

Disability Rights Education & Defense Fund

April 25, 2022
via electronic mail

U.S. Department of Transportation
Docket Management Facility
1200 New Jersey Avenue SE
Washington, DC 20590-0001
FlyingwithWheelchairs@dot.gov

RE: Updated Comments on Public Meeting on Air Travel for Persons Who Use Wheelchairs, Docket No. DOT-OST-2022-0014

To Whom it May Concern,

The Disability Rights Education and Defense Fund (DREDF) submits these updated comments in response to the US Department of Transportation (USDOT) meeting on the difficulties encountered during air travel by persons who use wheelchairs. DREDF is a leading national civil rights law and policy center directed by individuals with disabilities and parents who have children with disabilities. Our mission is to advance the civil and human rights of people with disabilities through legal advocacy, training, education, public policy and legislative development.

At least 1 in 4 people in the U.S. has a disability (more than 61 million). In 1986, the Air Carrier Access Act (ACAA) prohibited discrimination based on air travel. And in 1990, Congress passed the bipartisan Americans with Disabilities Act (ADA). In enacting the ADA, Congress sought to “provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.” Although the ACAA led to improved access for passengers with disabilities, significant barriers to a safe, reliable experience free from discrimination persist. We must continue to improve access and remove barriers in line with the ADA’s mandate.

Thank you for convening the meeting and providing a space for wheelchair users to share their experiences. We strongly encourage USDOT to seek the perspectives of wheelchair users with multiple disabilities, including those who are blind, Deaf or who have intellectual or developmental disabilities, in any future stakeholder meetings. USDOT must strongly commit to doing everything in its power to respond and ensure wheelchair users, and all people with disabilities, can access air travel free from discrimination, bodily harm, and damage to their essential mobility devices and other equipment.

Difficulties encountered by wheelchair users before, during and after air travel are reflected in an online survey sponsored by DREDF and other national disability advocacy organizations in 2021, and in USDOT’s own collection of wheelchair damage reports from airlines.ⁱ Continued barriers to air travel for wheelchair users are also well documented in the press and we acknowledge and continue to mourn Engracia Figueroa who died from an infection after her wheelchair was damaged by an airline. We know that many wheelchair users have been injured during the air travel process and it is a risk no traveler should have to take.

DREDF supports and refers back to comments submitted by Judy Heumann in response to the December 2021 USDOT and Access Board meeting regarding onboard wheelchairs. Heumann stated:

In spite of increased opportunities, barriers to accessible, safe airline travel for disabled individuals persist and seem to be getting exponentially worse since the start of the pandemic. People with disabilities who require travel by air should be guaranteed a safe, reliable and convenient experience. However, for far too long, the industry has been unresponsive to even the most basic needs of wheelchair users and other members of the community. ...

Recent *Wall Street Journal*ⁱⁱ and *Salon*ⁱⁱⁱ articles detail the barriers ranging from high rates of wheelchair damage (3x higher than regular baggage mishandling), the need for training and education of staff, inaccessible lavatories, and potential for humiliation and bodily harm. People with disabilities need access to all forms of transportation, including air travel. Disabled people should be able to travel for pleasure, work, or to visit family and friends. Our employment opportunities should not be limited because the industry is unwilling to prioritize our needs. ...

Policymakers, regulators, and air travel industry stakeholders must be accountable and must begin to view disabled people as valued customers.

In addition, DREDF supports the advocates and individuals who shared their stories and requests that USDOT notes that the barriers faced reflect a pattern of continued and repeated discrimination that must be addressed and rectified immediately.

DREDF provides the following responses to questions raised in the federal register notice and asks that you clarify a question in Topic 2 in the future. The responses are based on DREDF staff and Board member experiences in air travel, years of air travel advocacy, and from interviews with the DMV Sr and Disability Community, a cross-disability mutual aid group in DC.

Topic No 1: Challenges encountered during air travel by wheelchair users and the impacts of unsafe or inadequate assistance

- ***What are the most significant problems that people with disabilities are currently experiencing when traveling by air with wheelchairs?***
- ***How frequently do people with disabilities who use wheelchairs experience problems when traveling by air and what is the severity of physical harm or damages that can result?***

Please refer to the survey sponsored by disability advocates for significant problems experienced during air travel. Respondents' concerns included, but were not limited to, personal safety in transferring from an aisle chair into an aircraft seat, being able to use the airplane's lavatory, and potential damage to wheelchairs. Anecdotal evidence suggest that wheelchair users experience problems frequently when traveling by air, and as the death of Ms. Figueroa reflects, the problems experienced can be fatal.

