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5321 Plaza Lane
Wichita KS 67208
December 30, 2004

Docket Clerk
Department of Transportation
400 7th Street, SW., Room PL-401
Washington, DC 20590

Docket Number OST-2004- 19482-17

Dear Docket Clerk,

As a blind traveler who uses a guide dog, I want to thank the Department of Transportation for providing the opportunity to comment on the Notice of Proposed Rule making published in the Federal Register on November 4, 2004.

Many elements of the proposed rules represent improvements in general access issues. In particular the mandate that foreign air carriers must meet the accessibility requirements of the ACAA and that all airline and air travel related companies must make their websites accessible to blind and visually impaired travelers using screen readers are welcome additions to existing regulations.

In the proposed new rules, there are a number of issues raised, upon which I would like to comment.

1. One of the most problematic issues for a disabled traveler using a service animal is the suggestion that airlines may charge for an additional seat if the service animal cannot fit in the floor space available, either in bulkhead or under the seat in front. If airlines move in this direction, air travel by a class of disabled people will become unaffordable and will have a direct and discriminatory impact on their freedom to travel by air.

For a small number of disabled people teamed with assistance dogs, the nature of their disability has a direct impact on the size of the dog needed or the ability of a canine partner to fit in the allotted space provided in the cabin.

In my case, although my current partner is a diminutive 53 pounds, the issue becomes one of cabin configuration. As regional jets have become more widely used, the size of overhead bins has decreased, forcing passengers to use floor space in front of their seats; while, at the same time, there has been a noticeable increase of the amount of carry-on items most passengers bring onboard. This situation is exacerbated greatly by the construction of the smaller plane. On larger jets, a passenger has use of the full space directly in front of their seat, while on the regional jets, most of the seats (two to a side of the center isle) have seat supports located in the middle of the seat, resulting in a diminished area in front of the seat. Although many service dogs can fit in this location, it will often be accomplished by eliminating the balance of the space for

the person sitting next to the disabled passenger.

It is well known in the industry that the interior configuration of the aircraft can be modified. In fact, during the last decade the trend has been to increase the number of seats and decrease the amount of space in front of and between seats, exacerbating the problem based by passengers with disabilities traveling with assistance dogs.

By suggesting that airlines may charge for an additional seat if the service animal intrudes into the neighboring passenger's space, DOT is violating basic principles of non-discrimination. In addition, 382.67 permits carriers to comply with the wheelchair storage requirement by using a strap kit across two or three seats to store the wheelchair and if other passengers are bumped they receive compensation equivalent to denied boarding. No mention in this rule is made of additional charges for the extra seats provided for wheelchair stowage. Providing such an accommodation to the stowage of wheelchairs but not to the placement of service animals can be viewed as discrimination toward one class of disabled passengers. 382.11, Section 3 states: that whatever services are offered to one passenger must also be offered to disabled passengers. If wheelchair users are offered additional seats for the stowage of their wheelchairs, then an equivalent accommodation should be made for assistance dog partners. Providing additional space for mechanical assistive devices and denying additional space for live assistive devices, namely assistance dogs, is discriminatory.

As has been offered by the International Association of Assistance Dog partners ((IAADP), I support the following suggested language:

"If other passengers are bumped because of a service animal, they receive compensation equivalent to denied boarding."

The NPRM document states that it is considered an undue burden to furnish more than one seat per ticket or ask another passenger to share leg room with a service animal or providing a seat in a class of service other than the one the passenger purchased. Why would asking another passenger to share leg room on a voluntary basis or shifting the passenger next to the service animal or the passenger with the service animal to a seat in another class of service be considered an undue burden?

To a certain extent, this question is addressed in 64393, right hand column, "If the service animal does not fit, it should be relocated to another space in the cabin if possible in the same service class. If no single seat will accommodate you may offer the option of purchasing a second seat, traveling on a later flight or having the service animal travel in the cargo hold." I consider these options unacceptable and discriminatory.

I support the following suggested language: "you may offer the passenger sitting in a seat adjacent to the disabled

passenger traveling with a large service animal a seat in the same class of service in another part of the cabin. If no seats are available in that class of service, you may ask for a volunteer willing to occupy the seat next to the disabled passenger requiring sharing of leg room. If no volunteer is forthcoming and seats are available in another class of service in another part of the cabin, you may ask the adjacent passenger or the disabled passenger to occupy a seat in that other class of service."

The NPRM states: "The Department seeks comment on whether there should be any exceptions to this principle (e.g., when a documented medical condition would preclude a passenger traveling in the space available to passengers in coach, but the additional room in business or first class would permit the individual to travel)." As IAADP suggests, when the nature of the disability or medical condition requires an assistance dog unable to fit in the leg space provided in coach class, that the disabled passenger and the assistance dog be offered accommodation in business or first class. Since such accommodation will only be offered in rare circumstances, this would not be an undue burden or lead to abuse.

