by an attendant. If your decision is contrary to the self-assessment of the passenger with a disability, then the carrier must not charge for the transportation of the attendant. [Sec. 382.35(c)] In addition, if no seat is available on the flight for the attendant whom the carrier has determined to be necessary and as a result the passenger with a disability with a confirmed reservation is unable to travel on the flight, the passenger with a disability is eligible for denied boarding compensation. [Sec. 382.35(d)] For purposes of determining whether a seat is available for an attendant, the attendant must be deemed to have checked in at the same time as the passenger with a disability. [Sec. 382.35(e)]

In the event you choose to recruit an attendant to accompany the passenger with a disability, even though carriers are not obligated to do so, you may ask (i) an off-duty airline employee traveling on the same flight to function as the attendant; (ii) a volunteer from among the other customers traveling on the flight and offer a free ticket for their assistance; or (iii) the passenger with a disability to choose an attendant and offer a free ticket.

If the attendant is accompanying a passenger traveling on a stretcher or in an incubator, the attendant must be capable of attending to the passenger’s in-flight medical needs. [Sec. 382.35(b)(1)] Otherwise, the purpose of the attendant is to assist the passenger with a disability in an emergency evacuation. Other than the situation set forth above when an attendant is accompanying a passenger who is on a stretcher or in an incubator, the

attendant is not obligated to provide personal services to the passenger with a disability such as assistance with eating or accessing the lavatory.

*Example:* A passenger with quadriplegia traveling alone approaches the check-in counter. You have concerns as to whether the passenger’s mobility impairment is so severe that he would be unable to assist in his own evacuation from the aircraft. What should you do?

You should begin by communicating with the passenger to determine the extent of his mobility impairment. As a matter of good customer service, you should treat the passenger with courtesy and respect at all times. Under the circumstances, you should contact a CRO to discuss the situation and determine whether the passenger must be accompanied by an attendant. You and the CRO could begin by asking the passenger about his mobility impairment and whether he would be able to assist with his own evacuation in the event of an emergency. More specifically, you should determine whether the passenger has the functional ability to make any progress toward an exit during an evacuation. If the passenger tells you that his ability to assist in his evacuation is limited to shouting “Help!”, you and the CRO should explain to him that the issue is whether he can physically assist in his own evacuation. If not, he must travel with an attendant.

If, after speaking with the passenger, you and the CRO determine that he must be accompanied by an attendant because of his severe mobility impairment, you should explain this requirement to the passenger. Next, you should explain that he can choose someone to serve as his attendant or you can assist him by recruiting an off-duty employee or another passenger on the flight to serve as his attendant. You must not charge for the transportation of the attendant. You should also explain that the purpose of the attendant is to assist in the case of an emergency evacuation.

### Chapter 5: Assisting Air Travelers With Disabilities Boarding, Deplaning, and During the Flight

- A. Aircraft Accessibility
- B. Seating Assignments and Accommodations
- C. Boarding and Deplaning Assistance
- D. Stowing and Treatment of Personal Equipment
- E. Services in the Cabin
- F. Safety Briefings

#### A. Aircraft Accessibility

In order to assist passengers with a disability, it is important for you to have some understanding of how aircraft have been made accessible to accommodate those passengers. The following features are required for aircraft ordered by the carrier after April 5, 1990, or delivered to the carrier after April 5, 1992. In addition, different size airplanes must be equipped with different features according to the law. For example:

- Aircraft with 30 or more passenger seats must have movable aisle armrests on at least half of the aisle seats where it is feasible and it does not interfere with safety. [Secs. 382.21(a)(i) and (ii)] (Movable armrests are not feasible where tray tables and video entertainment systems are installed.);

- Aircraft with 100 or more passenger seats must have priority storage space within the cabin to stow at least one passenger's folding wheelchair [Sec. 382.21(a)(2)] and DOT has interpreted that to mean a space at least 13 inches wide, 36 inches high, and 42 inches long;

- Aircraft with more than one aisle in which lavatories are provided must include at least one lavatory accessible to passengers with a disability accessing the lavatory with an on-board wheelchair [Sec. 382.21(a)(3)];

- Aircraft with more than 60 passenger seats having an accessible lavatory must be equipped with an on-board wheelchair [Sec. 382.21(a)(4)(i)]; and

- Aircraft with more than 60 passenger seats having an inaccessible lavatory must be equipped with an on-board wheelchair when a passenger with a disability informs the carrier (providing advance notice under Sec. 382.33(b)(8)) that the passenger can use an inaccessible lavatory but cannot reach the lavatory from a seat without the use of an on-board wheelchair. [Sec. 382.21(a)(4)(ii)]

Aircraft in service on April 5, 1990, are not required to be retrofitted for the sole purpose of enhancing accessibility. [Sec. 382.21(b)(1)] However, with respect to all aircraft with more than 60 passenger seats operated under 14 CFR part 121, regardless of the age of the aircraft, carriers must provide on-board wheelchairs if (i) the aircraft has an accessible lavatory; or (ii) a passenger with a disability gives up to 48 hours' notice that the passenger can use an inaccessible lavatory. [Sec. 382.21(b)(2)] Whenever an aircraft operating under 14 CFR part 121 which does not have the accessibility features set forth above undergoes replacement of (i) cabin interior elements or lavatories, or (ii) existing seats with newly-manufactured seats (*i.e.*, previously unused), the carrier must comply with the accessibility features set forth above with respect to the feature being replaced. [Sec. 382.21(c)]

Where part 382 requires a particular aircraft to have an on-board wheelchair and a stowage space within the cabin for at least one passenger's folding wheelchair, that aircraft must have stowage spaces for both of these chairs and must accommodate both of these

chairs as required by law. [Secs. 382.21(a)(4)(i) and 382.21(a)(2)]

Any replacement or refurbishing of the aircraft cabin must not reduce existing accessibility to a level below that specified under the law. [Sec. 382.21(e)] Carriers must maintain aircraft accessibility features in proper working order. [Sec. 382.21(f)]

#### *B. Seating Assignments and Accommodations*

##### Only Safety Affects Seat Assignments

You must not exclude a passenger with a disability from any seat in an exit row or other location or require a passenger with a disability to sit in a particular seat based on the passenger's disability, except to comply with FAA safety requirements. [Sec. 382.37(a)] If a passenger's disability results in involuntary behavior that would result in refusal of transportation under Section 382.31 and the safety problem could be addressed by seating the passenger in a particular location, you must offer the passenger that particular seat location as an alternative to refusing transportation. [Sec. 382.37(b)]

*Example:* A passenger with Tourette's syndrome—a neurological disability that manifests itself by episodes of shaking, muscle tics, and/or spasms and uncontrolled shouting, barking, screaming, cursing, and/or abusive language—approaches the check-in desk, self-identifies as a passenger with a disability, and presents brochures explaining the disability to the agent. What should you do?

As long as safety is not an issue, you cannot restrict this passenger from any particular seat, including an exit row. If this passenger's disability causes him to physically touch other passengers or flight crew involuntarily, safety considerations could require that he be seated in his own row, if available, as an alternative to being refused transportation. However, if the physical and/or verbal manifestations of this passenger's Tourette's syndrome are such that the safety of others would be jeopardized, *e.g.*, if the passenger with Tourette's syndrome involuntarily touches or strikes other passengers or flight crew, it might create a safety concern. Therefore, refusing transportation could be appropriate.

Otherwise, although the passenger's conduct may create an uncomfortable experience for other passengers, if his involuntary behavior only amounts to an annoyance and not a safety concern, you must not restrict the passenger with Tourette's syndrome from any seating assignment.

##### Four Specific Situations in Which a Seating Accommodation Must Be Provided

- If a passenger self-identifies as an individual with a disability, there are four specific situations where you must provide a particular seating accommodation, if requested. The four situations are as follows:

- If the passenger uses an aisle chair to access the aircraft and cannot readily transfer over a fixed aisle armrest, you must provide a seat in a row with a movable armrest if one exists [Sec. 382.38(a)(1)];

- If the passenger (i) is a passenger who is traveling with an attendant who will be performing functions during the flight that airline personnel are not required to perform, *e.g.*, assistance with eating [Sec. 382.38(a)(2)(i)]; (ii) is a passenger with a visual impairment who is traveling with a reader/assistant who will be performing functions for the passenger during the flight [Sec. 382.38(a)(2)(ii)]; or (iii) is a passenger who is deaf, hard of hearing, or deaf-blind who is traveling with an interpreter who will be performing functions for the passenger during the flight, you must provide a seat for the care attendant next to the passenger with a disability [Sec. 382.38(a)(2)(iii)];

- If the passenger is accompanied by a service animal, you must provide a bulkhead seat if one exists or a seat other than a bulkhead seat, depending on the passenger's request [Sec. 382.38(a)(3)]; or

- If the passenger has a fused or immobilized leg, you must provide a bulkhead seat if one exists or other seat with more legroom than other seats on the side of the aisle that best accommodates the passenger. [Sec. 382.38(a)(4)]

Regardless of which type of system a carrier uses for handling its seat assignments, you must provide the required seating accommodation in the four specific situations described above, if requested. The type of seat assignment system will determine how a carrier fulfills its obligation to provide these seating assignments. You should be aware of your carrier's method for managing seat assignments and be able to explain it to passengers with disabilities and the general passenger population depending on the circumstances.

##### Advance Seat Assignments

Carriers providing advance seat assignments may employ either the seat "blocking" method or the "priority" seating method.

### Seat “Blocking” Method

Carriers may “block” an adequate number of seats to provide the seating accommodations discussed above. If carriers employ this “block” method, they must not assign these “blocked” seats to passengers other than the types of passengers entitled to a seating accommodation discussed above until 24 hours before the scheduled departure of the flight. At any time up to 24 hours before the flight, carriers using the “block” system must assign a “blocked” seat to any passenger in need of a particular seating accommodation outlined in the four situations above.

If a passenger with a disability meeting the above requirements does not make a request for a seating accommodation at least 24 hours before the scheduled departure of the flight, a carrier using the “block” system must provide the requested seating accommodation to the extent practicable, but is not required to reassign a seat assigned to another passenger in order to do so. [Secs. 382.38(b)(1)(i), (ii), and (iii)]

*Example:* A passenger with a service animal calls you, a reservation agent, several days before the scheduled departure of her flight and requests a bulkhead seat. What should you do?

The aircraft has four bulkhead seats, two of which are “blocked” under your carrier’s reservation system for passengers traveling with a service animal or passengers with an immobilized leg. Since the passenger has requested the seating accommodation more than 24 hours in advance of the scheduled departure of the flight, you must assign one of the “blocked” bulkhead seats to this passenger with the service animal.

If, on the other hand, the passenger with the service animal requests the bulkhead seat within 24 hours of the scheduled departure of her flight, you must provide the bulkhead seat to her and her service animal to the extent practicable, but you are not required to reassign a seat already assigned to another passenger in order to do so.

### “Priority” Seating Method

Carriers may designate an adequate number of “priority” seats for passengers with a disability who meet the above requirements and who request a seating accommodation. In this case, the carrier must provide notice to any passenger assigned to a “priority” seat (other than passengers with a disability entitled to a seating accommodation in one of the four situations discussed above) that they are subject to being reassigned to another seat if necessary to provide a seating accommodation required under the law. The carrier may provide this notice through its computer reservation system, verbal information provided by reservations personnel,

counter signs, seat cards or notices, frequent-flyer literature, or other appropriate means. [Sec. 382.38(b)(2)(i)] The carrier must provide a “priority” seat to a passenger with a disability entitled to such accommodation if the passenger requests the accommodation and checks in at least one hour before the scheduled departure of the flight. If all of the designated “priority” seats have been assigned to other passengers who do not have disabilities, the carrier must reassign the seats of the other passengers to accommodate the passenger with a disability entitled to a seating accommodation as discussed above. [Sec. 382.38(b)(2)(ii)]

If a passenger with a disability does not check in at least one hour before the scheduled departure of the flight, a carrier using the “priority” seating system must provide the requested seating accommodation, to the extent practicable, but is not required to reassign a seat assigned to another passenger in order to do so. [Sec. 382.38(b)(2)(iii)]

*Example:* A passenger with an immobilized leg requests a bulkhead seat and checks in two hours before the scheduled departure of the flight. Your carrier employs the “priority” seating method and has designated all four bulkhead seats on the aircraft as “priority” seating. Three of the bulkhead seats have already been assigned to three passengers traveling with small service animals who have requested the seating accommodations and checked in at least an hour before the scheduled departure of the flight. The fourth “priority” bulkhead seat has been assigned to a passenger who also checked in two hours before the flight and uses an aisle chair to enplane who prefers the bulkhead seat to a seat in a row with a movable armrest. What should you do?

The passenger who uses the aisle chair to enplane should have received notice that she has been assigned a “priority” seat. Because she is not a passenger with an immobilized leg or a passenger traveling with a service animal, she is not automatically entitled to a “priority” bulkhead seat. (However, she would be entitled to a “priority” seat in a row with a movable armrest if she requested one and checked in at least an hour before the scheduled departure of the flight.) The passenger using the aisle chair to enplane should have been notified that you might have to reassign her seat if a passenger with a service animal or a passenger with an immobilized leg requests a “priority” bulkhead seating accommodation and checks in at least one hour before the scheduled departure of the flight. Accordingly, the passenger using the aisle chair would be reassigned to a seat in a row with a movable armrest and the passenger with the immobilized leg would be assigned to the fourth “priority” bulkhead seat.

