

Congress of the United States

Washington, DC 20515

May 3, 2023

The Honorable Pete Buttigieg
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

Dear Secretary Buttigieg:

Thank you for your service and leadership as Secretary of the U.S. Department of Transportation (DOT).

We write to request information regarding your Department's enforcement of the *Air Carrier Access Act* (ACAA)¹ out of concern for our constituents and individuals across the nation with disabilities who have experienced discrimination and unacceptable treatment in air travel. We have heard horrifying stories from our constituents with disabilities about airlines dropping them from wheelchairs while boarding airplanes, damaging or losing their wheelchairs, and other reproaches to their safety, health, and dignity. Passengers with disabilities continue to face unnecessary and discriminatory barriers that prevent them from participating in society on an equal basis.

The ACAA is the primary federal statute governing the rights of passengers during air travel. Since 1986, the law has provided federal protections to airline passengers with disabilities, such as (1) prohibiting discrimination on the basis of disability in air travel; (2) defining requirements regarding the accessibility of aircraft facilities; and (3) ensuring airlines provide certain services and accommodations for these passengers.² Unlike the *Americans with Disabilities Act* (ADA)³, the ACAA does not expressly provide for a private right of action, thus individuals with disabilities cannot enforce their rights under the ACAA through civil litigation in U.S. courts— which significantly weakens the ACAA's enforcement. As a result, the only recourse available to these consumers is to file a complaint with the U.S. Department of Transportation.

Our understanding of your Department's current complaint process with regards to the ACAA is that DOT forwards all disability complaints it receives to the airline accused of a violation, requires the airline to respond to the complaint, reviews the airline's response, and determines whether to open an investigation by weighing numerous factors, including whether DOT believes an airline is systematically violating civil rights requirements or engaging in particularly egregious conduct. The Department currently publishes the data on disability-related complaints that U.S. and foreign passenger airlines operating to, from and within the U.S. receive during each calendar year⁴; however, DOT has not publicly provided information on how many complaints it has resolved. In addition, the DOT has been silent in response to a growing chorus of complaints regarding the Department's enforcement of the ACAA.

This lack of transparency is particularly concerning given the rise of disability-related complaints filed with DOT in recent years. In 2021, DOT received 1,394 disability-related complaints, an increase of 54 percent from

¹ 49 USC § 41705

² DOT, *Passengers with Disabilities*, (Oct. 2022), available at: <https://www.transportation.gov/airconsumer/passengers-disabilities#:~:text=About%20the%20Air%20Carrier%20Access,of%20airlines%20under%20this%20law.>

³ 42 USC § 12101, *et seq.*

⁴ DOT, *Data on Disability-Related Air Travel Complaints*, (Mar. 2023) available at <https://www.transportation.gov/airconsumer/annual-report-disability-related-air-travel-complaints>.

the 905 disability complaints received in 2019.⁵ Although the number of disability-related complaints has increased in recent years, DOT has taken only one enforcement action for non-compliance with applicable accessibility-related regulations for the airline industry since 2019.⁶ This is a sharp decrease in the Department’s enforcement actions from the 37 consent orders issued to airlines from 2008 through 2019 for disability-related violations.⁷


Given DOT’s insufficient enforcement activity despite an increase in disability-related complaints, please provide responses to the following questions:


- 1) What is the DOT’s specific process to investigate and adjudicate potential consumer protection violations when it receives an airline’s response to a disability-related complaint?
- 2) What are the criteria used to determine whether the Department will pursue enforcement actions?
- 3) How often is this process evaluated and, if appropriate, amended?
- 4) Of the 1,394 disability-related complaints DOT received in 2021, what percentage of complaints resulted in dismissal, a civil monetary penalty, or other injunctive relief?
- 5) How long did it take to resolve those investigations?
- 6) What steps, if any, is the Department taking to improve its disability-related complaints resolution process?


We appreciate DOT’s recent efforts to strengthen the implementation and enforcement of the ACAA and to implement the accessibility-related provisions required by the *FAA Reauthorization Act of 2018*⁸. However, our constituents – and all Americans – deserve more. We look forward to your response and working with you to protect the civil rights, safety, and dignity of those we serve with disabilities.

Thank you for your attention to this important matter.

Sincerely,


Abigail Davis Spänberger
Member of Congress


Dina Titus
Member of Congress


Steve Cohen
Member of Congress

⁵ GAO, *Passengers with Disabilities: Barriers to Accessible Air Travel Remain*, (Nov. 2022), available at <https://www.gao.gov/assets/820/813324.pdf>

⁶ *Id.*

⁷ GAO, *Aviation Consumer Protection: Increased Transparency Could Help Build Confidence in DOT’s Enforcement Approach*, (Oct. 2020), available at <https://www.gao.gov/assets/gao-21-109.pdf>

⁸ Pub. L. No. 115-254