

February 5, 2026

Blane Workie  
Assistant General Counsel  
Office of Aviation Consumer Protection  
U.S. Department of Transportation  
1200 New Jersey Ave. SE  
Washington, DC 20590

**Re: DOT-OST-2025-2514, RIN 2105-ZA20, Investigatory and Enforcement Policies and Procedures of the Office of Aviation Consumer Protection, Notice of Proposed Guidance**

Dear Ms. Workie:

The undersigned organizations submit the following comments in response to the notice of proposed guidance from the U.S. Department of Transportation (DOT), Office of Aviation Consumer Protection (OACP) on investigatory and enforcement policies and procedures of the OACP. The notice was published on January 6, 2026. We write to emphasize that OACP must continue to conduct enforcement, including assessment of monetary penalties, as appropriate, against air carriers that fail to comply with federal regulations, especially the Air Carrier Access Act (ACAA). Such enforcement is authorized by Congress and is necessary to safeguard the safety of people with disabilities in air travel and their right to be treated with dignity and respect.

The ACAA was passed in 1986 to ensure carriers provide safe carriage for passengers with disabilities, consistent with that provided to passengers without disabilities, and prohibited disability discrimination in commercial air travel.<sup>1</sup> Although the law has been in effect for nearly 40 years, carriers continually fail to meet ACAA requirements. For example, in calendar year 2023, reporting carriers received 49,082 disability-related complaints.<sup>2</sup> Despite the large number of complaints filed, OACP took minimal enforcement efforts to ensure ACAA compliance. Due to the statutory authority Congress gave to DOT to enforce the ACAA; statutory requirements to investigate any ACAA complaint; statutory authority to assess civil penalties against air carriers who violate the ACAA; and the due process carriers receive during the investigation process, DOT should continue enforcement actions, to include assessment of civil penalties for ACAA violations, as well as proactively working with airlines to ensure compliance as directed by Congress.

**DOT Has Statutory Authority to Enforce the ACAA and Assess Civil Penalties**

DOT has statutory authority to enforce the requirements of the ACAA and promulgate additional regulations under the law. Moreover, in the FAA Reauthorization Act of 2024, Congress required DOT to initiate additional rulemaking efforts to ensure safe and dignified air travel for people with disabilities.<sup>3</sup> In February 2025, President Trump issued Executive Order (EO) 14219, “Ensuring Lawful Governance and Implementing the President’s

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<sup>1</sup> Pub. L. 99-435, § 3, 100 Stat. 1080 (1986).

<sup>2</sup> U.S. Department of Transportation, Aviation Consumer Protection, 2023 Disability-Related Complaints Received for All Carriers (Aug. 11, 2025), <https://www.transportation.gov/resources/individuals/aviation-consumer-protection/2023-disability-related-complaints-received-all>.

<sup>3</sup> Pub. L. 118–63, 138 Stat. 1025 (2024).

Department of Government Efficiency Deregulatory Initiative,” which directs federal agencies to prioritize enforcement of regulations that are explicitly authorized by the Constitution and federal statutes.<sup>4</sup> The purpose of EO 14219 is “to focus the executive branch's limited enforcement resources on regulations squarely authorized by constitutional Federal statutes.”<sup>5</sup> Congress explicitly authorized DOT to enforce the ACAA, promulgate regulations, and enforce those regulations. Thus, the enforcement of the ACAA and related regulations squarely fits into the EO 14219 purpose and directive.

Moreover, DOT is explicitly and statutorily required to investigate complaints alleging discrimination against a person with a disability. Under the ACAA, after DOT receives *any* complaint alleging discrimination against a person with a disability, DOT is required to investigate the complaint and make a determination of whether a violation occurred.<sup>6</sup> DOT is also required, in writing, to provide any action the department is taking in response to the complaint.<sup>7</sup> In addition, DOT has statutory authority to assess civil penalties against air carriers for failure to comply with laws that protect passengers with disabilities during air travel. Moreover, in the FAA Reauthorization Act of 2024, Congress explicitly granted DOT authority to assess civil penalties in accordance with 49 U.S.C. § 46301 to any carrier that fails to meet new regulatory requirements for improved training standards for personnel who assist passengers who use wheelchairs or personnel who stow wheelchairs and scooters.<sup>8</sup> Furthermore, 49 U.S.C. § 46301 states that for penalties “that involves damage to a passenger’s wheelchair or other mobility aid or injury to a passenger with a disability *may be increased* above the otherwise applicable maximum amount under this section for a violation of 49 U.S.C. § 46301 to an amount not to exceed *3 times the maximum penalty* otherwise allowed.”<sup>9</sup> That Congress permits an increased civil penalty for violations of the ACAA that result in harm to a passenger with a disability or damage to the passenger’s wheelchair or other mobility device emphasizes Congress’s intent that ACAA violations not only include civil penalties, but that these penalties be higher. Therefore, civil penalties are explicitly authorized in federal statutes and DOT should continue to use enforcement resources for ACAA and related regulations.