### Seating Accommodations for Passengers With a Disability Other Than One of the Four Types Listed Above

Passengers with a disability—other than the types of passengers with a disability entitled to a seating accommodation in one of the four specific situations discussed above—may identify themselves as passengers with a disability and request a seating accommodation. [Sec. 382.38(c)]

In this case, a carrier employing the “block” method is not required to offer one of the “blocked” seats when the passenger with a disability makes a reservation more than 24 hours before the scheduled departure time of the flight. However, the carrier must assign the passenger with a disability any seat not already assigned to another passenger that accommodates the passenger’s needs, even if that seat is not available for assignment to the general passenger population at the time of the request. [Secs. 382.38(c)(1)(i) and (ii)]

*Example:* A passenger with arthritis in his spine making his back extremely stiff calls a week before his flight and asks you, the reservation agent, for a bulkhead seat. He explains that it is much easier for him to access a bulkhead seat because he has to be lowered into the seat with assistance from another person. The aircraft has six bulkhead seats, two of which are “blocked” under your carrier’s reservation system for passengers traveling with service animals or passengers with immobilized legs. One of the four remaining bulkhead seats is unassigned when he calls. What should you do?

Although your carrier normally reserves such seats for its frequent flier passengers, you must assign the remaining bulkhead seat to the passenger with arthritis in his spine.

In a similar situation, a carrier using the “priority” seating method must assign the passenger with a disability any seat not already assigned to another passenger that accommodates the passenger’s needs, even if that seat is not available for assignment to the general passenger population at the time of the request. If this passenger with a disability is assigned to a “priority” bulkhead seat, he/she is subject to being reassigned to another seat if necessary to provide a seating accommodation to a passenger with a disability entitled to a seating accommodation required under the law, as discussed above. [Sec. 382.38(c)(2)(i) and (ii)]

*Example:* Suppose the same passenger, with arthritis in his spine, in Example 1 above, calls your carrier, asking for a bulkhead seat, but your carrier uses the “priority” seating method. The aircraft has six bulkhead seats, two of which are “priority” seats for passengers traveling with service animals or passengers with immobilized legs. At the time of the call, all

four of the other “non-priority” bulkhead seats have been assigned to other passengers, but the two “priority” seats are unassigned. What should you do?

You should assign the passenger with arthritis in his spine one of the two “priority” seats, but you must notify him that he may have his “priority” seat reassigned if another passenger who is entitled to a “priority” seat requests one. On the day of the flight, a passenger with a service animal and a passenger with a fused leg show up for the same flight and request bulkhead seats. In this instance, the passenger with arthritis in his spine would be informed that his “priority” seat must be assigned to one of those passengers and that he must be moved to another seat. As a matter of good customer service, he may be assigned an aisle seat because it would make it easier to access.

#### No Advance Seat Assignments

If a carrier does not provide advance seat assignments, you must allow passengers who identify themselves as passengers with a disability in need of a seating accommodation to pre-board—even before other passengers entitled to pre-board—and select the seat assignment that best meets their needs. [Sec. 382.38(d)] If a carrier wishes to comply with this requirement in another way, it must receive written approval from DOT. [Sec. 382.38(e)]

#### Other Issues Relating to Seat Assignments

You must provide a seat assignment accommodation when requested by a passenger with a disability even if the seat is not otherwise available for assignment to the general passenger population at the time of the request. [Sec. 382.38(f)] You cannot reassign the seat of a passenger with a disability who has received a seat assignment to accommodate a disability in the event of a subsequent request for the same seat unless the passenger with a disability consents to the reassignment. [Sec. 382.38(g)]

You must not deny transportation to any individual on a flight in order to provide a seat accommodation to a passenger with a disability. [Sec. 382.38(h)] You are also not required to provide more than one seat per ticket or a seat in a class of service other than the one the passenger has purchased to accommodate a passenger with a disability requesting a seating accommodation. [Sec. 382.38(i)] You must comply with all FAA safety requirements in responding to requests from individuals with a disability for seating accommodations. [Sec. 382.38(j)]

*Example:* A passenger with an economy class ticket and an immobilized leg (with a full-leg cast) arrives more than an hour before his flight is scheduled to depart. He arrives at the check-in counter, explains his

disability, and insists that he is entitled to a seat in first class to accommodate his extended leg. Your carrier uses the “priority” seating method for advance seat assignments. What should you do?

Since the passenger has identified himself as a passenger with a disability and has requested a seat assignment to accommodate him, you must provide a bulkhead seat or other seat with more legroom than other seats on the side of the aisle that best accommodates him. While first class seats generally have more legroom than economy class seats, you are not required to provide a seat in a class of service other than the one the passenger has purchased in order to accommodate him. You should explain politely and respectfully that under the law, you must seat him in (i) a bulkhead or (ii) an aisle seat in economy class on the side of the plane that would best accommodate his leg. At his subsequent request for a bulkhead seat, you must arrange to move another passenger from the bulkhead seat and give it to the passenger with the immobilized leg. Although you are not required to do so under the law, you may choose to seat him in first class.

#### C. Boarding and Deplaning Assistance

If a passenger with a disability requests assistance getting on or off an airplane or you offer assistance and the passenger consents to the type of boarding or deplaning assistance you offer, you must provide such assistance. [Sec. 382.39(a)] The type of assistance you must offer includes, as needed, services personnel and the use of wheelchairs, ramps, or mechanical lifts. [Sec. 382.39(a)(1)]

Keep in mind, however, that a wheelchair is not required or desired in all cases. A wheelchair may not be an appropriate assistive device in a particular situation. For example, a passenger with vision impairment may need a sighted guide, not a wheelchair.

Carriers must train employees to proficiency in the use of the boarding assistance equipment and procedures regarding the safety and dignity of passengers receiving boarding assistance. [Secs. 382.40(d) and 382.40a(d)] Therefore, regardless of the size of the aircraft, you should know how to use mechanical boarding assistance devices and the appropriate procedures for providing boarding assistance.

In addition, you should be aware that when level-entry boarding is not required or if a lift is temporarily not functioning, you must obtain the consent of the passenger with a disability to the means of boarding assistance. [Sec. 382.40(c)(5)] Therefore, in such situations, you should present the various options and provide only the type of boarding assistance to which the passenger consents. If the passenger does not consent to the available means

of boarding assistance, you should contact a CRO.

You cannot leave a passenger in a boarding wheelchair or other device in which the passenger is not independently mobile for more than 30 minutes. [Sec. 382.39(a)(3)]

Carriers must provide access to the airplane for a passenger with a disability by a level-entry loading bridge or accessible passenger lounges where these means are available. [Sec. 382.39(a)(2)] But depending on the size of the aircraft, carriers have different obligations to provide boarding assistance to individuals with a disability using mechanical lifts, ramps, or other suitable devices that do not require you to physically lift or carry passengers up stairs. [Secs. 382.40 and 382.40a]

#### Boarding and Deplaning Assistance Where Level-Entry Boarding Is Unavailable

For aircraft with 19 or more seats operating at airports with 10,000 or more annual enplanements where level-entry boarding is not available [Secs. 382.40(a) and 382.40a(a)], carriers must provide boarding assistance to passengers with a disability using mechanical lifts, ramps, or other suitable devices that do not require you to physically lift or carry passengers up stairs. [Secs. 382.40(b) and 382.40a(b)] In addition, carriers may require that a passenger seeking boarding assistance by use of a lift check in for the flight one hour before the scheduled departure time. [Secs. 382.40(c)(3) and 382.40a(c)(3)] You must make a reasonable effort to accommodate the passenger and provide the boarding assistance by lift even if the passenger does not check in one hour before the scheduled departure time, as long as it would not delay the flight.

Boarding assistance by mechanical lift is not required in the following situations:

- On aircraft with fewer than 19 seats;
- On float planes;
- On the following 19-seat capacity aircraft models that are unsuitable for boarding assistance by lift: the Fairchild Metro, the Jetstream 31, and the Beech 1900 (C and D Models);
- On any other 19-seat aircraft model determined by DOT to be unsuitable for boarding assistance by lift; [Sec. 382.40(c)(4)]; or
- On any widebody aircraft determined by DOT to be unsuitable for boarding assistance by lift, ramp, or other device.

If boarding assistance by lift is not required (as set forth above) or it cannot be provided for reasons beyond the

control of the carrier, *e.g.*, the mechanical lift is not functioning, then boarding assistance must be provided by any available means, except physically hand-carrying the passenger. Hand-carrying is defined as directly picking up the passenger's body in the arms of one or more carrier personnel to effect a change of level that the passenger needs to enter or leave the aircraft. [Sec. 382.39(a)(2)].

#### Except in an Emergency Evacuation, No Hand-Carrying Passengers

Under no circumstances—except for emergency evacuations—should you physically pick up a passenger with a disability to provide boarding or deplaning assistance. [Sec. 382.39(a)(2)]

*Example:* A woman asks for assistance in boarding a flight with 30 seats. General boarding for passengers is by a set of stairs on the tarmac. When she arrives at the gate and asks for boarding assistance, she is provided a boarding wheelchair, but you inform her that the mechanical lift is out of order. The passenger tells you to physically pick her up and carry her up the stairs and onto the plane because she really needs to make the flight. What should you do?

Under the law, you must not physically hand-carry the passenger onto the plane. Hand-carrying is only appropriate in the case of an emergency evacuation. Even though the law states that the passenger must consent to the type of boarding assistance and she has requested to be hand carried, you must not hand-carry her onto the aircraft. Instead, you should contact a CRO for advice about options for alternative means of boarding the passenger, *e.g.*, carrying the boarding wheelchair, with the passenger in it, up the stairs and onto the plane. Next, you and the CRO should explain to the passenger that, under the law, you are not permitted to physically hand-carry her onto the plane. In addition, you should explore other available options for assisting this passenger with boarding the aircraft, including carrying the passenger onto the plane in a boarding wheelchair or arranging for another flight with a working lift or a jet bridge. If the passenger consents to being carried onto the plane in the boarding wheelchair, you may do so. Regardless, you should notify the appropriate personnel that the mechanical lift is not functioning properly and arrange for repair as quickly as possible.

#### D. Stowing and Treatment of Personal Equipment

You should be familiar with the legal requirements for storage and treatment of personal equipment used by passengers with a disability, including ventilator/respirators, non-spillable batteries, canes, wheelchairs, and other assistive devices. [Sec. 382.41]

#### Storing Assistive Devices in the Aircraft Cabin

You must allow passengers with a disability to bring their personal

ventilators/respirators, including non-spillable batteries, on board the aircraft as long as FAA safety regulations are met. [Sec. 382.41(b)] You must permit passengers to stow their canes and other assistive devices in the cabin and close to their seats, consistent with FAA safety regulations concerning carry-on items. [Sec. 382.41(c)]

*Example:* Because a passenger with a disability arrived at the airport late, time and space constraints on board the aircraft require you to store her assistive walking device in first class, even though her seat assignment is in the back of the plane in economy class. She insists that she has the right to have her assistive walking device stored near her. She explains further that she would need this device to access and use the lavatory. What should you do?

You must permit a passenger with a disability to bring her assistive devices into the cabin as long as FAA safety regulations are met. [Sec. 382.41(b)] In addition, the rule generally requires you to allow a passenger to stow her assistive device close to her seat, consistent with FAA safety regulations concerning carry-on items. [Sec. 382.41(c)] Under the circumstances, you should reassess the storage space and consider either moving the passenger closer to her walker or the walker closer to the passenger.

You must not count assistive devices brought on board the aircraft by a passenger with a disability toward the limit on the passenger's carry-on items. [Sec. 382.41(d)] Wheelchairs and other assistive devices that cannot be stowed in the cabin must be stowed in the baggage compartment with priority over other cargo and baggage. [Sec. 382.41(f)(3)] In addition, because carriers cannot charge for facilities, equipment, or services required under the law to be provided to qualified individuals with a disability, no charge would be imposed if a wheelchair or assistive device exceeded the weight limit on checked baggage. [Sec. 382.57]

*Example:* A passenger with multiple sclerosis is one of many passengers on a flight who is informed that the flight will not be taking off because of mechanical problems. It is late at night and the carrier has announced that the passengers will be put up in a hotel for the night and rescheduled on a flight leaving the following morning. The passenger with multiple sclerosis approaches you when she hears the announcement and explains that she needs access to her checked luggage because it contains her syringe and medication for her multiple sclerosis which she must take on a daily basis. What should you do?

The passenger's syringe and medication would be considered an assistive device under the law. Under Section 382.41(f)(1), because the passenger requested the return of her assistive device, you must return it to her. As a matter of customer service, you may also advise such passengers (*e.g.*, via the carrier's web site or other consumer information materials) that the carrier recommends to all of its passengers who require such medication or other items for

medical necessity to bring a carry-on bag containing the medication or other item on board. Such medication carry-on bags would not be counted toward the passenger's carry-on baggage allotment.

