

Town Hall March 24, 2020

Purpose: To inform ADI, NA Membership of ADI, NA's position on the NPRM Regarding Air Travel of Passengers with Service Animals

Objectives of ADI, NA for ACAA and Related Regulations Revisions:

1. Align ACAA and ADA
 - a. No ESAs
 - b. Psychiatric Service Dogs counted as Service Dogs
 - c. Just dogs as species
2. Safeguard rights of disabled passengers

Posted January 22, 2020

<https://www.transportation.gov/individuals/aviation-consumer-protection/notice-proposed-rulemaking-traveling-air-service-animals>

In the Department of Transportation's **Traveling by Air with Service Animals Notice of Proposed Rulemaking**, the Department proposes the following changes to its current Air Carrier Access Act service animal rule in 14 CFR Part 382:

Definition of Service Animal: The Department proposes to define a service animal as a dog that is individually trained to do work or perform tasks for the benefit of a qualified individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. This proposed definition of a service animal is similar to the Department of Justice's (DOJ) Americans with Disabilities Act (ADA) definition of a service animal. **ADI NA Agrees**

Emotional Support Animals: The Department's proposed rulemaking does not require airlines to recognize emotional support animals as service animals. Airlines would be permitted to treat emotional support animals, which are not trained to do work or perform a task for the benefit of a qualified individual with a disability, as pets. **ADI NA Agrees**

Species: Under the Department's proposed rule, airlines would only be required to transport dogs as service animals. As a result, airlines would no longer be required to accommodate miniature horses, cats, rabbits, birds, and all other service animals that airlines are currently required to transport. **ADI NA Agrees**

Documentation: Airlines would be permitted to require passengers with a disability traveling with a service animal to complete and submit to the airline the following forms developed by DOT as a condition of transportation:

- (1) U.S. Department of Transportation Service Animal Air Transportation Health Form, to be completed by a veterinarian in order to certify the animal:
 - a. Has not exhibited aggressive behavior or injured anyone or other animals
 - b. Is free of pests, e.g. fleas and ticks
 - c. Has not been exposed to rabies

ADI NA Disagrees.

The passenger should be able to check off a box on the reservation form attesting that the service animal is free of pests and current on its vaccination for rabies.

Regarding attestation for the dog's behavior, the passenger should be able to check off a single box on the reservation form attesting to the animal's good behavior as described in the following paragraph.

Filling out forms is not currently required to travel with a service dog. ADI, NA wants to safeguard the rights of disabled passengers; therefore, opposes requiring the addition of any forms.

(2) U.S. Department of Transportation Service Animal Air Transportation Behavior and Training Attestation Form, to be completed by the service animal handler in order to attest to the animal's good behavior; **ADI NA Agrees**

ONLY if it can be completed with a checkbox at the time of ticket reservations.

(3) U.S. Department of Transportation Service Animal Relief Attestation, to be completed by the service animal handler when traveling with a service animal on a flight eight hours or longer in order to verify that the animal has the ability to either not relieve itself, or can relieve itself in a sanitary manner. **ADI NA agrees ONLY if it can be a check box completed at the time of ticket reservations.**

Under the Department's proposal, these three documents would be the only documents that an airline could require from an individual with a disability traveling with a service animal. The DOT forms would include a warning that it would be a Federal crime for a service animal handler to make false statements or representations on these forms to secure disability accommodations. **ADI NA agrees ONLY if forms can be check boxes that can be completed at the time of ticketing.**

Check-In Requirements: The Department proposes to allow airlines to require all passengers with a disability traveling with a service animal to check in one-hour before the check-in time for the general public as a condition for travel with a service animal to allow time to process the service animal documentation and observe the animal. However, the Department also proposes that if an airline imposes the one-hour check-in requirement on passengers traveling with service animals, the airline must designate a location in the airport for these passengers to check-in promptly by a trained agent. **ADI NA Disagrees.**

Those traveling with Service Dogs should be able to check in at the same time as the general public. Otherwise, it is discriminatory and imposes an additional hour on the dog's inability to relieve itself. (We receive numerous reports about the unsanitary conditions of Service Animal Relief Areas in airports, so they do not offer a satisfactory alternative.)

Number of Service Animals per Passenger: The Department's NPRM proposes to require airlines to accept up to two service animals per passenger for transport on an aircraft. **ADI NA Disagrees.**

ADI NA polled our member organizations and no programs place two service dogs with an individual. Only one Service Dog per person.

Large Service Animals: The Department proposes to allow airlines to limit service animals based on whether the animal can fit onto the service animal handler's lap or within the handler's foot space. Airlines would be permitted to reject service animals that are too large to fit on these spaces. **ADI NA Disagrees. Although most service dogs can fulfill the requirements above, there are some service dogs that will need the foot space of two seats and should be accommodated with an extra empty seat or with a passenger who doesn't mind a service dog underfoot.**

Control of the Animal: The Department proposes to continue to permit airlines to require that service animals be harnessed, leashed, tethered or otherwise under the control of their handler at all times in the airport and on the aircraft. In general, tethering and similar means of controlling an animal permitted by the Americans with Disabilities Act are reasonable to control service animals in the airport and on the aircraft. **ADI NA Agrees**

Direct Threat: The Department proposes to continue to allow airlines to refuse to transport a service animal if the animal poses a direct threat to the health or safety of others.

In determining whether to deny transport to a service animal on the basis that the animal poses a direct threat, the NPRM specifies that airline must make an individualized assessment based on reasonable judgments that relies on the best available objective evidence to ascertain the nature, duration, and severity of the risk; the probability that the potential injury will occur; and whether reasonable modifications will mitigate the risk. **ADI NA Agrees**

Breed Restrictions: The Department proposes to continue prohibiting airlines from imposing breed and other categorical restrictions on service animals. In the NPRM, the Department proposes explicit language that states that airlines are not permitted to refuse to transport service animals based on breed. **ADI Agrees**

The comment period closes 60 days after publication in the Federal Register (**April 6, 2020**). Comments can be filed <http://www.regulations.gov/> on docket number <https://www.regulations.gov/docket?D=DOT-OST-2018-0068>