Passengers with Disabilities: Air Carrier Disability-Training Programs and Department of Transportation Oversight

Mandated by Section 2107, FAA Extension, Safety and Security Act of 2016 (Pub. L. No. 114-190)

Briefings to Senate Committee on Commerce, Science, and Transportation and House Committee on Transportation and Infrastructure

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Introduction

- According to the most recent census (2010), 57 million Americans have a disability (roughly 1 in 5), more than half of whom have mobility issues.
- The 1986 Air Carrier Access Act (ACAA) prohibits air carriers from discriminating against qualified individuals on the basis of disability.
- Department of Transportation (DOT) regulations carry out the Air Carrier Access Act by providing various obligations for air carriers (14 C.F.R. § 382).
- In 2000, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century amended the ACAA to include foreign air carriers.
- In 2008, DOT issued a rule applying the ACAA regulations to foreign air carriers operating flights to or from the United States.
- DOT is responsible for ensuring air carriers' compliance through various enforcement actions.

Note: In title 49 of the U.S. Code, "air carrier" refers to U.S. carriers only. 49 U.S.C. § 40102(a)(2). For purposes of these briefing slides, when we use the term "air carrier," we are referring to both U.S. and foreign air carriers, unless we specifically state otherwise.

Objectives

- FAA Extension, Safety, and Security Act of 2016 (Section 2107) requires GAO to submit to Congress a report assessing air carrier personnel and contractor training programs for the assistance of persons with disabilities.
- This briefing examines:
  (1) how selected air carriers' disability training programs vary, if at all, in addressing federal requirements.
  (2) how DOT oversees ACAA compliance by air carriers and what enforcement actions DOT has taken, including corrective actions sought, with regard to air carriers' disability training programs since 2005.

Scope and Methodology

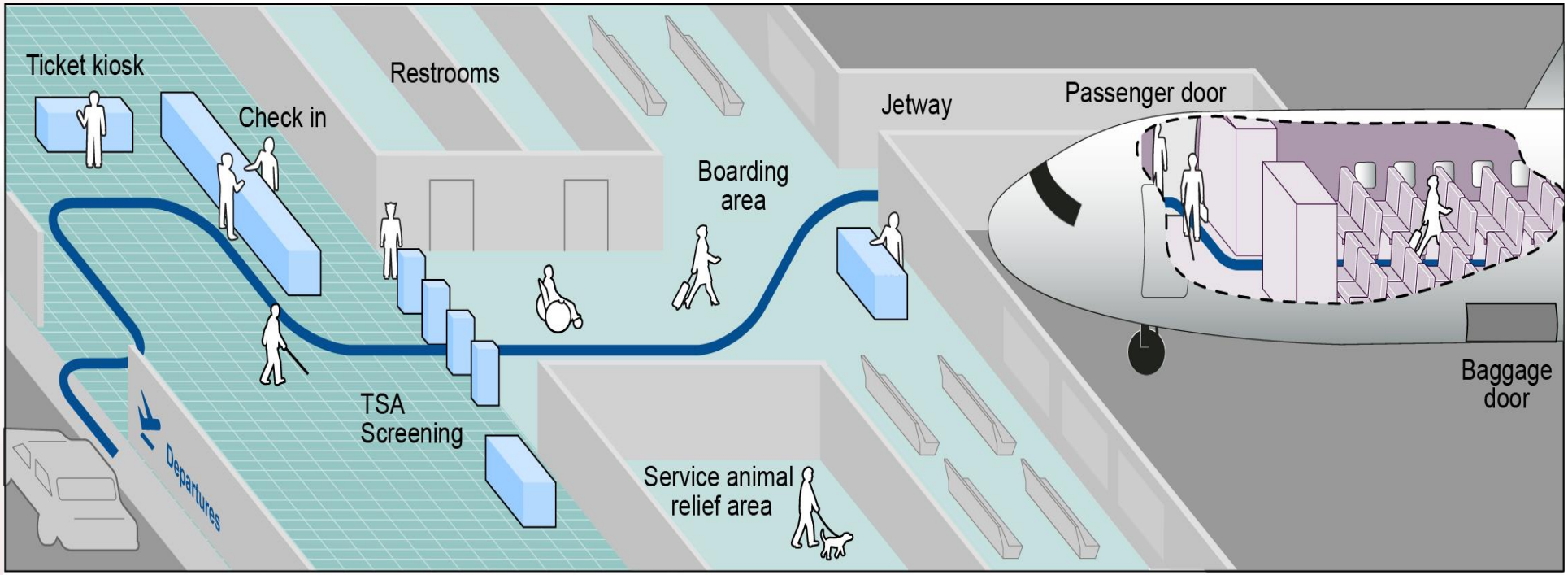
- To describe the extent of ACAA training program variation, we examined 12 air carriers (selected based on the greatest number of enplanements in 2015 (most recent year available) by air carrier type—4 network, 2 regional, 2 foreign, and 4 low cost).
- To describe how DOT oversees and enforces ACAA compliance by air carriers, we examined:
  - DOT oversight efforts, including complaints, audits, and verification of corrective actions taken by air carriers.
  - The 51 disability-related enforcement cases since 2005, 13 of which involved training-related corrective actions.