#### Wheelchairs

Carriers must permit storage in the cabin of wheelchairs or components of wheelchairs, including folding, collapsible, or breakdown battery-powered wheelchairs [Sec. 382.41(e)] as follows:

- In overhead compartments and under seats consistent with FAA safety regulations for carry-on items. [Sec. 382.41(e)(1)]
- If the aircraft contains a closet or storage area of a size sufficient to accommodate a passenger's folding, collapsible, or breakdown wheelchair, the carrier must designate priority stowage space for at least one passenger's wheelchair in that area. If a passenger with a disability decides to pre-board, the passenger may stow the wheelchair in the designated storage space with priority over the carry-on items brought on board by other passengers or crew members boarding the plane at the same airport. If, on the other hand, a passenger with a disability chooses not to pre-board, the passenger may stow the wheelchair in the designated storage space on a first-come, first-served basis along with all other passengers seeking to stow carry-on items in the space. [Sec. 382.41(e)(2)]
- If the aircraft cabin does not contain a storage area of a size sufficient to accommodate a folding, collapsible, or breakdown wheelchair, you must stow the wheelchair in the cargo compartment with priority over other luggage. [Sec. 382.41(e)(3)]

#### Wheelchairs Unable To Be Stowed in the Aircraft Cabin as Carry-On

When a folding, collapsible, or breakdown wheelchair cannot be stowed in the cabin as carry-on baggage, you must ensure the timely checking and return of the passenger's wheelchair or other assistive device as close as possible to the door of the aircraft, so that the passenger with a disability can use his or her own equipment, where possible, consistent with DOT regulations concerning transportation of hazardous materials. [Sec. 382.41(f)]

If, on the other hand, a passenger with a disability requests, you should return the wheelchair or other assistive device at the baggage claim area instead of at the door of the aircraft. [Sec. 382.41(f)(1)]

A passenger's wheelchair or other assistive device must be stowed in the baggage compartment with priority over

other items and baggage. [Sec. 382.41(f)(3)] In order to ensure the timely return of a passenger's wheelchair or other assistive device, it must be among the first items retrieved from the baggage compartment. [Sec. 382.41(f)(2)] If giving priority to wheelchairs and other assistive devices results in passengers' non-assistive device-related baggage being unable to be carried on the flight, you must use your best efforts to ensure that the non-assistive device-related baggage reaches the passengers' destination within four hours of the scheduled arrival time of the flight.

#### Battery-Powered Wheelchairs

You must accept a passenger's battery-powered wheelchair, including the battery, as checked baggage unless baggage compartment size and aircraft airworthiness considerations prohibit it. [Sec. 382.41(g)]

Carriers may require that a passenger with a disability wishing to have a battery-powered wheelchair transported on a flight (including in the cabin where required) check in for the flight one hour before the scheduled departure time. [Sec. 382.41(g)(1)] You must also make a reasonable effort to accommodate the passenger and transport the wheelchair even if the passenger does not check in one hour before the scheduled departure time, as long as it would not delay the flight.

If (i) the battery on the passenger's wheelchair has been labeled by the manufacturer as non-spillable or (ii) the battery-powered wheelchair with a spillable battery can be loaded, stored, secured, and unloaded in an upright position, you must not require the battery to be removed and separately packaged. You may remove and package separately any battery that appears to be damaged or leaking. [Sec. 382.41(g)(2)]

When it is necessary to detach a battery from a wheelchair, you must provide packaging for the battery and package the battery consistent with appropriate hazardous materials regulations. [Sec. 382.41(g)(3)] You must not charge for such packaging. [Sec. 382.57]

You must not drain batteries. [Sec. 382.41(g)(4)]

If a passenger with a disability requests, you must stow a folding, breakdown, or collapsible battery-powered wheelchair in the cabin consistent with the requirements set forth above. If the wheelchair can be stowed in the cabin without removing the battery, then you must not remove the battery. If the wheelchair cannot be stowed in the cabin without removing the battery, then you must remove the

battery and stow it in the baggage compartment in the proper packaging as set forth above. In this case, you must permit the wheelchair, with the battery removed, to be stowed in the cabin.

[Sec. 382.41(g)(5)]

You must permit passengers with a disability to provide written instructions concerning the disassembly and reassembly of their wheelchairs. [Sec. 382.41(h)]

When you disassemble wheelchairs or other assistive devices for stowage, you must reassemble them and ensure their prompt return to the passenger with a disability. You must return a wheelchair or other assistive device to the passenger in the same condition in which you received it. [Sec. 382.43(a)]

On domestic flights, the normal baggage liability limits do not apply to loss, damage, or delay concerning wheelchairs or other assistive devices. Instead, the criterion for calculating the compensation for lost, damaged, or destroyed wheelchairs or other assistive devices must be the original price of the device. [Sec. 382.43(b)] Moreover, you must not require a passenger with a disability to sign a waiver of liability for damage to or loss of a wheelchair or other assistive device, although you may make notes about preexisting damage or conditions of wheelchairs or other assistive devices. [Sec. 382.43(c)]

*Example:* A passenger with a battery-powered wheelchair with a spillable battery arrived at his departure gate for his domestic flight and airline personnel there determined that the wheelchair could not be loaded, stored, secured, and unloaded in an upright position. Therefore, they directed the appropriate personnel to remove and store the battery and gate check the wheelchair. When the passenger arrives at his destination and the battery is replaced, it is done so incorrectly and the entire electronic circuit board of the wheelchair is severely damaged, rendering the wheelchair temporarily unusable. What should you do?

Upon request, you must permit passengers with a disability to provide written instructions concerning the disassembly and reassembly of their wheelchairs. As a matter of good customer service, you should apologize to the passenger for the problem and the resulting inconvenience. In addition, you should explain to the passenger that the carrier will compensate him for the damaged wheelchair in an amount up to the original purchase price of the device. If, for example, the passenger provides you with documentation that the original cost of the wheelchair was \$10,000 and verification that it cost \$2,900 to be repaired, the carrier would pay the passenger or the repair company \$2,900 to cover the cost of the wheelchair repair. In addition, paying for reasonable costs associated with the rental of a wheelchair by the passenger during the repair period could also be recovered by the passenger from the carrier.

#### E. Services in the Cabin

Within the aircraft cabin, when requested by a passenger with a disability or when offered and accepted by a passenger with a disability, you must assist the passenger in:

- Moving to and from a seat as part of enplaning and deplaning [Sec. 382.39(b)(1)];
- Preparing for eating, such as opening packets and identifying food [Sec. 382.39(b)(2)];
- If there is an on-board wheelchair, using the on-board wheelchair to enable the passenger to move to and from the lavatory which, if requested, could entail transferring the passenger from a seat to an aisle chair [Sec. 382.39(b)(3)];
- Moving to and from the lavatory, if the passenger is semi-ambulatory, not involving lifting or carrying the individual [Sec. 382.39(b)(4)]; and
- Loading and retrieving carry-on items, including mobility aids and other assistive devices stowed in the cabin [Sec. 382.39(b)(5)];

*Example 1:* A passenger using a boarding wheelchair asks for help storing her carry-on item in the overhead compartment because, it is apparent, her disability limits her ability to reach up to the overhead compartment. What should you do?

You must either assist the passenger directly or indicate that you will find the appropriate employee to assist her in stowing her carry-on bag in the overhead compartment.

*Example 2:* A passenger who walks onto the plane for an evening flight with a rolling carry-on bag asks for help lifting his bag and putting it in the overhead storage compartment. What should you do?

Since he has not identified himself as a qualified individual with a disability, you may want to ask for further clarification. Because, under the law, normally you cannot ask a passenger if he has a disability, you might ask, "Is there any particular reason you need assistance sir?" or "Could you tell me a little about your need for help?" or "Are you unable to lift it yourself?" If, for example, the passenger explains that he has multiple sclerosis and his muscles are particularly fatigued at the end of the day and therefore he needs help lifting things, you must either assist the passenger directly or indicate that you will find the appropriate employee to assist him in stowing his carry-on bag. If, on the other hand, the passenger states that he is merely tired and doesn't feel like lifting the bag, the passenger is not a qualified individual with a disability and, therefore, you are not obligated to assist him. You may politely decline to assist him, depending on the carrier's policies regarding assistance with stowing carry-on items for passengers.

You are not required to provide extensive special assistance to passengers with a disability such as:

- help with eating, for example, cutting food and feeding the passenger [Sec. 382.39(c)(1)];

- assistance within the restroom or at the passenger's seat with elimination functions [Sec. 382.39(c)(2)]; or

- provision of medical services. [Sec. 382.39(c)(3)]

You cannot require that a passenger with a disability sit on a blanket. [Sec. 382.55(b)]

#### F. Safety Briefings

##### Individual Safety Briefings

Under certain circumstances, you must provide individual safety briefings to a passenger with a disability. Federal safety regulations require you to conduct an individual briefing for each passenger who may need assistance to move expeditiously to an emergency exit. You must brief the passenger and the attendant, if any, on the routes to the appropriate exit and on the most appropriate time to move toward the exit in the event of an emergency. In addition, you must ask the passenger and the attendant, if any, the most appropriate manner of assisting the passenger. [14 CFR 121.571(a)(3)] You may offer such briefings to other passengers. [Sec. 382.45(b)(2)]

In the case of private safety briefings for passengers with a disability:

- You must conduct the briefing as inconspicuously and discreetly as possible. [Sec. 382.45(b)(3)]

- You must not require a passenger with a disability to demonstrate that the person has listened to, read, or understood the information presented, except to the extent that you or other employees impose such a requirement on all passengers with respect to the general safety briefing.

- You must not take any action adverse to a passenger with a disability on the basis the individual has not "accepted" the briefing. [Sec. 382.45(b)(4)]

##### Accommodations for Passengers Who are Deaf or Hard of Hearing

If the safety briefings are presented to passengers on video screens, carriers must ensure that the video presentation is accessible to passengers who are deaf or hard of hearing. [Sec. 382.47(b)] More specifically, carriers must implement this requirement by using open captioning or an inset for a sign language interpreter as part of the video presentation. [Sec. 382.47(b)(1)] A carrier may use an equivalent non-video alternative to this requirement only if neither open captioning nor a sign language interpreter inset could be placed in the video presentation

without so interfering with it as to render it ineffective or if it would not be large enough to be readable. [Sec. 382.47(b)(2)]

Carriers must implement these requirements by substituting captioned video materials for uncaptioned video materials as the uncaptioned materials are replaced in the normal course of the carrier's operations. [Sec. 382.47(b)(3)]

##### Timely and Complete Access to Information

Carriers must ensure that, upon request, passengers with a disability, including those who are (i) blind or visually impaired; or (ii) deaf, hard of hearing, or deaf-blind, have timely access to information being provided to other passengers, including but not limited to, information concerning ticketing, flight delays, schedule changes, connections, flight check-in, gate assignments, the checking and claiming of luggage, and aircraft changes that will affect the travel of passengers with a disability. [Sec. 382.45(c)] Passengers who are unable to obtain the information from the audio or visual systems in airports or on board must request the information from you. In other words, as a practical matter, passengers may have to identify themselves as (i) blind or visually impaired; or (ii) deaf, hard of hearing, or deaf-blind in order to obtain the information. See Chapter 7 in general and "Tips for Assisting People Who Are Blind or Visually-Impaired" and "Tips for Assisting People Who Are Deaf, Hard of Hearing, or Deaf-Blind" in particular.

#### Chapter 6: Assisting Air Travelers With Disabilities With Their Complaints

##### A. Complaint Procedures and Complaints Resolution Officials (CRO's)

##### B. Process To Resolve Complaints

##### C. General Complaint Resolution Tips

##### D. Recording, Categorizing, and Reporting Written Disability-Related Complaints Received By Carriers

##### A. Complaint Procedures and Complaints Resolution Officials (CRO's)

Carriers must (i) establish a procedure for resolving disability-related complaints raised by passengers with a disability and (ii) designate at least one CRO to be available to handle disability-related complaints at each airport the carrier serves. [Sec. 382.65(a)] Each CRO must be trained and thoroughly proficient with respect to the rights of passengers with disabilities under the ACAA and accompanying regulations. [Secs. 382.61(a)(7) and 382.65(a)(3)]

##### Availability of the CRO

Carriers must make a CRO available at all times the carrier is operating at each airport it serves. [Secs. 382.65(a)(1) and (2)] The CRO may be made available in person or by telephone. If the CRO is made available by telephone, it must be at no cost to the passenger. The CRO must be accessible via a TTY for passengers who are deaf or hard of hearing. If a passenger with a disability, or someone on behalf of a passenger with a disability, complains about an alleged violation or potential violation of the law, you must put the customer in touch with a CRO on duty. [Sec. 382.65(a)(1)] A CRO has the authority to resolve complaints by passengers with a disability on behalf of the carrier. [Sec. 382.65(a)(4)]

##### Complaints Made During the Trip

When a passenger with a disability makes a complaint to a CRO during the course of the trip (e.g., over the telephone or in person at an airport), the CRO must promptly take action to resolve the problem as follows:

- If no violation of the law has occurred yet, the CRO must take action or direct other employees to take action to ensure compliance. Only the pilot-in-command of an aircraft has final authority to make decisions regarding safety and the CRO cannot countermand a pilot's decisions regarding safety. [Sec. 382.65(a)(5)(i)]

- If a passenger complains about a disability-related issue or alleges a violation of the law that has already occurred and the CRO agrees that a violation has occurred, the CRO must provide the complaining passenger with a written statement summarizing the facts at issue and the steps, if any, the carrier proposes to take in response to the violation. [Sec. 382.65(a)(5)(ii)] This statement must be provided in person to the passenger at the airport, if possible; otherwise, it must be forwarded to the passenger within 10 calendar days of the complaint. [Sec. 382.65(a)(5)(iv)]

- If a passenger alleges a violation of the law but the CRO determines that no violation has occurred, the CRO must provide a written statement including a summary of the facts and the reasons for the determination. [Sec. 382.65(a)(5)(iii)] This statement must be provided in person to the passenger at the airport, if possible; otherwise, it must be forwarded to the passenger within 10 calendar days of the complaint. [Sec. 382.65(a)(5)(iv)]

The written statement provided to the complaining passenger must include information about the right to pursue DOT enforcement action under the law. [Sec. 382.65(a)(5)(iv)]



### Written Complaints Received After the Trip

You should be aware of your carrier's established procedure for resolving written complaints from passengers with a disability. [Sec. 382.65(b)] In addition, under the law, a carrier is not required to respond to a written complaint postmarked more than 45 days after the date of the alleged violation. [Sec. 382.65(b)(1)] Your carrier must provide a dispositive written response within 30 days of receipt of a written complaint describing a situation that would constitute a violation of the law. [Sec. 382.65(b)(3)]

You should provide all information regarding written complaints—and in general—in a polite and respectful manner as a matter of high standards of customer service.