### **Air Carriers Are Afforded Due Process During ACAA Investigations and Enforcement Actions**

In March 2025, the department's Acting General Counsel issued a memorandum clarifying the procedural requirements governing enforcement actions initiated by DOT in order to ensure that the department’s enforcement actions satisfy principles of due process and remain lawful, reasonable, and consistent with Administration policy.<sup>10</sup> The memorandum noted that due process always includes two essential elements for a party subject to agency enforcement action, “adequate notice of the proposed agency enforcement action

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<sup>4</sup> EO 14219, Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative (Feb. 25, 2025), <https://www.federalregister.gov/documents/2025/02/25/2025-03138/ensuring-lawful-governance-and-implementing-the-presidents-department-of-government-efficiency>.

<sup>5</sup> *Id.*

<sup>6</sup> 49 U.S.C. § 41705(c)(1).

<sup>7</sup> *Id.*

<sup>8</sup> FAA Reauthorization Act of 2024, §§ 542(e) and 543(e).

<sup>9</sup> 49 U.S.C. § 46301(a)(7)(a) (emphasis added).

<sup>10</sup> U.S. Department of Transportation, Office of the General Counsel, Memorandum to Secretarial Officers and Heads of Operating Administrations (Mar. 11, 2025), <https://www.transportation.gov/sites/dot.gov/files/Procedural%20Requirements%20for%20DOT%20Enforcement%20Actions%20%28March%2011%2C%202025%29.pdf>.

and a meaningful opportunity to be heard by the agency decision maker.”<sup>11</sup> OACP is now proposing to revise its existing investigatory and enforcement policies and procedures to be consistent with DOT and the Administration’s policies to ensure OACP is carrying out its enforcement responsibilities in a fair and just manner.

DOT’s enforcement of the ACAA satisfies the principles of due process as air carriers receive adequate notice of the proposed agency enforcement action and a meaningful opportunity to be heard by DOT prior to an agency decision maker determining a violation of the ACAA, assessing a civil penalty, requiring the carrier to take corrective actions, or otherwise depriving the carrier of a property or liberty interest. The ACAA was passed nearly forty years ago and carriers are aware of the requirements that must be met. In addition, the carrier is adequately informed of the number of complaints received. For complaints alleging discrimination against an individual with a disability, the carrier must tabulate and categorize these complaints according to the type of disability and nature of the complaint and provide an annual report to DOT.<sup>12</sup> Thus, the carrier is internally on notice just on the number of complaints received each year and the types of complaints filed.

Furthermore, air carriers receive due process during the investigation process for ACAA complaints. When DOT receives either an informal or formal complaint alleging disability discrimination, the complaint is sent to the carrier for a response.<sup>13</sup> As noted in the proposed guidance, “When an investigation letter is sent to a regulated entity, OACP considers the entity to be on sufficient notice of OACP’s jurisdiction over the particular conduct and the legal standards applicable to that conduct.” For every complaint, the carrier can conduct their own investigation of the facts and provide a response to the agency prior to the agency making a determination. In the instance of an informal complaint, after the carrier responds, DOT makes a determination of whether an ACAA violation occurred. For formal complaints, carriers also receive an opportunity to respond to the allegations before the complaint is sent to an agency decision maker for a potential decision.<sup>14</sup> During the investigation processes, the carrier can enter into a mutual consent decree with DOT. With both types of complaints, the carrier is given an opportunity to respond prior to the agency conducting their investigation and assessing whether any enforcement actions should be taken. The carriers receive adequate notice of the proposed agency enforcement action and a meaningful opportunity to be heard by the agency decision maker.