- ***How do these problems affect the ability or willingness of people with disabilities to travel by air?***

Many wheelchair users choose not to travel by air because of the potential for harm to one's self or chair. Some opt for much more time-consuming travel by train or car if it's available, or do not travel at all.

DREDF Director of Development Ingrid Tischer, a wheelchair user, shared her experience with air travel recently:

I don't feel like the airlines' failures are properly framed as having systematically deterred me from flying with my electric wheelchair. When I fly it's almost always for pleasure and there's no pleasure with the threat of losing the mobility device I've chosen to bring with me somewhere that's unfamiliar and therefore harder to negotiate, or on the return home when I'm tired and likely coming back to a lot of work. Threats, anxiety, worry - these are not vacation words you want for the means of travel. And that's the best case scenario.

An injury caused by not having the chair available due to damage, the labor involved in getting repairs, the stress of dealing with this in an unfamiliar place, the bureaucracy of the airlines - nope, the risk of getting stuck dealing with all these is just too high. Seriously, this is not just about a piece of broken equipment; it feels like the airlines can damage my own sense of basic safety and peace, and that the damage continues long after I leave the airport.

DREDF Social Media Coordinator Taylor Heagler, also a wheelchair user, added:

Just imagine what it feels like traveling somewhere, to see a love one or be a tourist in a dream destination, and to have a constant fear that you will get to your destination, not knowing how your chair is going to come out. Wheelchairs are often an extension to our bodies, having to part with it and putting chairs into unknown hands that have a long history of destruction is horrific. Change needs to happen, it's a human right to travel safely.

- ***What are the root causes of the problems associated with traveling by air with wheelchairs?***

Insufficient training for airline, airport and TSA staff can lead to problems associated with air travel. Training must include best practices for assisting wheelchair users with multiple disabilities, including intellectual and development disabilities. According to DMV Sr and DC Community members, which include advocates with multiple disabilities and their families who travel for speaking engagements:

Staff and personnel are often very friendly and try their best but are also often afraid, uncertain and undertrained without proper support systems in place. – Kara Jones^{iv} and Joan Christopher

None of the staff is well trained in dealing with people with disabilities or with accessibility needs or with chairs and equipment. They need training in all of these areas.
- Thomas Mangrum

- ***What changes to air travel are needed to address the problems encountered by people with disabilities who use wheelchairs?***

DC wheelchair users and advocates identified a need for a more user-friendly process to ensure reimbursement and action when a chair is mishandled or damaged. Money rather than travel vouchers should be provided as reimbursement. Advocates also expressed a need for assistance from the point of reservation. As assistance is already required when requested, DREDF strongly encourages a concerted effort to alert customers with disabilities of available assistance at the airport, during the TSA screening process, and of the role of a complaint resolution officer. Materials should be made available in plain language that are easily understood by, and created with, travelers with intellectual or developmental disabilities.

Thomas Mangrum, DMV Sr and Disability Community Group member, shared:

When there's a repair the airlines require too much proof and hoops that puts an unfair burden on us and the burden should be on them. ... Anxiety and stress need to be considered for everyone, but also for people with disabilities.

They should consider all of these accessibility issues from the point of reservation. If people indicate that they will require support, the airline should have that support meet them when they arrive at the airport ... or take them from the plane out to their transportation at the other end of their flight. It is important that the [assistance] be carried out by the airline or airport, not people in police uniforms which can be triggering for people because police aren't always the same with everyone.

In addition, inaccessible designs of aircraft aisles, seats, lavatories and cargo holds create barriers and problems for wheelchair users. As noted above, lack of training for airline and airport staff on assisting wheelchair users and in transferring chairs to cargo spaces also leads to problems. It is common, but not acceptable, for accessible design across travel modes and in all areas of life to be an afterthought. This may stem from continued ableism, lack of understanding, the prioritizing of profit over the needs of all customers, or lack of engagement with and empowering of impacted stakeholders.

