

**Access to Transportation by People with Disabilities
Illustrations of implementation from the United States**

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Publication date: August 2, 2005

Foreword

The National Council on Disability (NCD) is an independent Federal agency with 15 members appointed by the President of the United States and confirmed by the U.S. Senate. The overall purpose of NCD is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities regardless of the nature or significance of the disability and to empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society. This topic paper is part of a series of topic papers designed to provide brief background information on United States disability policy for use by the delegates in their deliberations on the United Nations Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities.

I. Introduction

The ability to access transportation is a precondition to the full enjoyment of many human rights by people with disabilities. Inadequate transportation to places of work, education, healthcare, recreation, polling stations and countless other venues constitutes a significant barrier

to the enjoyment of human rights by people with disabilities, and consequently their full participation and inclusion in our communities and societies. This fact is recognized in Draft Article 19 (Accessibility) of a proposed UN convention/treaty,¹ which would require States to take appropriate measures to ensure that transportation is accessible to people with disabilities.

As governments and other actors undertake the drafting and implementation of this new human rights convention, it may be helpful to consider the experience of other countries in ensuring access to transportation by people with disabilities. This paper seeks to provide illustrations from the experience of the United States, and provides examples of legislative and other initiatives that have been undertaken to increase the accessibility of transportation. It is not the intent to argue that the approach adopted in the United States are the best or only way of ensuring access for people with disabilities, but instead to provide this information as a resource to those engaged in ultimately implementing the new convention. Although it is beyond the scope of this paper to provide an in-depth assessment of the impact of the legislation, programs, policies, and practices described here, documents providing such assessments are available and referenced in the footnotes for those interested in learning more.

Specifically, the paper seeks to:

- provide an overview of human rights concepts related to transportation and their relevance for supporting the enjoyment of human rights by people with disabilities;
- provide an overview of barriers which can impede access to transportation by people with disabilities;
- provide examples of legislation, programs, policies and practices that promote access to transportation by people with disabilities; and
- provide some recommendations for the convention context

II. Access to transportation by people with disabilities

a) What concepts in international human rights instruments are relevant to this issue?

International human rights law does not recognize a ‘right to transportation’ per se.

Rather, it guarantees the right to liberty of movement, which is elaborated in Article 12 of the International Covenant on Civil and Political Rights (ICCPR).² Specifically, Article 12 states:

- 1) Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence,
- 2) Everyone shall be free to leave any country, including his own,
- 3) The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant,
- 4) No one shall be arbitrarily deprived of the right to enter his own country.

The Human Rights Committee, which is mandated to interpret the implementation of the ICCPR by States Parties, has noted, “Liberty of movement is an indispensable condition for the free development of a person.”³ As long as a person is lawfully within a State, the State must not place restrictions on their liberty of movement, save those permitted under specific circumstances as outlined in Article 12(3).⁴ Thus, the duty of the State is to ensure the removal of barriers and other restrictions that impermissibly interfere with the individual’s liberty or freedom of movement. Moreover, the enjoyment of the right should not be dependent upon the individual providing any particular reason for wanting to leave or stay in a place,⁵ or be dependent upon the decision of a third party, such as a relative.⁶

Transportation constitutes an important means of exercising the right to freedom of movement, and as noted by the Committee on Economic, Social and Cultural Rights, adequate “transportation is crucial to the realization by persons with disabilities of virtually all the rights

recognized in the Covenant.”⁷ Failure to provide accessible transportation that truly facilitates freedom of movement for people with disabilities not only inhibits their ability to fully enjoy human rights, it seriously undermines the very dignity and autonomy of people with disabilities.⁸

b) What barriers can inhibit the enjoyment of this right by people with disabilities?

If lack of transportation can constitute a barrier to the enjoyment of other rights, what can operate as barriers to the provision of adequate transportation for people with disabilities?

Barriers may include⁹:

- Physical barriers – such as vehicle thresholds that do not permit entry by people with disabilities, sidewalks and streets that do not permit access to vehicles or independent mobility by people with disabilities, transport facilities (such as train and bus stations) that do not permit access by people with disabilities or that limit full access to services (including, e.g. restrooms, lounges) by people with disabilities;
- Informational barriers – such as signage or announcements that cannot be easily understood by those with sensory or developmental disabilities, insufficient information regarding the nature and availability of transportation services;
- Legal barriers – such as legislative prohibitions against people with disabilities operating or using certain kinds of transport, or laws that prohibit people with disabilities from obtaining and using legal papers (such as passports or other forms of identification) that may be needed to facilitate travel;
- Attitudinal barriers – such as the beliefs of transport operators and employees that people with disabilities do not or should not wish to utilize their services, or that it

is sufficient to provide services for people with disabilities that are not of the same quality and functionality as services for the rest of the public.