Depending on the carrier's determination, its response to a written complaint must include the following:

- if the carrier agrees that a violation has occurred, the carrier must provide a written statement to the complaining passenger summarizing the facts and stating what steps, if any, the carrier proposes to take in response to the violation. [Sec. 382.65(b)(3)(i)]
- if the carrier denies that a violation has occurred, the written response must include a summary of the facts and the carrier's reasons under the law for making its determination. [Sec. 382.65(b)(3)(iii)]

The written statement provided to the complaining passenger must include information about the right to pursue DOT enforcement action under the law. [Sec. 382.65(b)(3)(iii)]

### Responsibilities of Employees Other Than the CRO

You should be aware that all personnel dealing with the traveling public should be trained to proficiency regarding the legal requirements and the carrier's policies concerning the provision of air travel to individuals with disabilities. [Sec. 382.61(a)(1)] These employees must receive training regarding awareness about and appropriate responses to individuals with physical, sensory, mental, and emotional disabilities. [Sec. 382.61(a)(2)]

You should be familiar with your carrier's established procedures and the CRO's duties and responsibilities with respect to resolving a complaint raised by a passenger with a disability. You should convey this information to passengers with a disability under the appropriate circumstances.

When resolving complaints from a passenger with a disability, you should keep the following in mind:

- Request assistance from a CRO immediately or assist the passenger with a disability in doing so, if the passenger requests to speak with a "supervisor" or "manager."
- Contact a CRO if you are having any difficulty providing an accommodation required by law or carrier policy to a passenger with a disability.
- Carry the information about how to contact a CRO with you at all times. Remember a CRO may be available in person or by telephone but a CRO must be available during all hours of the carrier's operation at the airport.

### B. Process To Resolve Complaints

When you receive a complaint from a passenger with a disability, there are certain requirements under the law with which you, your carrier, and a CRO must comply. Even if you call a CRO, it is important to be able to assess the situation firsthand through observation, communication, and information gathering because a CRO is not always available on site and may only be involved in resolving the complaint via telephone.

Having a consistent process for fielding these complaints will assist you in complying with those legal obligations and providing good customer service. Learning what the particular problem is, finding the applicable rule, regulation, or policy that addresses the situation, and remedying the situation by taking affirmative action are important aspects of the process.

The ACCESS checklist set forth below provides an easy way to remember how to respond to these complaints. Remember ACCESS as a thorough and useful process through which you can address the complaint or refer it to a CRO as needed.

#### ACCESS

Ask the passenger with a disability how you may assist with concerns. Listen actively and carefully to what the passenger tells you and ask for further clarification when necessary.

Call a CRO and report the complaint if you are unable to resolve the problem. If a passenger with a disability would like to contact a CRO directly, you must assist the passenger in doing so. If your carrier has an internal procedure for documenting complaints that requires CRO involvement or for documenting other types of passenger complaints, fill out the appropriate forms, if any, and provide relevant and detailed

information to satisfy that internal carrier policy.

Check this manual (and Appendix V containing the full text of Part 382) and your carrier's policies (concerning the law as well as good customer service) to identify the issue at hand. If you need assistance, ask a CRO on duty.

Evaluate the relevant provisions of this manual (and Appendix V containing the full text of Part 382) and your carrier's policies to determine the appropriate options for resolving the problem considering the following factors:

- Does the solution comply with the law?
- Does the solution comply with your carrier's policies?
- Is there a question of airline and passenger safety? (Remember, the pilot-in-command of an aircraft is the final arbiter of a safety issue.)
- Does the solution meet the needs of the passenger with a disability?
- Can the solution be implemented in a timely manner, *e.g.*, to help the passenger with a disability make the flight or receive the accommodation?

Solve the problem by providing the passenger with a disability with the information, services, or appropriate action required under the law.

Satisfy the passenger with a disability to the extent possible when complying with the law. Communicating the basis for the action taken (or not taken) to the passenger with a disability is critical. Thank the passenger for bringing the problem to your attention and ask if the passenger has any additional questions about the solution you or a CRO has provided. Ask if you are able to assist with any other concerns.

### C. General Complaint Resolution Tips

- You should familiarize yourself with this manual (and Appendix V containing the full text of Part 382) and your carrier's policies (concerning the law as well as good customer service). First and foremost, you must not violate the civil rights of passengers with a disability. In addition, you should treat passengers in a manner consistent with good customer service policy.
- You should work as quickly as possible to ensure prompt service and, at the same time, respect for the needs of passengers with a disability.
- You should be aware of your carrier's procedures for addressing complaints. You should take the time necessary to resolve the complaint while maintaining flight schedules. If an unfamiliar situation presents itself or you have any doubts or questions, you should contact your immediate

supervisor or a CRO for prompt resolution of the issue.

- You should make reasonable attempts to keep the passenger with a disability informed about your or other carrier personnel's progress with respect to resolving a complaint.

- You should avoid engaging in an argument with a passenger with a disability presenting a complaint.
- You should listen carefully and actively, evaluate appropriate options under the law and your carrier's policy, and communicate the basis for the action taken (or not taken) to the passenger with a disability in a respectful and polite manner to ensure effective complaint resolution.

- Even if you call a CRO, it is important to be able to assess the situation firsthand through observation, communication, and information

gathering because a CRO is not always available on site and may only be involved in resolving the complaint via telephone.

*D. Recording, Categorizing, and Reporting Written Disability-Related Complaints Received By Carriers*

Certificated U.S. carriers and foreign carriers<sup>1</sup> operating to, from, and in the United States using at least one aircraft with more than 60 passenger seats must record, categorize, and report written disability-related complaints received by the carrier to DOT on an annual basis. [Secs. 382.70(b) and (c)] The first annual report covers calendar year 2004 and was due to be submitted to DOT by January 25, 2005. [Sec. 382.70(d)] In addition, carriers must use the form specified in Appendix A to Part 382 when making the annual report to DOT.

See Appendix V. Carriers must develop a system for recording and collecting data regarding specific categories of written disability-related complaints that they receive according to the type of disability and the nature of the complaint. [Sec. 382.70(c)]

**Chapter 7: Interacting With People With Disabilities**

When assisting and interacting with individuals with disabilities, you should use language that gives an accurate, positive view of them. You should focus on the person first, not the disability, and avoid language that reinforces myths, stereotypes, and discrimination.

Below is a chart listing some currently acceptable terminology and terminology to avoid when addressing or referring to people with disabilities.

| Use   | Avoid   |
|---|---|
| Person with a disability .....  | Handicapped or deformed.                                      |
| Person who is deaf .....  | The deaf.   |
| Person who is blind or visually-impaired .....  | The blind; the visually-impaired.                             |
| Woman with an emotional disorder, psychiatric illness, or psychiatric disability.                         | Crazy, demented, lunatic, psycho, or maniac.                  |
| Person using a wheelchair, wheelchair user .....  | Confined to a wheelchair, wheelchair bound, or crippled.      |
| Person with AIDS or living with AIDS .....  | Afflicted with AIDS, victim of AIDS, or suffers from AIDS.    |
| Congenital disability .....   | Birth defect.   |
| Man who has cerebral palsy .....  | Afflicted with cerebral palsy or suffers from cerebral palsy. |
| Woman who has Down syndrome .....   | Mongol, mongoloid, or retarded.                               |
| Person with head injury, people who have sustained brain damage, or woman who has traumatic brain injury. | Brain damaged.  |
| Person who has a speech disorder or woman without speech .....  | Mute or dumb.   |
| Man with quadriplegia or woman who is paralyzed .....   | Crippled.   |
| Person of small or short stature .....  | Dwarf.  |
| Nondisabled .....   | Normal, able-bodied, healthy, or whole.                       |

It may not be apparent whether a person is an individual with a disability. You should provide an opportunity for a passenger to self-identify as an individual with a disability by asking if the person needs assistance and, if so, how best you can assist with those needs. Keep in mind that you cannot require an individual with a disability to accept special services, including pre-boarding.

*Some Examples of Physical Impairments [Sec. 382.5(a)(1)]:*

- Orthopedic impairment;
- Deafness (profound hearing loss);
- Hard of hearing (mild to profound hearing loss);
- Vision impairment and blindness;
- Speech disorder;
- Cerebral palsy;
- Epilepsy;
- Muscular dystrophy;
- Multiple sclerosis;
- Cancer;
- Heart disease; and

- Diabetes.
- Some Examples of Mental or Psychological Impairments [Sec. 382.5(a)(2)]:*

- Mental retardation;
- Depression;
- Anxiety disorders;
- Specific learning disabilities; and
- Brain injury.

Below is a list of general tips to consider when interacting with people with disabilities followed by tips relating to interacting with individuals with one or more of the five basic types of disabilities. These tips are aimed at ensuring that services, facilities, and other accommodations are provided to passengers with disabilities in a respectful and helpful manner.

Some of the tips relate to specific legal requirements, but most of them set forth suggestions for interacting in a way that would constitute good customer service and demonstrate a

sensitivity to the issues concerning passengers with disabilities. The following tips should be read and employed with the above qualification in mind.

*General Tips for Interacting With Individuals With Disabilities*

- Always ask.* The most effective and simplest step for you to take when you are uncertain about a passenger's needs is to ask, "May I assist you?" or "Please let me know how I can assist you." A passenger with a disability has the most information about his or her abilities, level of familiarity with the airport and airline, and needs when traveling.

- Appreciate the passenger's perspective.* Take into consideration the extra time and energy that traveling may require for a person with a disability. For example, you should realize that a person with a disability may not have the flexibility and spontaneity to react

<sup>1</sup> Foreign carriers are covered by this section only with respect to disability-related complaints

associated with any flight segment originating or terminating in the United States. [Sec. 382.70(b)].

to unexpected situations. Understand that making adjustments may take more time or may require additional attention or services for passengers with a disability.

- *Be yourself and be self-aware.* It is important to relax, be yourself, and maintain the conversational style you would use for anyone else when you are speaking with a person with a disability. Be aware of the possibility that your body language could convey discomfort or impatience; try to avoid this. Also, respect the privacy of individuals with disabilities. Asking about a person's disability can be perceived as intrusive and insensitive. It might be interpreted as placing the disability above the human being.

- *Don't make assumptions.* Don't assume that all individuals with a disability automatically need assistance. Keep in mind that if the setting is accessible, individuals with a disability would usually prefer to operate independently.

- *Emotions matter.* Acknowledge the emotions of the person in a stressful situation, e.g., frustration or disappointment. When acknowledging the emotions of others, it may be more effective to use "you" rather than "I." For example, use, "You must be frustrated by having to wait for your checked wheelchair." Not, "I completely understand how you feel, I had to wait forever at a supermarket check-out yesterday."

- *Focus on the person, not the disability.* The emphasis is on the person first, not the disability.

- *Keep the passenger informed.* When providing an accommodation to a passenger with a disability, keep the passenger updated about the progress or timing in connection with such accommodation.

- *Knowledge is useful.* Be aware of the services, information, and resources available to a person with a disability who asks about a particular accommodation. If you don't know the answer to the question, treat the individual with respect and courtesy and say, "Let me find out for you." Don't make guesses about what accommodations or services to provide a person with a disability. When explaining requirements under the law to a passenger with a disability, avoid rendering legal advice or counseling the person in any way.

- *The passenger is the expert.* Offer assistance only if the passenger appears to need help. If the passenger asks for help, ask how you can assist and listen to the passenger's response and instructions before you act. If you have any doubts as to how to assist a

passenger with a disability, you should ask the passenger for guidance before acting. Avoid being overly enthusiastic about helping and always think before you speak and act when offering assistance.

- *Respect personal space.* Be sensitive about physical contact. Avoid patting an individual with a disability or touching the individual's wheelchair or cane. People with disabilities consider their assistive devices to be part of their personal space.

- *Speak directly to the passenger.* Always make eye contact and speak directly to a person with a disability, not the person's companion, attendant, or interpreter.

- *Treat each passenger as an individual.* It is important to recognize that people with disabilities may vary in their ability to perform certain tasks. Individuals with a disability are best able to assess and gauge what they can and cannot do in a particular situation.