Continued engagement between USDOT, the industry and wheelchair users is necessary to ensure full access. In addition, passage and implementation of the Air Carrier Access Amendments Act of 2021 (ACAAA) would address problems encountered by wheelchair users and other people with disabilities. The ACAA's provisions include: a USDOT hotline to assist passengers with disabilities; a private right of action; ensuring airplanes are designed to accommodate people with disabilities and airlines meet accessibility standards, including safe and effective boarding and deplaning, better stowage options for assistive devices; improving access to seating accommodations in all class of service; and closing service gaps for passengers with disabilities by requiring training of airline personnel who provide physical assistance in boarding and deplaning.

TOPIC NO. 2: Actions to Prevent or Minimize Bodily Injury and Damaged, Delayed, and Lost Wheelchairs

- ***What best practices or procedures (e.g. disassembly or loading techniques) could be implemented by airlines to reduce the risk of damaging a wheelchair?***

Communication between airline and airport staff and systems must be improved. Even when customers have shared their needs at the start and throughout the flight and ground crew may still be unaware. For example, ground crew should be given advance notice regarding the weight of a wheelchair that will need loading, or when a customer will require assistance deplaning.

- ***What additional information from passengers and device manufacturers would be useful to airlines to aid their employees who handle assistive devices?***

Airlines should collect and convey the weight of a wheelchair and whether the chair can be disassembled. Crew must be made aware if a chair cannot be disassembled either because it will likely damage the chair or the customer or their aid cannot reassemble the chair.

- ***In circumstances where the passenger has not requested the return of the wheelchair at the baggage claim area, what are the wait times for wheelchairs to be returned to passengers at the gate?***

In Topic 2 USDOT requests wait times for return of wheelchairs at the gate. In the future we suggest clarifying that airlines are required to return a passenger's wheelchair at the gate in a timely manner.

TOPIC NO. 3: Actions to Ensure Safe Transfers to and From the Aircraft Seat

- ***What new or additional practices or procedures could be implemented by airlines or their contractors to increase safety and reduce risks of harm when physically assisting passengers?***

The quality of straps with aisle chairs, when they are supplied, must be improved and should include shoulder harnesses. Wider, safer and standardized aisle chairs should be considered.

TOPIC NO. 4: Best Practices for Assisting Passengers When a Wheelchair has been Mishandled

- ***When a wheelchair has been mishandled, what resources or equipment are necessary to timely and safely assist the passenger at the airport?***

When a chair is mishandled it will likely cause a delay for the passenger departing the airport. Wheelchair users may be relying on paratransit which requires scheduling in advance and likely has limited service hours. Should a delay be caused by airline or airport staff, customers should be compensated and assisted in securing wheelchair accessible transportation from the airport.

Thank you again for the opportunity to submit comments and to participate in the March 24, 2022 public meeting. USDOT and the industry must listen to the stories and concerns shared by wheelchair user and advocates, and take all necessary and immediate action to end discrimination and remove barriers to air travel for wheelchair users now and in the future. Please contact Carol Tyson, Government Affairs Liaison, at ctyson@dredf.org, or (202) 878-9186, with any questions. We look forward to continuing to support USDOT's efforts to ensure quality and barrier-free air travel for people with disabilities.

Sincerely yours,



Susan Henderson
Executive Director

ⁱ In order to learn more about the current experience of passengers with disabilities in air travel, veterans and disability rights organizations designed and promoted an informal online survey. The purpose of the survey was to gather information to inform the fight to improve the Air Carrier Access Act and make air travel better for all people with disabilities. Between October 4-December 6, 2021, over 1,260 individuals responded to the survey. This survey was sponsored by Paralyzed Veterans of America, American Council of the Blind, Bazelon Center for Mental Health Law, Christopher and Dana Reeve Foundation, Cure SMA, Disability Rights Education & Defense Fund, Epilepsy Foundation, Health Equity Collaborative, Muscular Dystrophy Association, National Disability Rights Network (NDRN), National Federation of the Blind, and United Spinal Association.

ⁱⁱ McNartney, Scott (December 1, 2021). "The Passengers Who Have the Toughest Time Flying," *Wall Street Journal*. https://www.wsj.com/articles/travel-flights-wheelchair-accessible-11638292159?mod=pls_whats_news_us_business_f

ⁱⁱⁱ Rozsa, Matthew (November 12, 2021). "It's not just United Airlines: Commercial air travel is cruel towards those with disabilities," *Salon*. <https://www.salon.com/2021/11/12/its-not-just-united-airlines-commercial-air-travel-is-cruel-towards-those-with-disabilities/>

^{iv} Ms. Jones was recently appointed to the President's Committee for People with Intellectual Disabilities.