DOT’s enforcement of the ACAA is lawful, reasonable, and consistent with Administration policy. As previously discussed, the Administration directed federal agencies to focus enforcement efforts on regulations squarely authorized in federal statutes. DOT’s enforcement of the ACAA is not only consistent with Administration policy, but is also authorized, lawful, and mandated by federal statute. Under the ACAA, DOT must investigate any complaint received. In addition, civil penalties are explicitly permitted and increased penalties can be awarded in violations that result in harm to a passenger with a disability or when a wheelchair or mobility aid is damaged.<sup>15</sup> It is also reasonable that civil penalties be assessed when violations of the ACAA result in harm to passengers with disabilities, including physical pain and injuries, financial loss, loss of independence, and carriers failing to treat passengers with disabilities with dignity and respect. DOT’s continued enforcement of the ACAA meets the requirements and recommendations of the March 2025 memorandum.

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<sup>11</sup> *Id.*

<sup>12</sup> Reporting Requirements for Disability-Related Complaints, OMB-2105-0551.

<sup>13</sup> 14 CFR 382.155.

<sup>14</sup> See 14 CFR Part 302.

<sup>15</sup> 49 U.S.C. § 46301(a)(7)(a).

## **Enforcement and Civil Penalties Are Essential to Protect Passengers with Disabilities**

In the proposed guidance, OACP intends to modify its enforcement program to ensure all enforcement efforts are founded on a positive grant of statutory language that clearly grants DOT the authority to impose penalties for violations. In the case of the ACAA, DOT has both statutory authority to enforce the law and regulations and statutory text clearly grants DOT authority to impose penalties, including civil penalties. Moreover, OACP's enforcement of the ACAA is not only fair, just, and statutorily authorized, but is also essential to remedy harm caused to passengers with disabilities and prevent future harm. The ACAA not only protects the rights of people with disabilities, but also ensures their safety during the air travel experience. Without enforcement of the law, passengers with disabilities will not receive adequate protections.

The proposed guidance says OACP intends to work with entities to promote compliance rather than penalizing entities for violations. We strongly support proactive compliance as it would improve the safety and dignity of passengers with disabilities. Unfortunately, complaints show that carriers often fail to take sufficient proactive measures to ensure ACAA compliance. In calendar year 2023 alone, reporting carriers received 49,082 disability-related complaints.<sup>16</sup> The high number of complaints is indicative of a failure to take proactive measures to comply with the ACAA. The carriers are on adequate notice of the ACAA requirements, the number of complaints they receive each year, and even the types of complaints received. Warning letters are inadequate for ACAA violations because of the sufficient notice and how to comply. Only through enforcement, including the assessment of civil penalties, as appropriate, will carriers take the necessary remedial actions to fully comply with the ACAA.

As noted in the proposed guidance, "When OACP has evidence of widespread, systemic, egregious, or intentional violations, it may determine that enforcement action is appropriate." There is evidence of widespread, systemic, and egregious ACAA violations. These violations have resulted in serious physical pain and injuries, financial loss, loss of independence, and carriers failing to treat passengers with disabilities with dignity and respect. The egregious nature of these violations warrants enforcement actions. However, even now, limited enforcement actions are taken against air carriers. To comply with the Administration's policies and focus of the statutes, OACP must ensure they are conducting regular and frequent ACAA enforcement.

In addition, DOT must allocate resources and funds for OACP to engage in ACAA enforcement. This includes sufficient staffing to investigate any ACAA complaint and engage in subsequent enforcement actions, as appropriate. To accomplish this, DOT must properly account for staffing and any other needed resources. We continue to urge DOT and OACP to take measures to ensure carriers comply with the ACAA through enforcement measures, including assessing civil penalties. Only then will carriers be encouraged to comply with the ACAA and ensure the safety and dignity of passengers with disabilities.

Thank you for the opportunity to provide comments on this important matter. If you have any questions, please contact Heather Ansley, Paralyzed Veterans of America, Chief Policy Officer at [HeatherA@PVA.org](mailto:HeatherA@PVA.org) or Danica Gonzalves, Paralyzed Veterans of America, Senior Advocacy Attorney, at [DanicaG@PVA.org](mailto:DanicaG@PVA.org).

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<sup>16</sup> 2023 Disability-Related Complaints Received for All Carriers.

Sincerely,

Access Living  
All Wheels Up  
ALS Association  
ALS Network  
ALS United  
American Association of People with Disabilities  
American Council of the Blind  
Blinded Veterans Association (BVA)  
Cure SMA  
Deaf Equality  
Disability Rights Education & Defense Fund  
Easterseals, Inc.  
Guide Dogs for the Blind  
Muscular Dystrophy Association  
National Disability Rights Network (NDRN)  
National Multiple Sclerosis Society  
Paralyzed Veterans of America  
Service Employees International Union  
The Arc of the United States  
The Seeing Eye, Inc.  
United Spinal Association