It is always important to keep the above tips in mind when assisting and communicating with passengers with disabilities. As a practical matter though, you will need to be aware of different considerations depending on the type of disability the passenger self-identifies as having.

Below are five basic types of disabilities with a list of considerations to keep in mind when you are communicating with and accommodating passengers with each type of disability. Even though these five types of disabilities are set forth here, each passenger with a disability should be considered as an individual with individual needs. It is important for you to communicate with each passenger about that particular passenger's needs under the circumstances and to avoid making assumptions about the passenger's needs. The five basic types of disabilities addressed below are: People who are blind or visually-impaired; people who are deaf, hard of hearing, or deaf-blind; people with mobility disabilities; people who have difficulty speaking, and people with disabilities that are not apparent (e.g., a cognitive or emotional disability, diabetes, etc.).

#### *Tips for Assisting People Who Are Blind or Visually-Impaired*

##### Communication

- Only offer assistance if it seems appropriate. Ask the person if you can be of assistance and, if so, how you can help.

- Identify yourself by name and job responsibility first.

- Always communicate using words rather than relying on gestures, facial

expressions, or other nonverbal communication. For example, tell the passenger the gate number and the directions to get to the gate. If you are handing a boarding pass to a blind passenger, explain that you have the person's boarding pass and that you would like to place it directly in the person's hand. Always communicate in words what you are doing, e.g., waiting to receive confirmation of a reservation, and identify any items you are giving to the passenger, e.g., a credit card, tickets, voucher, etc.

- Make sure a passenger who is blind is made aware of all relevant information as it becomes available to all passengers. For example, if a boarding time is changed and the new boarding time is posted visually at the gate, you must inform the person orally. Advise the passenger when you are leaving the area and answer any questions the person has before you do.

- If individual safety briefings are required, conduct them discreetly with respect for the privacy of the person who is blind or visually-impaired.

- If a person uses a term relating to the condition of being blind or visually-impaired that you are not familiar with or that you don't understand, ask the person to tell you what his or her needs are. If you need additional information, you should contact the CRO to discuss how best to proceed. In addition, be aware that your carrier may provide additional training to educate you about the different types of disabilities in order to enhance your ability to accommodate passengers with disabilities.

- Keep in mind that the special service request (SSR) field of the passenger name record (PNR) may contain information concerning a passenger who is blind or visually impaired.

##### Guiding a Person

- Never take the arm of a person who is blind without asking first, because the person could lose balance. In addition, if you don't ask first, the person who is blind could perceive a lack of respect because he or she was not given the option of receiving the assistance. Once you ask if you can offer your arm, let the person who is blind take it. You may direct the person's arm to a railing or the back of a chair to assist with seating.

- Walk approximately a half step ahead of the person if you are serving as a guide through the terminal. When encountering stairs, escalators, moving walkways, revolving doors, etc., give the person who is blind the option to choose whether to use the facility or conveyance. For example, you might

say, "We can just keep walking or use the moving sidewalk. Which would you prefer?" Never assume that a person who is blind cannot use these devices because of blindness. Instead, offer the individual the freedom and flexibility to choose which devices and facilities he or she would like to use. Describe the environment in detail as you go and ask the person if he or she would like you to point out airport amenities such as restaurants, shops, ATM machines, restrooms, airline club lounges, displays, or other terminal facilities. Note any obstacles and their location in your path. If you need to provide a warning, be as specific as possible. Offer to orient the person to the gate or other terminal area in case he or she would like to walk around, e.g., you could say, "All even numbered gates are on our right when walking from security and odd numbered gates are on the left."

- When you are done guiding the person to his or her destination, ask him or her if any other assistance is needed. Only if the person who is blind has requested should you inform other passengers or carrier personnel of the individual's need for additional assistance.

- Be aware that many people who are blind prefer to walk rather than use wheelchairs, electric carts, etc. You may not require a person who is blind to use a wheelchair and, if requested, you must provide a walking guide for the person who is blind.

#### Service Animals and Assistive Devices

- Never pet or distract a service animal accompanying a person who has a disability. Don't separate passengers who are blind from their service animals.

- Don't move a person's cane or assistive device if the person has placed it on the ground near a seat. If you ask and receive permission, you may help the passenger collect things if need be, e.g., carry-on items, jackets.

#### *Tips for Assisting People Who Are Deaf, Hard of Hearing, or Deaf-Blind*

##### Communication

- Remember that people who are deaf, hard of hearing, or deaf-blind have various ways of communicating, e.g., sign language, speech/lip reading, TTY, hearing aid or implant. A person's deafness can go unnoticed unless the person self-identifies as a person who is deaf, hard of hearing, or deaf-blind.

- When speaking, look directly at the person who is deaf or hard of hearing. The person may use speech/lip reading as a method of communicating. Use normal lip movement. Use a normal

tone of voice when speaking to a person who is deaf or hard of hearing. Don't shout because shouting distorts the sound, words, and lip movement. Sometimes you may need to rephrase your message because many words have the same lip movement, e.g., 15 and 50 have the same lip movement. If writing a note, make the message short and simple.

- Identify yourself by name and job responsibility first.

- If individual safety briefings are required, conduct them discreetly with respect for the privacy of the person who is deaf, hard of hearing, or deaf-blind.

- Make sure a passenger who is deaf, hard of hearing, or deaf-blind receives all relevant information as it becomes available to all passengers. For example, if a boarding time is changed and the new boarding time is announced, you must inform the person through an accessible method of communicating.

- If a person uses a term relating to the condition of being deaf, hard of hearing, or deaf-blind that you are not familiar with or that you don't understand, ask the person to tell you what his or her needs are. If you need additional information, you should contact the CRO to discuss how best to proceed.

- A deaf-blind person may communicate through the printing on palm method, an alternative to using sign language. This method involves "writing" with your fingertip on the palm of the deaf-blind person's hand. Use the fleshy part of your fingertip, not your nail. Always use all upper case letters and use the same reference point for each letter. More specifically, hold the deaf-blind person's hand the same way each time, so the top and bottom letter falls in the same place. Make sure the words you print are "right side up" for the person receiving the message. Write as large as possible and start in the upper left for a "W" and finish in the upper right. Use the entire palm area for each letter. Use one stroke for both the letter "I" and the number "1". The difference will be obvious from the context of what you are spelling. When you finish a word, "wipe it off" using the palm of your hand. This action indicates that you have finished one word and you are beginning a new word.

- Keep in mind that the special service request (SSR) field of the passenger name record (PNR) may contain information concerning a passenger who is deaf, hard of hearing, or deaf-blind.

#### Guiding a Person Who Is Deaf-Blind

- Touch the person gently and offer your arm. Let the person take your upper arm near your body; this way he or she can feel the change in gait as you approach different barriers and prepare for them. Don't take or grab the arm of the person who is deaf-blind (particularly the arm with which the person is holding a cane or guide dog harness) and don't push him or her along. If the person has a guide dog, go to the side opposite the service animal and offer your arm (usually the person's right side). Remember the person who is deaf-blind cannot hear you. Therefore, information regarding obstacles, stairs, etc. must be given tactually. Deaf-blind people often have poor balance so it is helpful to offer a steady hand to aid in orientation. Never leave a deaf-blind person in an open space, place his or her hand on a wall, post, railing, or whatever is available.

#### Service Animals

- Never pet or distract a service animal accompanying a person who has a disability. Don't separate passengers who are deaf, hard of hearing, or deaf-blind from their service animals.

#### *Tips for Assisting People Who Have Mobility Disabilities*

##### Communication

- If a person uses a term to describe a mobility disability that you are not familiar with or that you don't understand, ask the person to tell you what his or her needs are. If you need additional information, you should contact the CRO to discuss how best to proceed.

- If individual safety briefings are required, conduct them discreetly with respect for the privacy of the person with a mobility disability.

- When having a long conversation with a person who is using a wheelchair, stoop down or sit nearby so that you are closer to eye level.

#### Wheelchairs and Other Assistive Devices

- Be aware of the types of wheelchairs and assistive devices used by people with mobility disabilities when traveling. You must be able to provide information to people about the different types of wheelchairs, services, and other equipment provided or accommodated by your carrier on the particular flight.

- Understand the proper function and storage of the different types of wheelchairs and assistive devices. Ask the person with the mobility disability the best way to handle the device.

- Consider keeping information handy about businesses providing wheelchair repair in the area in case a person with a mobility disability needs the information.

#### Assisting With Transfers and Movement Through Terminal

- If you must transfer a person with a mobility disability from an aisle chair to a seat on the aircraft, or perform any other kind of transfer, explain the transfer procedures and listen to any instructions or preferences from the person before undertaking the transfer.

- Be aware that, under the law, you can never physically hand-carry a person with a mobility disability (even if both of you are willing) except in an emergency evacuation situation.

- When providing transportation between gates, ask the person with the mobility disability if the person would prefer to be pushed or not. If the answer is yes, use elevators and avoid escalators and moving walkways. When maneuvering through the terminal, say, "Excuse us." Not, "Excuse me."

- Be aware that, under the law, carriers are not permitted to charge passengers with disabilities for services or equipment required by part 382. If, however, a passenger with a disability voluntarily offers to tip you for providing a service, you should consult your carrier's policy to determine whether you can accept it.

#### Service Animals

- Never pet or distract a service animal accompanying a person who has a mobility disability. Don't separate passengers with a mobility disability from their service animals.

#### *Tips for Assisting People Who Have Difficulty Speaking*

##### Communication

- Ask the person how he or she prefers to communicate.
- A pencil and paper may be okay for short conversations.
- If you do not understand something that is said, tell the person you don't understand and ask the person to repeat.
- Be patient, it may take a while to communicate.
- Let the individual speak without attempting to finish his or her sentence.
- To obtain information quickly, ask short questions that require brief "yes" or "no" answers.
- Don't shout.
- Difficulty speaking does not indicate a lack of intelligence.

#### *Tips for Assisting People Who Have Disabilities That Are Not Apparent*

##### Communication

- Do not make assumptions about the needs of people if their behavior appears to be unusual to you. Cognitive disabilities may cause people to reason, draw conclusions, or respond more slowly. People with cognitive disabilities may appear easily distracted. Depending upon the disability, the person may understand materials in written form or through a verbal explanation. They may also find the background noise of a busy airport terminal extremely distracting.

- Disregard any speech impairments or physical tics by being patient and aware of your own body language and facial expressions that could convey your own discomfort.

- If individual safety briefings are required, conduct them discreetly with respect for the privacy of the person with a disability that is not apparent. Similarly, if there is a concern that the person is not medically stable enough for air travel, conduct the inquiry in a discreet manner and involve the CRO, if necessary.

- If a person with a disability that is not apparent uses a term to describe a disability that you are not familiar with or that you don't understand, ask the person to tell you what his or her needs are. If you need additional information, you should contact the CRO to discuss how best to proceed.

##### Service and Emotional Support Animals

- Be aware that people who have disabilities that are not apparent may travel with emotional support animals or other service animals. Never pet or distract a service animal accompanying a person who has a disability that is not apparent. Don't separate passengers from their service or emotional support animals.

##### Indices

[Final guidance document will include an Alphabetical Index and a Part 382 Index]

#### **Appendix I—Tips for Air Travelers With Disabilities**

##### **Tips for Air Travelers With Disabilities**

There are some commonly used accommodations, facilities, and services that carriers are required to make available to passengers with disabilities. Appendix I sets forth a list of tips or general guidelines for air travelers with disabilities to keep in mind that relate to these commonly used accommodations, facilities, and services. Therefore, the "you" referred to herein is an air traveler with a disability or air travelers

with disabilities. Below are some specific tips.

##### *Ask Questions and Provide Instructions*

Know what to ask carrier personnel. You can ask for and carrier personnel must be able to provide information about aircraft accessibility, seating and movable armrests, lavatory accessibility, boarding options, and storage facilities on board, among other things.

Although advance notice is not generally required, understand that providing detailed information about the accommodations you need in advance of travel will assist carrier personnel in providing those accommodations in a correct and timely manner.

If you are transferring planes, you may want to investigate whether your trip involves more than one carrier. If so, contact each carrier to determine whether it is able to fully accommodate you. Keep in mind that carriers might provide such optional accommodations on their "mainline" flights only, not on the flights operated by their smaller code-share affiliates. For example, some carriers do not provide medical oxygen on board. Don't assume that by communicating with the carrier for the first leg of your trip, other carriers handling the rest of the journey are fully briefed and able to accommodate you. Similarly, when booking reservations online, you may want to consider contacting each carrier by telephone to determine the carrier's individual policies and to provide and receive specific information to ensure your needs are met for each leg of your journey.

If you are receiving assistance with transportation between gates by ground wheelchair, remember to instruct the personnel assisting you on your specific needs, e.g., whether or not you would like the airline employee or contractor to push you and the ground wheelchair through the terminal. Although in most instances you are not obligated to self identify as a passenger with a disability, keep in mind that conveying certain information or providing some guidance will permit carrier personnel to assist you better.

Directing carrier personnel to remove footrests (if possible) and other removable parts of personal wheelchairs and stow them in the cabin may help to reduce the potential for damage to the wheelchair while it is stowed in the cabin or in the cargo hold.