Background – Passenger with Disabilities Air Travel Experience

- Some key airport stakeholders help to ensure that airport facilities and services are accessible to passengers with disabilities (see fig. 1).
  - Airline assistance
    - For passengers in wheelchairs, assistance can be contracted by the air carriers.
    - Loading and stowing assistive devices is the responsibility of baggage handlers who can be airline employees or contract employees.
  - Transportation Security Administration (TSA) security screening
    - TSA has its own complaint process and training program for TSA screeners.
  - Airport services and facilities must meet requirements under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.
    - FAA conducts on-site compliance reviews of airports and investigates complaints against airports.

Background

Figure 1: Passenger with Disabilities Air Travel Experience



Source: GAO. | GAO-17-541R

Background - DOT Regulatory Authority and Air Carrier Role

- Air Carrier Access Act (ACAA) and implementing regulations
  - 49 U.S.C. § 41705
  - 14 C.F.R. part 382
- Air carriers' role
  - Provide ACAA training to employees, as well as to contractors who deal with the traveling public.
  - Receive complaints directly from customers, respond to complaints, and annually report complaint data to DOT.

Background - DOT's Role

- Key activities conducted by DOT's Office of Aviation Enforcement and Proceedings:
  - Receive and investigate complaints directly from consumers
  - Identify trends and patterns in air carrier and DOT complaint data
  - Conduct on-site audits of airlines at their headquarters
  - Conduct airport inspections of airlines
  - Communicate informally with air carriers and attend stakeholder forums

Background – Annual Disability Complaint and Enplanement Data Since 2005

Year	Disability Complaints Submitted by Consumers to DOT	Disability Complaints Submitted to U.S. and Foreign Air Carriers by Consumers	Total Enplanements
2005	511	13,584	745,579,572
2006	433	13,766	749,779,084
2007	488	15,290	774,408,791
2008	477	14,006	746,703,610
2009	518	17,068	707,500,457
2010	572	21,001	722,736,206
2011	628	21,372	735,341,289
2012	741	23,443	740,323,597
2013	683	25,246	747,238,182
2014	784	27,556	768,113,579
2015	944	30,829	805,673,910

Source: DOT Aviation Consumer Protection Division

Background – Annual Air Carrier Disability Complaints by Category - 2015

Complaint Category	Disability Complaints Submitted to DOT by Consumers 2015 Total	% of Disability Complaints Submitted to DOT by Consumers of 2015 Total	Disability Complaints Submitted to Air Carriers by Consumers 2015 Total	% of Disability Complaints Submitted to Air Carriers by Consumers of 2015 Total
Refusal To Board Passenger	57	6%	468	2%
Refusal to Board w/o Attendant	0	0%	21	0%
Security Issues Regarding Disability	0	0%	46	0%
Aircraft Not Accessible	4	0%	91	0%
Airport Not Accessible	4	0%	98	0%
Advance Notice Dispute	0	0%	142	0%
Seating Accommodation	103	11%	3,026	10%
Failure to Provide Assistance	463	49%	17,828	58%
Damage to Assistive Device	28	3%	1,541	5%
Storage and Delay of Assistive Device	95	10%	1,570	5%
Service Animal Problem	100	11%	1,638	5%
Unsatisfactory Info	28	3%	520	2%
Other	62	7%	3,840	12%
Total	**944**		**30,829**	