III. Illustrations of implementation of accessible transportation in the United States

On February 1, 2001, President Bush announced the “New Freedom Initiative,” which is a comprehensive national plan to remove barriers to community living for people with disabilities.¹⁰ Because of the key role that transportation plays in linking Americans with disabilities to jobs, education, healthcare services and many other aspects of community living, expanding transportation options for people with disabilities is a core component of the New Freedom Initiative.¹¹ Below is an examination of the core legislative frameworks that exist to promote accessible transportation for people with disabilities in the United States, as well as several examples of inter-agency collaborations designed to increase effectiveness of transportation initiatives, and also address specific issues, such as the needs of rural populations.

a. Americans with Disabilities Act of 1990 (ADA)

In recognition of the importance of transportation in the lives of people with disabilities, Congress included in Title II of the Americans with Disabilities Act a part dealing exclusively with the prevention of discrimination against people with disabilities in their access to public transportation.¹² With the exception of air carriers (who must comply instead with the Air Carrier Access Act of 1986, addressed below), Title II requires public entities to ensure that “no individual shall be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination” by public entities providing transportation services, on the basis of disability.¹³ The subparts of Title II then address entities providing different forms of transport, with Subpart i addressing fixed route systems (such as buses and certain types of rail that run on fixed schedules), paratransit, and

demand response systems (such as taxis, that do not run on fixed schedules), and Subpart ii addressing intercity and commuter rail. Public entities providing these services include requirements that: transit systems purchase and lease vehicles “readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs;”¹⁴ that paratransit be provided as a complement to fixed route systems¹⁵ and that people with disabilities using such mode of transit be allowed to be accompanied by one other person;¹⁶ that entities alter existing facilities to make them accessible to people with disabilities¹⁷ and ensure the accessibility of new facilities;¹⁸ and that at least one car per intercity rail transportation be accessible to people with disabilities.¹⁹ Regulations on each subpart of Title II of the ADA have been issued by both the Department of Justice²⁰ (DOJ) (relating to Subtitle A of Title II) and the Department of Transportation²¹ (relating to Subtitle B of Title II) which share responsibility for enforcement.

Title III of the ADA (Public Accommodations and Services Operated by Private Entities) also has application in the context of transportation, as it contains provisions explicitly prohibiting discrimination on the basis of disability by private entities “primarily engaged in the business of transporting people.”²² Essentially, failure to provide services and equipment accessible to people with disabilities constitutes discrimination,²³ and relevant private entities are obliged to purchase or lease equipment accessible to people with disabilities, and to remanufacture vehicles (to extend their usable life by 10 years or more) in a manner that makes the vehicles readily accessible to people with disabilities.²⁴ The Department of Transportation has promulgated regulations giving specificity to the provisions of Title III.²⁵ The Department of Justice has also promulgated regulations,²⁶ and has also published a technical assistance manual providing advice to entities seeking to comply with Title III.²⁷

As noted already, the Department of Transportation and Department of Justice have authority for promulgating regulations and enforcing various aspects of the ADA's provisions related to transportation. In addition, private individuals may initiate lawsuits and may also approach relevant agencies to investigate alleged violations of the ADA. For example, a number of individuals approached DOJ to ask them to investigate possible violations of Title III by Greyhound Lines, Inc., alleging that Greyhound had failed to remove barriers to people with disabilities at some of its facilities, and that Greyhound staff had failed on certain occasions to provide appropriate assistance to people with disabilities. To avoid litigation, expedite payment of compensatory damages to the individuals affected by the alleged violations, and effect the removal of barriers and changes in service to comply with Title III, Greyhound entered into a settlement agreement with DOJ.²⁸ As a result of this agreement, Greyhound undertook actions such as improvements to its internal dispute resolution procedures, training of its employees regarding ADA requirements, and creation of an advisory committee on disability issues that included representatives of organizations advocating for the rights of people with disabilities or specializing in travel for people with disabilities.²⁹

b. Air Carrier Access Act of 1986 (ACAA)

As noted above, Title II (B)(I) of the ADA expressly exempts coverage of aircraft, which are instead addressed by the Air Carrier Access Act (ACAA).³⁰ The stated purpose of the ACAA is to prevent discrimination against people with disabilities by air carriers in the provision of air transportation,³¹ and it achieves this by elaborating a “general prohibition of discrimination,”³² and also by placing specific requirements on relevant air transport facilities and services in order to ensure their accessibility to people with disabilities. It should be noted that while foreign air carriers need not comply with the specific accessibility provisions of the

ACAA, following amendments in 2000, they are compelled to comply with the general prohibition against discrimination.³³ Similarly, contracts that carriers have with contractors must include a clause guaranteeing that the contractor will not discriminate on the basis of disability in the course of performing activities on behalf of the carrier.³⁴