##### *Boarding Assistance*

When communicating to carrier personnel about your need for boarding assistance, be as specific as possible about the type or level of boarding assistance you require. More specifically, if, for example, you are completely immobile, ask carrier personnel to provide a wheelchair to transport you to and from the gate, a lift (if necessary), and assistance transferring from an aisle chair to a seat. If, for example, you are able to walk short distances, but cannot ascend and descend steps, ask carrier personnel to provide a wheelchair for longer distances to and from the aircraft and a lift (if necessary). If, for example, you can ascend and descend stairs and can walk shorter distances but

have difficulty walking longer distances, ask carrier personnel to provide a wheelchair or electric cart for longer distances to and from the aircraft.

Carrier personnel are not permitted to physically hand-carry a passenger with a disability on or off a plane, except in the case of an emergency evacuation. Keep in mind that if none of the options for boarding a particular flight is acceptable to you, you may have to wait for another flight or alter your travel plans.

#### *Carrying Assistive Devices and Keeping Them Near You*

Carrying medicine or other assistive devices like syringes as a carry-on item that you may need in the case of a flight cancellation or a missed flight may be a good idea. At times, passengers get separated unexpectedly from checked baggage. If you do decide to carry medication or other assistive devices with you on board, the items cannot be counted towards your carry-on baggage limit.

You are entitled to keep your assistive device near you on board as long as it does not interfere with safety requirements.

#### *Carry Information and Useful Documentation*

Bringing photocopies of instructions about the assembly and disassembly of wheelchairs and other assistive devices when you access air transportation may be a good idea. You can provide that information to carrier personnel storing or checking your wheelchair or assistive device. Attaching a laminated set of brief instructions to a wheelchair itself may also be a good idea in the event that your wheelchair is disassembled or reassembled in a secure area to which you do not have access.

Bringing photocopies of receipts, warranties, or other product information concerning a wheelchair or assistive device may be useful if the item is lost or damaged in transit. It might help with locating a repair option or processing a claim for liability against the carrier responsible for the loss or damage.

#### *Complaints*

Be aware that a Complaint Resolution Official (CRO) must be made available to you if you ask to speak with a manager or supervisor about a disability-related complaint. A CRO may be made available in person or by telephone. Passengers who are deaf or hard of hearing must be permitted to communicate with a CRO via a TTY on request.

If you make a written complaint, you should state whether a CRO was contacted when the matter arose and, if so, include the name of the CRO and the date of the contact, if available, and any written response received from the CRO.

#### *Familiarize Yourself With the Law*

Knowledge of the Air Carrier Access Act (ACAA) and its implementing regulations (14 CFR part 382) will permit you to be able to ask the right questions and share the most useful information with carriers. Some passengers with disabilities bring a copy of the regulations with them when they access air transportation in order to have the

primary resource close at hand. Carriers must maintain a copy of the regulations at each airport they use. Therefore, if you are at an airport and have a question about the regulations, you may ask to review them and the carrier must provide them.

#### *Individual Safety Briefings*

You may receive an individual safety briefing under certain circumstances. If so, you should be provided an accessible safety briefing and it must be performed in a discreet manner. Keep in mind that you may need to provide information to carrier personnel to ensure that the individual safety briefing is accessible to you.

#### *Limitations on Accommodations*

Carrier personnel are expressly prohibited from performing certain tasks. For example, carrier personnel cannot physically hand-carry you on or off an airplane except in an emergency evacuation. In addition, while on board, carrier personnel are not required to administer medication to you, feed you, or accompany you into the lavatory to assist you.

#### *Pre-Boarding as an Option*

Although you are not required to pre-board, choosing to take advantage of a pre-boarding opportunity may assist you in securing a seating accommodation when a carrier does not provide advance seat assignments. In this situation, as a passenger with a disability, you may choose to pre-board before all other passengers. You can select a seat that best meets your needs if you have taken advantage of the opportunity to pre-board.

Pre-boarding may also permit you to secure the allotted stowage for your wheelchair or assistive device or it may permit easier access to overhead compartments if you are stowing your assistive device or parts of your wheelchair onboard.

#### *Safety Always Considered*

You should keep in mind that carriers are obligated to take the safety of all passengers into consideration when making decisions about accommodations for passengers with disabilities. At times, safety requires placing certain limitations on accommodations, *e.g.*, a service animal cannot block the aisle or an exit.

#### *Seating Assignments*

When requesting a particular seat assignment, it is useful to be as specific as possible about the type of seat that will meet your needs as a passenger with a disability. For example, instead of merely asking for an "accessible" seat, it is more helpful to provide some details about your specific needs, *e.g.*, ask for a bulkhead seat or an aisle seat with a movable armrest. This way, carrier personnel can determine the most appropriate seating accommodation for you.

#### *Service Animals*

It is not required under the law to provide advance notice if you are traveling with a service animal. However, in order to guarantee your seat assignment, you should be aware that, depending on whether the carrier provides advance seat assignments

and the type of seating method it uses, it may have a policy requiring passengers with a disability (i) to request a particular seat assignment 24 hours in advance of the departure of the flight or (ii) to check in at least an hour before the departure of the flight. Carriers are obligated to make a good faith effort to accommodate you and your service animal regardless of whether you comply with the carrier's advance seat assignment policy and/or advance check-in requirement. Keep in mind that requesting your seat assignment well in advance of the flight may permit you to secure the specific seat assignment you would like with the least amount of waiting, inconvenience, or hassle to you.

#### *Resources for Air Travelers with Disabilities DOT Web Site*

DOT posts useful information for all consumers, including air travelers with disabilities, on its Web site at <http://airconsumer.ost.dot.gov>. Click on "Travel Tips and Publications." The following publications are useful for air travelers with disabilities: Plane Talk—Passengers with Disabilities, Fly Rights, and New Horizons: Information for the Air Traveller with a Disability.

Air travelers with disabilities can also access recent DOT enforcement orders to review DOT determinations involving the ACAA and Part 382 by going to <http://www.dot.gov> and clicking on "Dockets and Regulations." See Appendix III for additional instructions for searching this data base of DOT enforcement orders and for a chart listing those enforcement orders related to the ACAA.

#### *DOT Hotline*

The toll free telephone hotline system that provides general information about the rights of air travelers with disabilities, responds to requests for information, and assists air travelers with time-sensitive disability-related issues. Members of the public may call 1-800-778-4838 (voice) or 1-800-455-9880 (TTY) from 7 a.m. to 11 p.m. eastern time, seven days a week, to receive assistance regarding air travel by individuals with disabilities.

#### *Carriers' Web Pages and Reservations Personnel*

Always check these resources when seeking information about services and equipment when accessing air transportation.

## **Appendix II—Airline Management-Related Issues**

### **Airline Management-Related Issues**

Appendix II highlights provisions of the ACAA and the accompanying regulations outlining specific responsibilities of management of carriers, *i.e.*, requirements to be implemented by management employees as opposed to personnel who deal with the traveling public, including passengers with a disability. In places, these are overlapping responsibilities and cross-references will be made to specific sections of this manual.

#### *Discrimination Is Prohibited*

Management of carriers are required to ensure that the carrier (either directly or

indirectly through its contractual, licensing, or other arrangements for provision of air transportation) does not discriminate against qualified individuals with a disability by reason of such disability. [Sec. 382.7(a)(1)] In addition, management of carriers should be aware that they are responsible for compliance with the ACAA and part 382 not only by their own employees, but also by employees of any company or entity performing functions on behalf of the carrier.

More specifically, carriers cannot require a passenger with a disability to accept special services, e.g., pre-boarding, not requested by the passenger. [Sec. 382.7(a)(2)] Carriers cannot exclude a qualified individual with a disability from or deny that individual the benefit of air transportation or related services that are available to other individuals, even if there are separate or different services available for passengers with a disability, except as provided by the ACAA and part 382. [Sec. 382.7(a)(3)] Carriers cannot take actions adverse to passengers with a disability if they assert their rights under the ACAA and part 382. [Sec. 382.7(a)(4)]

Carriers cannot limit the number of passengers with a disability on a given flight. [Sec. 382.31(c)] Carriers must modify policies, practices, and facilities as necessary to ensure nondiscrimination consistent with the standards of Section 504 of the Rehabilitation Act, as amended. Carriers are not required to make modifications that would constitute an undue burden or would fundamentally alter their program. [Sec. 382.7(c)]

#### *Refusal of Transportation*

Carriers cannot refuse transportation to a qualified individual with a disability solely because the person's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience others. [Sec. 382.31(b)] Carriers must not refuse to provide transportation to a passenger with a disability on the basis of his or her disability unless it is expressly permitted by the ACAA and part 382. [Sec. 382.31(a)]

#### *Safety Considerations*

The ACAA does not require air carriers to disregard applicable FAA safety regulations. [Sec. 382.3(d)]

Carriers may refuse to provide transportation to any passenger on the basis of safety and if carriage would violate FAA regulations. However, when carriers exercise this authority, they must not discriminate against a passenger with a disability on the basis of disability. [Sec. 382.31(d)]

#### *Written Explanation for Refusal of Transportation*

When a carrier refuses to provide transportation to a passenger on a basis relating to disability, the carrier must specify in writing to the passenger the basis for the determination within 10 days of the refusal of transportation. [Sec. 382.31(e)] In the situation where refusal of transportation is based on safety concerns, the written notice must include the carrier's reasonable and specific basis for its opinion that transporting the passenger would be inimical to the safety of the flight.

#### *No Charge for Accommodating Passengers With a Disability*

Carriers cannot impose charges for providing facilities, equipment, or services that are required by the ACAA and its accompanying regulations for passengers with a disability. [Sec. 382.57]

#### *Indirect Air Carriers*

If an indirect air carrier provides facilities or services for passengers that are covered for other carriers by Sections 382.21 through 382.55, the indirect air carrier must do so in a manner consistent with those regulations. [Sec. 382.7(b)]

#### *Contractors and Travel Agents*

Carriers must receive assurances from their contractors who provide services, including travel agents (except non-U.S. citizens providing services outside the U.S.), that they will not discriminate on the basis of disability when providing such services and include a clause with that assurance in their contracts. [Sec. 382.9(a)] Similarly, their contracts must contain a clause stating that contractor employees will comply with directives issued by CRO's. [Sec. 382.9(b)]

#### *Accessibility of Airport Facilities*

All terminal facilities and services owned, leased, or operated by a carrier at a commercial service airport, including parking and ground transportation, must comply with the Standards for Accessible Design under the Americans with Disabilities Act. [Sec. 382.23(e)] See also 49 CFR part 37, Appendix A. Carriers must ensure that these terminal facilities and services are accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.<sup>1</sup> [Sec. 382.23(b)] For example, carriers must ensure that there is an accessible path between the gate and the boarding area. [Sec. 382.23(c)]

Contracts or leases between carriers and airport operators concerning the use of airport facilities must set forth the respective responsibilities of the parties for the provision of accessible facilities and services to individuals with disabilities as required by law. [Sec. 382.23(f)]

Carriers must not (i) restrict the movements of individuals with disabilities in terminals; (ii) require them to remain in a holding area or other location in order to receive assistance; or (iii) mandate separate treatment for individuals with disabilities except as required or permitted under part 382. [Sec. 382.55(c)]

#### *Advance Notice and Reservation System*

Carriers' reservation and other administrative systems must ensure that when advance notice is provided by a passenger with a disability as provided by the ACAA and its implementing regulations (see Ch. 3, Section A), the notice is recorded and properly transmitted to operating

<sup>1</sup> Compliance with the requirements applying to places of public accommodation under Department of Justice (DOJ) regulations implementing Title III of the Americans with Disabilities Act (ADA) is sufficient for compliance under the ACAA and part 382 with respect to airport terminal facilities and services. [Sec. 382.23(b)].

employees responsible for providing the accommodation about which notice was provided. [Sec. 382.33(d)]

#### *Service Animals*

Regardless of your carrier's policies with respect to pets, carriers are required by law to permit passengers with a disability to be accompanied by service animals in the cabin. [Sec. 382.55] See also Ch. 3, Section D and Appendix VI.

#### *Aircraft Accessibility*

When considering ordering, purchasing, or leasing aircraft, management of carriers should keep in mind that the following features are required for aircraft *ordered* by the carrier after April 5, 1990, or *delivered* to the carrier after April 5, 1992. In addition, different size airplanes must be equipped with different features according to the law. For example, aircraft with:

- 30 or more passenger seats must have movable aisle armrests on at least half of the aisle seats where it is feasible and it does not interfere with safety [Sec. 382.21(a)(i) and (ii)];

- 100 or more passenger seats must have priority storage space within the cabin to stow at least one passenger's folding wheelchair [Sec. 382.21(a)(2)] and DOT has interpreted that to mean a space at least 13 inches wide, 36 inches high, and 42 inches long;

- More than one aisle in which lavatories are provided must include at least one lavatory accessible to passengers with a disability accessing the lavatory with an on-board wheelchair [Sec. 382.21(a)(3)];

- More than 60 passenger seats having an accessible lavatory must be equipped with an on-board wheelchair [Sec. 382.21(a)(4)(i)]; and

- More than 60 passenger seats having an inaccessible lavatory must be equipped with an on-board wheelchair when a passenger with a disability informs the carrier (providing advance notice under Sec. 382.33(b)(8)) that he/she can use an inaccessible lavatory but cannot reach the lavatory from his or her seat without the use of an on-board wheelchair. [Sec. 382.21(a)(4)(ii)]

Requirements relating to retrofitting and replacing features to ensure accessibility as well as providing on-board wheelchairs are covered by other specific provisions. [Secs. 382.21(b) and (c)] However, any replacement or refurbishing of the aircraft cabin must not reduce existing accessibility to a level below that specified under the law. [Sec. 382.21(e)] Carriers must maintain aircraft accessibility features in proper working order. [Sec. 382.21(f)]

#### *Seating Accommodations*

Under certain circumstances, if a passenger self-identifies as a passenger with a disability, carriers must provide seating accommodations. [Sec. 382.38(a)] In order to provide these seating accommodations and other seat assignment requests from passengers with a disability, carriers may implement a reservation system to provide for advance seat assignments. If a carrier provides advance seat assignments, it may employ either the seat "blocking" method or



the "priority" seating method. Each method requires some advance notice on the part of the passenger with a disability in order to guarantee the seating accommodation. [Secs. 382.38(b) and (c)]

Management of carriers should select an adequate reservation system to meet its needs, ensure proper administration of the reservation system, and provide employee training with respect to the reservation system and the requirements under the law for providing seating accommodations for passengers with disabilities.