In summary, 382.13 states air carriers must modify their facilities to assure nondiscrimination. The airplane is their facility. The air carrier must modify its facility, the aircraft, to accommodate assistance dogs of all sizes. In addition to dealing with facilities, the ACAA addresses the issues of programs, services and policies. By adopting the IAADP recommendations proposed above, air carriers will avoid potential discriminatory behavior toward disabled passengers traveling with large assistance dogs.

2. 382.41 indicates information must be provided to a passenger by specific row and seat number and any limitations on storage capacity must include information concerning storage of passenger's assistive devices. Since my assistive device is a guide dog, information about floor space in front of the selected seat should be made available to me. The suggested language: could describe the space in front of my seat as measuring 3 feet from front to back and 2 feet from side to side, or whatever the actual case might be for the particular aircraft upon which I am traveling.

3. In the current rules a disabled passenger may not be charged for extra baggage if the additional bags are used to transport medicines, wheelchairs or other mechanical equipment. I would like to see added to the list food and equipment required by the assistance dog. Additional equipment could be a harness or second harness required for other assistance dog-related activities. Although most dog food is available at pet food stores, the need to obtain food on arrival at a destination potentially presents an undue burden. Getting transportation to

and from the pet food store and carrying a large bag of dog food back to a hotel or hospitality center most likely would be a hardship or burden. These are living assistive devices, and without food they could not continue performing their assistive functions. Furthermore, it could not be guaranteed that the particular diet the dog is used to will be available and changing foods suddenly can have unwanted consequences.

When I travel, I bring my dog's food, pills and dietary supplements with me in my luggage. For a one to two week trip, this means adding another piece of luggage or loading existing luggage beyond the 50 pound domestic luggage weight for a single item. Many other disabled travelers face the same problem.

4. I agree with DOT's recommendation that pre-boarding should continue to be offered by airlines. For those of us with assistance dogs, this policy provides the opportunity to settle the dog under the seat or in bulkhead before other passengers board. Many disabled travelers choose this option but airline staff must be aware this is a choice, not a mandate, as is seating in the bulkhead.

5. I agree that the air carrier's acknowledged commitment to providing meet and assist or escort services promptly or in a timely manner are commitments that are too vague and unspecific. There should be a standard time after arrival for such services to be provided. A reasonable waiting period based on current time frames for connecting flights is 10 minutes. To make this recommendation work, some penalties for airline non-compliance should be instituted. Another suggestion is that until the requested escort service arrives, an airline staff member stay with the disabled passenger until the connection is made. Any suggestion that does not ensure timely assistance to avoid missing connections is unsatisfactory.

6. IAADP is part of a Task Force convened by the National Council on Disability dealing with the establishment of relief areas for assistance dogs at airports. The Task Force recommendations are in the process of being submitted to DOT. The goal is to establish relief areas within the protected perimeter of the airport so passengers with disabilities will not need to re-enter the terminal and repeat the process of going through the security check. The relief areas need to be kept clean and maintained, contain a diversity of surfaces, be fully accessible for those with a variety of disabilities and airport personnel, including gate agents, CROs and escorts must be aware of their location. Using these facilities should be considered a desirable option and not a mandate. All of these elements would result in more comfortable and less stressful travel conditions for disabled travelers, their assistance animals and the general traveling public.

7. . Several questions raised in the document need to be addressed:

"What about long flights with service animals lasting 14-18 hours?"

Decisions about how long a service animal can fly in the cabin is one that should be left up to the disabled partner. Raising this question in the NPRM gives the appearance of treating service animal partners as incapable of making these decisions or choices.

"Should modifications be made to Appendix A, which is the guidance on service animals?"

I agree with IAADP's strong recommendation that emotional support animals be removed from the class and definition of service animals. A fundamental element in the definition of service animals is task training. This element is not part of the definition of emotional support animals. Therefore, they should be treated as a separate class or category of animals permitted in the cabin of an aircraft.

Since the current proposed rules will extend ACAA coverage to foreign airlines using United States airports, I believe this issue may become a point of conflict between ACAA regulations and those regulations established in the home countries of foreign air carriers. By removing emotional support animals from service animals, this issue can be more effectively negotiated.

"Should a carrier have advance notice that an individual arriving at the airport requires escort service?"

This suggestion has its limitations. For a passenger with a disability to provide the escort service with an exact time of arrival is impossible, since many airports are located in major metropolitan areas and traffic delays are unpredictable. If the recommendation were adopted, how would DOT guarantee that the escort service would be available at the time agreed on? Even today when notice is given about the need for escort service to connecting flights, the timely availability of this service remains a fundamental problem resulting in many complaints. Of even greater concern is the question as to how the missed meeting would be corrected upon the disabled traveler's arrival. This suggestion shifts the burden of responsibility from the carrier to the passenger and clearly modifications in policies could resolve the problem more effectively.

Thank you for your attention in these matters.

Sincerely yours,

Sanford J. Alexander, III