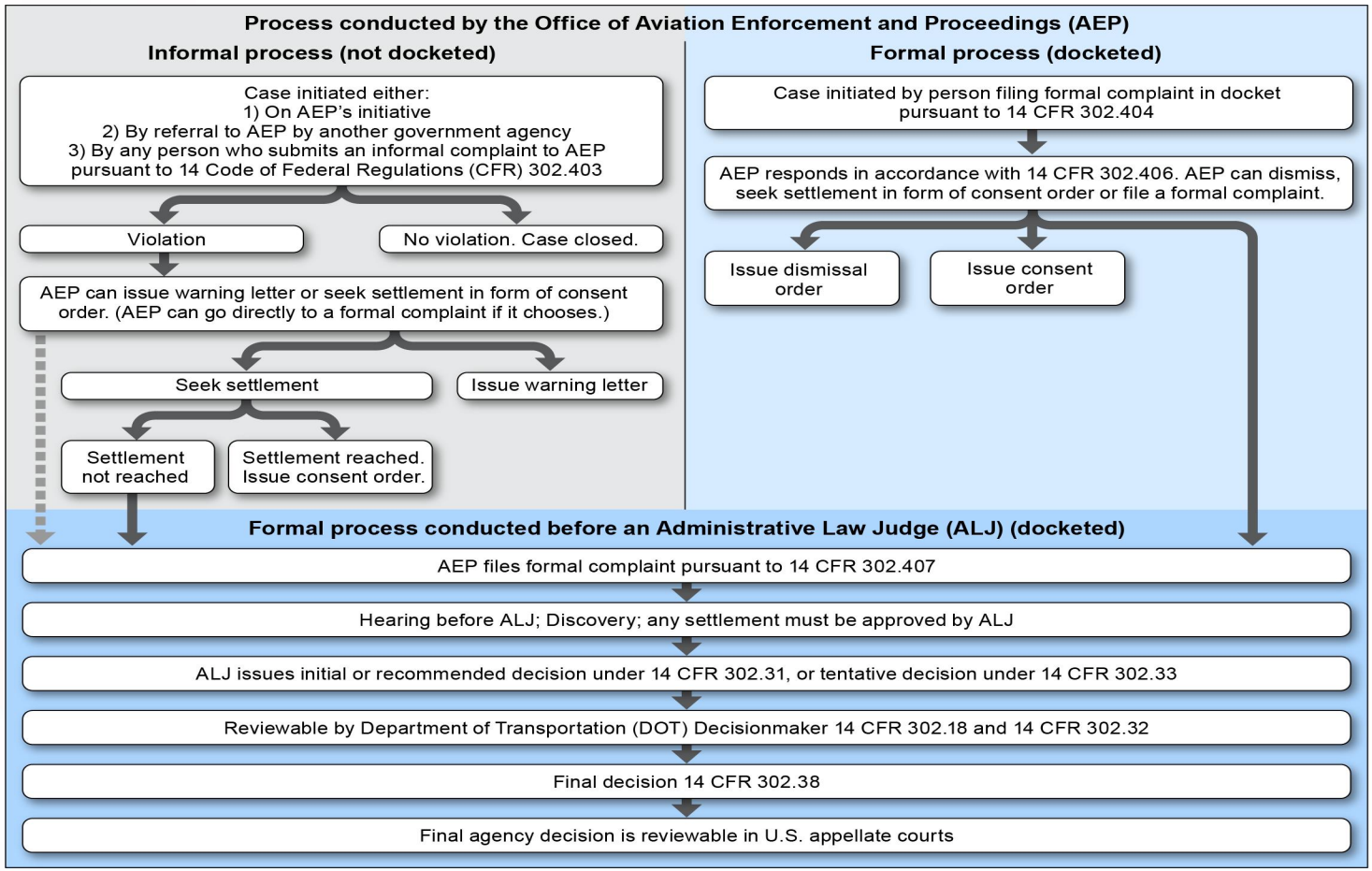
Source: DOT Aviation Consumer Protection Division