If carriers do not employ a system for advance seat assignments, if a passenger with a disability self-identifies, the passenger must be allowed to pre-board the aircraft and select a seat to accommodate a disability. [Sec. 382.38(d)]

Carriers are not required to provide more than one seat per ticket or a seat in a class of service other than the one the passenger has purchased to accommodate a passenger with a disability in need of a seat assignment to accommodate his or her disability. [Sec. 382.38(i)]

Carriers must comply with all FAA safety requirements in responding to requests from individuals for seat assignment accommodations. [Sec. 382.38(j)]

#### *Services and Equipment*

##### *Boarding Assistance in General*

If a passenger with a disability requests assistance getting on an airplane or carrier personnel offer assistance and the passenger consents, a carrier must provide such assistance with boarding. [Sec. 382.39(a)] The type of assistance carriers must offer includes, as needed, services personnel and the use of wheelchairs, ramps, or mechanical lifts. [Sec. 382.39(a)(1)]

Carriers must provide access to the airplane for passengers with a disability by level-entry loading bridges or accessible passenger lounges where these means are available. [Sec. 382.39(a)(2)] Depending on the size of the aircraft, carriers have different obligations to provide boarding assistance to individuals with a disability using mechanical lifts, ramps, or other suitable devices that do not require lifting or carrying passengers up stairs. [Secs. 382.40 and 382.40a] See also Ch. 5, Section C.

Carriers must train to proficiency in the use of the boarding assistance equipment and procedures regarding the safety and dignity of passengers receiving boarding assistance. [Secs. 382.40(d) and 382.40a(d)]

##### *Storing Wheelchairs and Other Assistive Devices in the Cabin*

Carriers must allow passengers with a disability using personal ventilators/respirators to bring their equipment, including non-spillable batteries, on board the aircraft as long as FAA safety regulations are met. [Sec. 382.41(b)] Carriers must permit passengers to stow their canes and other assistive devices in the cabin and close to their seats, consistent with FAA safety regulations concerning carry-on items. [Sec. 382.41(c)]

Carriers must not count assistive devices toward the limit on carry-on items when a passenger with a disability brings an assistive

device on board the aircraft. [Sec. 382.41(d)] Wheelchairs and other assistive devices that cannot be stowed in the cabin must be stowed in the baggage compartment with priority over other cargo and baggage. [Sec. 382.41(f)(3)] In addition, because carriers cannot charge for facilities, equipment, or services required under the law to be provided to qualified individuals with a disability, no charge would be imposed if a wheelchair or assistive device exceeded the limit on checked baggage. [Sec. 382.57]

Carriers must permit the in-cabin storage of wheelchairs or components of wheelchairs, including folding, collapsible, or breakdown battery-powered wheelchairs. [Sec. 382.41(e)] In addition, aircraft with 100 or more passenger seats (ordered after April 5, 1990, or delivered after April 5, 1992) must have a priority space in the cabin designated for stowage of at least one passenger's folding wheelchair. [Sec. 382.21(a)(2)]

##### *On-Board Wheelchairs*

When required, on-board wheelchairs must be equipped with specific features and be designed to be compatible with the maneuvering space, aisle width, and seat height of the aircraft on which they are to be used, and to easily be pushed, pulled, and turned in the cabin environment by carrier personnel. [Sec. 382.21(a)(4)(iii)]

##### *Wheelchairs Unable To Be Stowed in the Cabin as Carry-On*

When a folding, collapsible, or break-down wheelchair cannot be stowed in the cabin as carry-on baggage, carriers must ensure the timely checking and return of the passenger's wheelchair or other assistive device as close as possible to the door of the aircraft. [Sec. 382.41(f)]

In order to ensure the timely return of a passenger's wheelchair or other assistive device, carriers must maintain a baggage storage system so that the wheelchair or other assistive device must be among the first items retrieved from the baggage compartment [Sec. 382.41(f)(2)] and it must be stowed in the baggage compartment with priority over other items and baggage. [Sec. 382.41(f)(3)]

##### *Battery-Powered Wheelchairs*

Carriers must accept a passenger's battery-powered wheelchair, including the battery, as checked baggage unless baggage compartment size and aircraft airworthiness considerations prohibit it. [Sec. 382.41(g)]

Carriers may require that a passenger with a disability wishing to have a battery-powered wheelchair transported on a flight (including in the cabin) check in for the flight one hour before the scheduled departure time. [Sec. 382.41(g)(1)]

If (i) the battery on the passenger's wheelchair has been labeled by the manufacturer as non-spillable or (ii) the battery-powered wheelchair with a spillable battery can be loaded, stored, secured, and unloaded in an upright position, carriers must not require the battery to be removed and separately packaged. Carrier personnel may remove and package separately any battery that appears to be damaged or leaking. [Sec. 382.41(g)(2)]

When it is necessary to detach a battery from a wheelchair, carriers must provide

packaging for the battery and package the battery consistent with appropriate hazardous materials regulations. [Sec. 382.41(g)(3)]

##### *Liability for Loss or Damage*

On domestic flights, the baggage liability limits do not apply for liability for loss, damage, or delay concerning wheelchairs or other assistive devices. Instead, the criterion for calculating the compensation for lost, damaged, or destroyed wheelchairs or other assistive devices must be the original price of the device. [Sec. 382.43(b)] Carrier personnel must not require a passenger with a disability to sign a waiver of liability for damage to or loss of a wheelchair or other assistive device. [Sec. 382.43(c)] Carrier personnel may make notes about preexisting damage or conditions of wheelchairs or other assistive devices.

##### *Individual Safety Briefings and Timely and Complete Access to Information*

Carriers must ensure that, upon request, passengers with a disability, including those who are blind or visually impaired or deaf, hard of hearing, or deaf-blind, have timely access to information being provided to other passengers, including but not limited to, safety briefings [Secs. 382.45 and 382.47] and information concerning ticketing, flight delays, schedule changes, connections, flight check-in, gate assignments, the checking and claiming of luggage, and aircraft changes that will affect the travel of passengers with a disability. [Sec. 382.45(c)] See also Ch. 5, Section F. If the safety briefing is presented to passengers on video screens, carriers must ensure that the video presentation is accessible to passengers who are deaf or hard of hearing. [Sec. 382.47(b)]

##### *Complaint Procedures*

Carriers providing scheduled service must establish and implement a complaint resolution mechanism including designation of one or more complaints resolution officials (CRO's). [Sec. 382.65(a)] The carrier must make the CRO available during all times the carrier is operating at the airport. [Sec. 382.65(a)(1)] See also Ch. 6.

Certificated U.S. carriers and foreign carriers<sup>2</sup> operating to, from, and in the United States using at least one aircraft with more than 60 passenger seats, must record, categorize, and report written disability-related complaints received by carriers to DOT on an annual basis. [Secs. 382.70(b) and (c)] The first annual report for calendar year 2004 was required to be submitted to DOT by January 25, 2005. [Sec. 382.70(d)] In addition, carriers must use the form specified in Appendix A to part 382 when making the annual report to DOT. Carriers must develop a system for recording and collecting data regarding specific categories of written disability-related complaints that they receive according to the type of disability and the nature of the complaint. [Sec. 382.70(c)]

##### *Employee Training*

Management of carriers should be aware that proper training of carrier personnel is

<sup>2</sup> Foreign carriers are covered by this section only with respect to disability-related complaints associated with any flight segment originating or terminating in the United States. [Sec. 382.70(b)].

critical to compliance with the ACAA and Part 382.

Carriers operating aircraft with more than 19 passenger seats must provide training for all personnel who deal with the traveling public, as appropriate to the duties and responsibilities of each employee. [Sec. 382.61(a)]

Carriers must provide training to proficiency in the requirements of the ACAA and its implementing regulations and other DOT and FAA regulations affecting the provision of air transportation to passengers with a disability, including the proper and safe operation of any equipment used to accommodate passengers with a disability. [Sec. 382.61(a)(1)(i) and (ii)]

Carriers must also train employees who deal with the traveling public regarding awareness and appropriate responses to individuals with a disability, including individuals with physical, sensory, mental, and emotional disabilities, including how to distinguish among the differing abilities of individuals with a disability. [Sec. 382.61(a)(2)]

Carriers must consult with organizations representing persons with disabilities in developing their training programs and policies concerning which carrier personnel receive training. [Sec. 382.61(a)(3)]

Carriers must provide or require their contractors to provide training to contractors' employees who deal with the traveling public regarding providing air transportation to passengers with a disability.

#### Carrier Programs

Carriers operating aircraft with more than 19 passenger seats must establish and implement a written program for carrying out the requirements of the law. [Sec. 382.63(a)] The program must include: (i) A training schedule for training carrier personnel on compliance; and (ii) the carrier's policies and procedures for accommodating individuals with a disability consistent with the requirements under the law. [Sec. 382.63(b)] DOT has the authority to request and review such programs as appropriate. [Secs. 382.63(c) and (d)]

#### Security Screenings

Carriers must undertake any security screening of a passenger with a disability in the same manner as any other passenger. See Ch. 4, Section B. In the wake of the events of September 11, 2001, however, in most cases, TSA has taken over for carriers in the area of providing security screenings of passengers. Should carriers resume this responsibility or in cases where carriers still retain some involvement in the security screening process, this section would be applicable to carriers and contractors of carriers performing this function.

### Appendix III—Frequently Asked Questions

#### Frequently Asked Questions

*Question:* What's the difference between the Air Carrier Access Act (ACAA) and the Americans with Disabilities Act (ADA)?

*Answer:* The ACAA, signed into law by then-President Reagan in 1986, prohibits discrimination by airlines against individuals

with disabilities in commercial air transportation. The ADA, signed into law after the ACAA in 1990 by then-President Bush, prohibits discrimination against individuals with disabilities in employment, public accommodations, commercial facilities, telecommunications, and transportation other than by commercial airlines (e.g., subway and bus systems). [Sec. 382.1]

*Question:* Do the ACAA and its implementing regulations (14 CFR part 382 or part 382) apply to both U.S. and foreign carriers?

*Answer:* When initially passed in 1986, the ACAA and Part 382 (subsequently issued in March 1990) applied only to U.S. carriers. However, on April 5, 2000, Congress extended the applicability of the ACAA to cover foreign carriers. At approximately the same time, DOT issued a notice to foreign carriers advising them that the Department intended to use the provisions of part 382, which by its terms does not impose requirements on foreign air carriers, as guidance in investigating any complaints it receives alleging noncompliance with the ACAA by foreign carriers. The only provision of part 382 that currently applies to foreign air carriers is Section 382.70(b), which expressly requires foreign carriers to record, categorize, and report written disability-related complaints associated with any flight segment originating or terminating in the U.S. to DOT on an annual basis. DOT will soon be issuing a revised part 382 that will apply to both U.S. and foreign carriers. [Sec. 382.3]

*Question:* Recently, I broke my leg and I'll be in a cast and walking with crutches for several weeks. Am I covered by the ACAA?

*Answer:* Yes. The ACAA and part 382 apply to individuals who have a physical or mental impairment that, on a permanent or temporary basis, substantially limits a major life activity. Since your temporary impairment limits the major life activity of walking, you are considered a qualified individual with a disability. Therefore, you are covered by the ACAA and part 382. [Sec. 382.5]

*Question:* Am I entitled to the services and accommodations required by part 382 if I'm a qualified individual with a disability but I'm not a passenger, but rather I am just going to the airport to meet a friend who is traveling?

*Answer:* Yes. Carriers are required, under appropriate circumstances, to provide the services and accommodations mandated by part 382, on request, to all qualified individuals with disabilities, whether or not such individuals are passengers or simply using the airport facility for other reasons (e.g., meeting a friend, purchasing a ticket for a future flight, etc.)

*Question:* I understand that part 382 requires airlines to provide wheelchair enplaning assistance, on request. I need wheelchair assistance getting from the curb, at the entrance to the airport, to the airplane. Are carriers required to provide wheelchair service from the curb to the airplane or only from the ticket counter to the airplane?

