

Rights of Air Travelers with Disabilities

To ensure that people with disabilities are not discriminated against in air travel, Congress passed the Air Carrier Access Act ("ACCA"). 14 CFR 382. Under the ACAA, all domestic and international flights within the United States as its destination or origination are required to provide certain accommodations, free of charge, to people with disabilities in a way that is consistent with providing safe travel for all passengers.

Keep in mind that even though an airline offers an accommodation, it does not mean that you have to accept it. For example, airlines must allow--but may not force--a person with a disability to pre-board the plane. However, if you request an accommodation that is required by law, the airline must provide it to you, free of charge.

Pre-Flight Notifications

Pre-flight notification to the airline is generally not required. People with disabilities do not need to tell the airline ahead of time that he plans to fly, except under some very specific circumstances. These circumstances include traveling by stretcher, traveling with an electronic wheelchair or other device requiring special batteries, or requiring a hook-up to the airline's oxygen system during the flight. If none of these conditions apply, the airline may not deny you travel for failing to tell them ahead of time.

Even though in most cases you are not required to notify the airline in advance, my family has found that the airport process runs more smoothly if the airline has notice. When I purchase my son's tickets, I check the box for disability. I then answer the general questions regarding mobility the equipment we will be taking. The airline often calls us a week before travel asking more specific questions.

Traveling with an Attendant

Traveling with someone to help the person with a disability during the flight in case of emergency is generally not required. However, airlines may require such an attendant only if the airline staff determines the person:

1. Is unable to comprehend or respond appropriately to safety instructions;
2. Has a mobility impairment so severe that the person is unable to assist in his own evacuation from the aircraft: or
3. Has both severe hearing and severe vision impairments which prevent him from receiving instructions from in-flight personnel.

If the airline determines that you need an attendant and you are travelling alone, the airline may appoint an off-duty employee who is travelling on the flight or ask another passenger to volunteer to assist you in case of emergency. However, the airline is not required to provide an attendant, even if they determine one is necessary for you to fly.

Is a Medical Certificate Necessary or Recommended?

A medical certificate is a written statement from the passenger's doctor saying that the passenger is capable of completing the flight safely without is generally not required. However, an airline may request a medical certificate if the traveller is:

1. On a stretcher or in an incubator;
2. Needs medical oxygen during the flight; or
3. Has a medical condition which causes the airline to have reasonable doubt that the person can complete the flight safely, without requiring extraordinary medical assistance.

The problem with these and other ACAA rules is that the language still leaves much interpretation by airline personnel to decide whether the person can complete the flight safely. Thus, the airline has the ultimate decision in "the interest of all passengers' safety."

Preparation before a trip is, therefore, very important. Even though you may not be required to inform an airline before you travel, it is a good idea to let the airline know you are travelling, especially if you will need

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certain accommodations. Further, if you are travelling alone and you are concerned the airline may deny you travel without an attendant, you may want to get a letter from your doctor documenting your ability to perform the travel-related functions.

Enforcing your Rights

The airlines may refuse transportation if a person would endanger the health or safety of other passengers, or transporting the person would be a violation of FAA safety rules. Keep in Mind this can apply to someone who airline personnel determine is unable to assist themselves.

Generally, airline personnel may not ask what specific disability the person has, but they can ask questions regarding the person's ability to perform specific air travel-related functions, such as boarding, deplaning or walking through the airport. Admitting that you have difficulties with one or more of these tasks does not allow the airline to deny you travel. Rather, the airline must be able to tell you how the safety of all passengers would be affected by your presence on the flight. Unfortunately, the airline does not have to give you such a response until after your day of travel.

Airline is Not Following the Law

If you think the airline is not following the law and discussing the problem with airline personnel has not resolved the issue, there are steps you can take.

1. Ask to speak to a Complaints Resolution Officer ("CRO")

All airlines are required to have a CRO immediately available in person or on the phone to resolve disagreements as they arise. The passenger is entitled to talk with a CRO who has authority to resolve complaints on behalf of the airline.

2. Ask the CRO to confirm his decision with the pilot

Discussing the situation with the CRO is the best way to resolve issues and ultimately, the pilot has the final say when it comes to issues of passenger safety. Asking the CRO to confirm his decision with the pilot can add another layer of protection for the passenger.

3. Contact the Department of Transportation

If unsatisfied with the airline's response, you may contact the Department of Transportation's consumer protection hotline at 1-800-778-4838.

Conclusion

The most important thing is to know your rights before you fly and to keep your cool. Making sure to plan ahead and allow plenty of time for accommodations to be made can also help make the flying experience more enjoyable.