Background – DOT Oversight

- According to DOT representatives, potential violations of the ACAA warrant a further review to determine if corrective actions are necessary. Possible outcomes include (see fig. 2):
  - No violation
  - Minimal violation, which may:
    - include technical violations; violations that occurred for a short period of time; violations that are not supported by sufficient evidence; or no violation of a regulation. However, DOT finds one of the air carrier's policies concerning the ACAA is lacking and can be followed with a warning letter to the air carrier.
  - Serious violations might result in an enforcement action.

Background

Figure 2: DOT Complaint Process



Source: DOT. | GAO-17-541R

Background - DOT Communication and Education Efforts with Air Carriers and Other Stakeholders

- DOT informally communicates with air carriers.
- DOT participates in training forums and issues instructional materials to carriers and stakeholders.
  - Leads disability forums
  - Led recent advisory committee
  - Disability-related training and information materials:
    - Wheelchair and guide assistance;
    - Stowage, loss, delay, and damage of wheelchairs and other mobility assistive devices;
    - Aircraft seating accommodations; and
    - Travel with service animals.

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Objective 1: All Selected Air Carrier Disability Training Programs Generally Address Requirements

- Based on our interviews with air carrier representatives and our review of available training documentation, we found that all of their ACAA training programs generally addressed the following regulatory requirements:
  - Training of employees who deal with the traveling public regarding the awareness of different disabilities and the ability to communicate with passengers with disabilities.
  - Recurrent training for all personnel.
  - Training for Complaint Resolution Officers (CRO)
    - CROs resolve complaints on behalf of air carriers and can overrule decisions of other air carrier personnel, except safety decisions made by aircraft pilots.
  - Consultation with disability organizations in development of ACAA training programs.

Objective 1: All Selected Air Carrier Disability Training Programs Generally Address Requirements

- Training of personnel who deal with the travelling public:
  - All 12 selected air carriers use a mix of classroom based training and computer based training for specific workgroups.
    - Inflight, gate agent, ramp/baggage employees.
    - All air carriers provided us with information ranging from training summaries to full manuals.
  - According to the two regional carriers we selected, they rely on mainline partner training.
- Training for air carriers' contractors
  - Air carriers seek to ensure compliance of their contractors (i.e., wheelchair attendants) by:
    - Providing ACAA training to their contractors.
    - Including ACAA training requirements in their contracts.
    - Providing performance payments based on quality of service.

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Objective 1: Air Carriers' Disability Training Programs Generally Address Requirements

- All 12 air carriers require annual CRO training:
  - Typically, an initial CRO training includes an 8-hour class with situational scenarios and hands-on training such as wheelchair handling and lifting passengers into aisle seats to assist in boarding.
  - 12 air carriers conduct annual recurrent training.

Objective 1: Other Variations Found in Air Carriers' ACAA Training Programs

- Other variations we identified that are not required by the regulations:
  - 6 of the 12 air carriers have a disability board or something similar which serves as a forum for increasing awareness.
  - Some air carriers said they have quality assurance programs to improve and sustain training programs' performance.

Objective 2: DOT Uses Various Oversight Methods to Ensure Compliance by Air Carriers

- Since 2005, DOT has settled or dismissed 433 enforcement actions with air carriers regarding various consumer related issues; 51 of these were disability-related violations.
- DOT enforcement can include warning letters or consent orders requiring corrective action by air carriers.
- DOT uses a tracking process to verify that airlines complete corrective actions.

Objective 2: DOT Oversight of ACAA - Compliance Methods

- Analyzes passenger complaint data for trends and patterns, and for potential egregious violations.
- Conducts compliance reviews at air carriers' headquarters for various consumer issues, including ACAA compliance.
- Conducts inspections of air carriers at airports for similar consumer issues.