*Answer:* Part 382 requires carriers to provide wheelchair enplaning help, on

request, from the curb to the airplane on departure, and from the airplane back out to the curb upon arrival. However, carriers are not required to station employees at the curb to await the arrival of passengers with disabilities. Therefore, it is advisable to ask a friend or a cab driver to help in getting the attention of carrier personnel in the terminal to obtain the required assistance if the carrier does not have curb-side attendants. If requested, after your flight arrives at your destination, the carrier must also assist you in claiming your checked luggage before assisting you in a wheelchair to the curb. [Sec. 382.39]

*Question:* Are airlines allowed to charge for providing services to passengers with disabilities?

*Answer:* Airlines are not allowed to charge passengers for providing services or accommodations required by part 382, but may charge for optional services or accommodations. Examples of required services for which carriers may not charge are assistance with enplaning, deplaning, and making flight connections, and the carriage of assistive devices (including the provision of hazardous materials packaging for wheelchair batteries, when appropriate). Examples of optional services for which carriers may charge are the provision of in-flight medical oxygen and stretcher service. [Sec. 382.57]

*Question:* I was flying a U.S. carrier from New York to California and they damaged my expensive battery-powered wheelchair. I purchased this wheelchair last year for \$10,000. The repair cost was \$3,000. Can the carrier limit the amount of money they pay me for this claim to \$2,800, as they currently may for domestic baggage claims?

*Answer:* No. On claims involving damage to assistive devices on domestic flights, carriers may not invoke the liability limit applicable to baggage claims. The criterion for calculating the compensation for lost or damaged wheelchairs and other assistive devices is the original purchase price of the device. In this instance, the carrier should pay you or the repair company \$3,000 provided that you can document the initial purchase price of the wheelchair and the cost of the repair. You may also be entitled to reimbursement for the cost of a loaner or rental wheelchair while yours is being repaired. [Sec. 382.43]

*Question:* I'm flying from Cleveland to Chicago on ABC Airlines and then connecting on XYZ Airlines on a flight from Chicago to Seattle. I need wheelchair assistance to reach my connecting gate. Which carrier is responsible for providing this wheelchair assistance to the connecting gate?

*Answer:* As the delivering carrier, ABC Airlines is required to provide you with the requested wheelchair assistance in reaching your connecting gate, at which point XYZ Airlines is then responsible for providing you with assistance in enplaning onto your connecting flight. The delivering carrier must assist you in reaching your connecting gate even if you are traveling on two separate tickets and the connecting flight is departing from a different terminal within the same airport. However, you should make the need

for such assistance clear to ABC Airlines before the flight, if possible. [Sec. 382.39]

**Question:** On aircraft that must have a priority stowage space in the cabin for my personal folding wheelchair, do I still get priority stowage for my folding wheelchair if the pilot happens to have his personal belongings in that space when I pre-board?

**Answer:** Yes. Your personal folding wheelchair takes priority over the personal carry-on items of the pilot and crew. [Sec. 382.41(e)(2)]

**Question:** I fly with my service animal and normally ask for a bulkhead seat, as it provides a little bit more room for my service dog. On a recent flight, the carrier would not allow me to sit in the bulkhead row with my service animal because the bulkhead row was also an emergency exit row. Was the carrier correct in asking me to take a seat other than a bulkhead seat in the emergency exit row?

**Answer:** Yes. The carrier was within its rights to refuse to permit you to sit in the bulkhead seat with your service animal, because the service animal may have blocked access to the emergency exit. Carriers must comply with all applicable FAA safety rules, even when attempting to accommodate the needs of passengers with disabilities. In such instances, the carrier should permit you and your service animal to move to another seat within the cabin that is not located in an emergency exit row that best accommodates your needs. [Sec. 382.37]

**Question:** Is obesity considered a disability under the ACAA and, if so, is an obese passenger entitled to two seats for the price of one if he or she needs more than one seat?

**Answer:** Obesity in and of itself is not necessarily a qualifying disability. However, obesity could be a qualifying disability if, for example, it substantially limits a major life activity, such as walking. If an obese passenger—whether the passenger is a qualified individual with a disability or not—occupies more than one seat, airlines may charge that passenger for the number of seats the passenger occupies. Also, there may be certain obese persons who are too heavy to be safely accommodated on certain aircraft, e.g., because of safety limitations on seatbelts. [Secs. 382.5 and 382.38(i)]

**Question:** I require medical oxygen when I travel by air. Are airlines required to provide in-flight medical oxygen and, if so, may they charge passengers for providing medical oxygen?

**Answer:** Although many of the major U.S. carriers currently provide in-flight medical oxygen for a fee, part 382 does not require them to do so. Those carriers that choose to provide in-flight medical oxygen may charge passengers for this service, just as they may for other optional services, such as stretcher service. [Sec. 382.33]

**Question:** I'm a paraplegic and travel with my personal manual wheelchair. May airlines require me to travel with an attendant?

**Answer:** Airlines may not require a passenger with a mobility impairment to travel with an attendant if that passenger can physically assist in his or her evacuation. Since, in most instances, paraplegics have use of their arms and upper bodies, they can usually physically assist in their evacuation

and generally should not be required to travel with an attendant. To the contrary, quadriplegics with no use of their arms or legs can be required to fly with an attendant. [Sec. 382.35]

**Question:** I'm deaf and want to make sure that I receive important information such as schedule changes, gate changes, etc. Do the airlines have to provide me with such information?

**Answer:** Yes. Part 382 requires carriers to provide passengers who are deaf or hard of hearing or who have vision impairments with timely access to the same information that they provide to other passengers in the airport terminal or on the aircraft. Persons who are unable to obtain this information from the audio or visual systems used by carriers may have to advise the carrier about the nature of their disability, at which point the carrier must ensure that such individuals receive the necessary information in an accessible manner. [Sec. 382.45]

**Question:** Can things other than wheelchairs or canes be assistive devices? What exactly does part 382 mean when it refers to assistive devices?

**Answer:** Assistive devices under part 382 are not limited to mobility devices such as wheelchairs, walkers, and canes. An assistive device can be any piece of equipment that assists passengers with a disability in carrying out a major life activity. Such devices are those devices or equipment used to assist a passenger with a disability in caring for himself or herself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, or performing other functions of daily life. Assistive devices may include medical devices and medications.

**Question:** How can I find out information on the number and types of disability-related complaints filed with DOT against specific airlines?

**Answer:** DOT's Aviation Consumer Protection Division publishes a monthly Air Travel Consumer Report (ATCR) which provides information on the number of disability-related complaints received each month by DOT. The ATCR can be accessed at <http://airconsumer.ost.dot.gov> In addition, an amendment to DOT's disability rule (part 382) that came into effect on August 7, 2003, requires U.S. and foreign airlines operating passenger-carrying flights to and from the United States with aircraft having a designed seating capacity of more than 60 seats to report annually to DOT on the number and type of written disability-related complaints that they receive. These individual carrier reports will contain summary information on the number of such complaints, the type of disability, and the nature of the complaint. The first such report, which covers written complaints received by the airlines during calendar year 2004, was due by January 25, 2005. DOT intends to provide a summary report to Congress, which will be available to the public. [Section 382.70]

**Question:** I travel with a service animal and ask for a bulkhead seat if one is available, as I find such a seat to be more comfortable for my service dog. How come some passengers with service animals avoid the bulkhead row?

**Answer:** It is DOT's understanding that some service animals are trained to curl up underneath a non-bulkhead row airline seat, whereas other service animals are more comfortable in the area between a bulkhead seat and the bulkhead wall itself. For this reason, when DOT amended part 382 to require seating accommodations for passengers traveling with service animals, it required carriers to provide either a seat in a bulkhead row or a seat other than a bulkhead seat, depending on the individual passenger's preference.

**Question:** Are airlines allowed to require all passengers who are both deaf and blind to travel with an attendant?

**Answer:** No. Airlines may not have a policy that requires all passengers who are both deaf and blind to travel with an attendant. However, if an individual passenger has both a hearing and vision impairment so severe that the individual cannot establish some means of communicating with airline personnel sufficiently to receive the preflight safety briefing (e.g., using the "printing on palm" method of "writing" with your fingertip on the palm of the passenger's hand, or using a "raised alphabet" card to communicate), an airline could require that individual to travel with an attendant. DOT recognizes that in many situations carrier personnel may have difficulty communicating with a passenger who is deaf and blind. Such determinations must be made on a case-by-case basis using an individualized assessment of the passenger's specific capabilities.

#### **Appendix IV—Recent Department of Transportation Enforcement Orders Related to the Air Carrier Access Act**

##### **Recent Department of Transportation Enforcement Orders Related to the Air Carrier Access Act**

The following list of orders pertains to administrative enforcement actions conducted by or filed with the Aviation Enforcement and Proceedings (AEP) Office of the Department of Transportation (DOT). These administrative determinations by and large pertain to decisions resulting from enforcement actions against air carriers pursuant to the Air Carrier Access Act (ACAA), 49 U.S.C. 41705, and its implementing regulations, 14 CFR part 382, which prohibit discrimination by U.S. air carriers against qualified individuals with disabilities. These orders may be informative in assisting the reader to understand how the ACAA and its implementing regulation have been interpreted by DOT and applied in enforcement actions against air carriers.

The AEP Office's statutory jurisdiction spans a broad range of regulatory legal issues including civil rights and consumer protection, among others. The AEP issues many and varied types of orders within the scope of its authority. The orders listed in this appendix address only the most recent civil rights enforcement actions under the ACAA, going back to March, 2000 and are not meant to be a complete listing of all ACAA orders issued by the DOT through its AEP Office.

To access these orders, go to <http://www.dot.gov>. Click on "Dockets and

Regulations,” then “Docket Management System,” and then on “Simple Search.” Type in the last five digits of the docket number pertaining to the order that you are interested in. Using the date the order was issued and/ or the order number, scroll through the docket index to identify the order you wish to review and click on the appropriate format in which you wish to retrieve the document.

| Issues  | Date of issue | Order No.  | Docket No.     |
|---|---------------|------------|----------------|
| Failure to provide prompt and proper enplaning, connecting, and deplaning assistance primarily to passengers who have mobility impairments. | 8/18/04       | 2004-8-19  | OST-2004-16943 |
| “Medically-prescribed marijuana” .....  | 5/27/04       | 2004-5-25  | OST-2003-14808 |
| Failure to provide a priority space to stow at least one passenger’s folding wheelchair in the cabin.                                       | 4/30/04       | 2004-4-22  | OST-2004-16943 |
| Failure to provide a priority space to stow at least one passenger’s folding wheelchair in the cabin.                                       | 3/9/04        | 2004-3-4   | OST-2004-16493 |
| Failure to provide prompt and proper enplaning, connecting, and deplaning assistance primarily to passengers who have mobility impairments. | 12/5/03       | 2003-12-6  | OST-2003-14194 |
| Failure to provide a priority space to stow at least one passenger’s folding wheelchair in the cabin.                                       | 11/13/03      | 2003-11-5  | OST-2003-14194 |
| Failure to provide prompt and proper enplaning, connecting, and deplaning assistance primarily to passengers who have mobility impairments. | 11/10/03      | 2003-11-4  | OST-2003-16507 |
| Failure to provide a priority space to stow at least one passenger’s folding wheelchair in the cabin.                                       | 10/8/03       | 2003-10-11 | OST-2003-14194 |
| Failure to provide adequate transport, enplaning, and deplaning assistance, wheelchair stowage and damage.                                  | 9/8/03        | 2003-9-4   | OST-2003-14194 |
| Failure to provide a priority space to stow at least one passenger’s folding wheelchair in the cabin.                                       | 8/28/03       | 2003-8-30  | OST-2003-14194 |
| Failure to provide a priority space to stow at least one passenger’s folding wheelchair in the cabin.                                       | 8/28/03       | 2003-8-29  | OST-2003-14194 |
| Failure to provide a priority space to stow at least one passenger’s folding wheelchair in the cabin.                                       | 8/28/03       | 2003-8-28  | OST-2003-14194 |
| Prompt and proper enplaning and deplaning assistance .....  | 7/11/03       | 2003-7-12  | OST-2003-14194 |
| Prompt and proper enplaning and deplaning assistance .....  | 6/2/03        | 2003-6-3   | OST-2001-10598 |
| Prompt and proper enplaning and deplaning assistance .....  | 3/26/03       | 2003-3-19  | OST-2003-14194 |
| Prompt and proper enplaning and deplaning assistance .....  | 3/4/03        | 2003-3-1   | OST-2003-14194 |
| Special seating accommodations for tall people .....  | 3/19/02       | 2002-7-36  | OST-2001-8991  |
| Adequate wheelchair assistance and other required assistance .....  | 2/11/02       | 2002-3-15  | OST-2002-10598 |
| Refusal to transport a person with a disability .....   | 8/2/01        | 2001-8-17  | OST-2001-19598 |
| Sensitivity to tobacco smoke .....  | 3/12/01       | 2001-3-9   | OST-2000-7891  |
| In-cabin wheelchair stowage .....   | 2/7/2001      | 2001-2-6   | OST-2000-7591  |
| Refusal to transport a person with a disability .....   | 8/22/00       | 2000-8-18  | OST-2000-19597 |
| Prompt and proper enplaning and deplaning assistance; wheelchair stowage .....  | 3/27/00       | 2000-3-24  | OST-99-6111    |

**Appendix V**

[Final guidance document will include the full text of 14 CFR Part 382]

**Appendix VI**

[Final guidance document will include the full text of the “DOT Guidance Concerning Service Animals in Air Transportation]

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