Objective 2: DOT Oversight of ACAA Compliance - Passenger Complaint Data

- Passengers may file disability-related complaints with both DOT and/or air carriers.
  - Complaints filed with the DOT:
    - According to DOT, officials investigate each complaint and review air carrier submitted data and recent data trends.
    - In 2015, 944 total disability-related complaints were submitted directly to DOT, the most common of which (35%) was “Failure to Provide Wheelchair Assistance”.
  - Complaints filed with the air carriers:
    - Air carriers must respond to each complaint within 30 days.
    - Air carriers must annually report disability-related complaints to DOT.
    - In 2015, air carriers received 30,829 disability-related complaints, nearly half of which were “Failure to Provide Wheelchair Assistance” complaints.

Objective 2: DOT Oversight of ACAA Compliance - Air Carrier Reviews

- DOT selection factors for consumer-related compliance reviews include the air carrier's total number of annual passengers, complaints, length of time since last inspection, and the air carrier's enforcement history.
- Prior to 2008, DOT conducted targeted inspections that were focused on a carrier's specific potential issue or problem
- Since 2008 – 38 audits completed:
  - 24 audits (63%) found possible consumer violations, including 12 ACAA violations, and were settled or are currently being settled via consent orders.
  - 11 of the 12 air carriers we selected have been reviewed since 2011; 8 have been reviewed multiple times since 2008.
- DOT periodically reviews carriers' CRO training by attending training sessions.

Objective 2: DOT Oversight of ACAA Compliance – Inspections at Airports

- According to DOT, it began consumer-related compliance inspections of air carriers at small, medium, and large hub airports in 2015.
- DOT has taken a number of disability-related enforcement actions as a result of its airport inspections.
  - In 2016, 61 inspections at 16 airports (including 10 of the 12 GAO selected air carriers).
  - In 2015, 47 inspections at 17 airports (including 11 of the 12 GAO selected air carriers).
  - As a result of the 2015 inspections, DOT generated 5 enforcement cases and issued warning letters to 18 air carriers that included ACAA issues.
- DOT follows up on warning letters as part of its planning for future inspections.

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Objective 2: DOT Oversight of ACAA Compliance - Nature and Scope of DOT Enforcement

- ACAA enforcement cases constitute a relatively small percentage (about 12%) of DOT consumer-related enforcements cases since 2005:
  - 51 of the 433 consumer-related enforcement cases were disability-related cases involving air carriers.
    - These cases resulted in over $9.54 million in total fines, which included offsets for air carriers such as investments in improved training, compensation to travelers, and technology improvements.
    - According to DOT, all cases were dismissed or settled with consent orders - an agreement or settlement to resolve a dispute between two parties without admission of guilt.
  - We identified 13 of the 51 disability-related cases as involving training-related corrective actions.
    - These 13 cases resulted in $1,675,000 in civil penalties.

Objective 2: DOT Oversight of ACAA Compliance - Nature and Scope of DOT Enforcement

- In the 13 selected disability-related enforcement cases, air carriers paid $887,500 in civil penalties to the U.S. Treasury. The remaining $787,500 was either not paid because the airline met the requirements of the consent order, or was applied by the airline toward corrective actions, such as:
  - funding salaries and additional ACAA training expenditures to retrain employees;
  - providing compensation to affected customers;
  - implementing wheelchair tracking systems;
  - establishing disability councils to help improve their ACAA training programs; and
  - creating websites and hotlines for passengers with disabilities to obtain information and submit complaints.

Objective 2: DOT Oversight of ACAA Compliance - Verification of Actions

- DOT monitors and verifies corrective actions required by enforcement orders by using its data tracking system.
  - 10 of our 13 selected enforcement cases have been closed.
  - 3 remain open because the time period for corrective action has not expired; however as of April 2017, each air carrier has complied with its consent order.
- During our review, we confirmed that all fines were paid, and that DOT verified that the air carrier completed the required corrective actions.