Issues of accessibility relevant to both aircraft and air transportation facilities are addressed with great specificity in the ACAA, thus decreasing ambiguity for those seeking to comply with the Act. For example, on aircraft (of specified size and age) there are requirements addressing the provision of folding aisle armrests, in-cabin stowage for folding wheelchairs, accessible lavatories, and wheelchairs for on-board use.³⁵ In addition, there are provisions specifying that activities to refurbish air cabins should not decrease accessibility below the level specified.³⁶ Airports must be accessible to people with disabilities (including wheelchair users), and carriers are deemed in compliance if they comply with Department of Justice Regulations implementing Title III of the Americans with Disabilities Act.³⁷

Even greater detail is provided regarding services, such as those related to seat assignments, boarding assistance, stowage of personal equipment, passenger information, treatment of mobility aids and assistive devices, accommodations for people with hearing impairments, and advance notice requirements.³⁸ The ACAA does not permit carriers to refuse carriage on the basis of a person's disability,³⁹ or "solely because the person's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience crewmembers or other passengers."⁴⁰ Furthermore, the carrier may not restrict the number of people with disabilities on any given flight.⁴¹ Essentially, as long as carriage of a given individual does not violate Federal Aviation Administration regulations,⁴² the carrier may not refuse transport for a given traveler with disabilities, nor may the carrier require that the

individual travel with an attendant.⁴³ Furthermore, the carrier may not charge travelers with disabilities for the use of equipment or services required by the regulations.⁴⁴ The application of these provisions is bolstered by the requirement that carriers train their personnel in how to comply with the regulations, and also provide awareness-raising training on how to appropriately address disability-related issues.⁴⁵

The Department of Transportation (DOT) is mandated to enforce the ACAA, and requires carriers to implement a complaint resolution mechanism and report regularly to DOT regarding complaints filed against the carrier.⁴⁶ DOT is also authorized to take enforcement actions against air carriers alleged to be in violation of the ACAA and related regulations, and in January 2004 DOT began issuing a biannual report of steps it has taken to enforce the ACAA.⁴⁷ DOT also provides information to consumers on how to file complaints,⁴⁸ and information on complaint histories of airline carriers.⁴⁹

c. Inter-Agency collaborations

Legislation and regulations addressing access to transportation by people with disabilities have been further enhanced by several formal and informal inter-agency collaborative initiatives.

1) United We Ride – Coordinating Human Service Transportation

In February 2004, President Bush issued an Executive Order addressing “Human Service Transportation Coordination.”⁵⁰ Acknowledging the critical role of transportation in society and the wide variety of transportation programs in existence,⁵¹ President Bush included in the Executive Order the recognition that there is a need to improve the coordination of transportation resources to make them easier for the public to understand and access, and to improve the cost-effectiveness of such resources.⁵² While the intention is to improve access to

transportation for all members of the public, the Executive Order cites such improvements as “essential for persons with disabilities, persons with low incomes, and older adults who rely on such transportation to fully participate in their communities.”⁵³ To achieve these ends the Executive Order establishes a “Federal Interagency Coordinating Council on Access and Mobility”⁵⁴ to “promote interagency cooperation and ... minimize duplication and overlap of Federal programs and services.”⁵⁵ The Interagency Council has in turn launched the “United We Ride” initiative, which provides a number of resources to promote governmental and non-governmental collaboration in the provision of improved transportation. Resources include a “Framework for Action” self-assessment tool to assist states and communities in identifying transportation areas of success and areas in need of improvement, state coordination grants, as well as regional leadership meetings to bring federal and state actors together to conduct workshops.⁵⁶ The “United We Ride” initiative also brings federal and state agencies together with non-governmental associations in a structured way to foster collaboration.⁵⁷ The Executive Order requires the Interagency Council to report to the President by February 2005, to indicate where improvements have been made and what the Council recommends to further advance the goal of improving access to transportation.⁵⁸ Thus, provisions have been made to monitor the implementation of the Council’s activities.

2) Airport security screening and people with disabilities

In recent years security screening in a number of public contexts has increased, with such screening being perhaps most evident in the nation’s airports. Unfortunately, when more stringent security screening programs were initially implemented a lack of clear guidelines and adequate training for security checkpoint staff created numerous barriers for people with disabilities wishing to fly.⁵⁹ Through informal collaborations among the National Council on

Disability, the Federal Aviation Administration, the Transport Security Administration (TSA) and the disability community, guidelines were developed and training programs were implemented to increase awareness of disability issues among security staff, and ensure the rights of travelers with disabilities during security screenings.⁶⁰ In this manner, disability issues have been mainstreamed into TSA's security operations at airports, so that neither security considerations nor the rights of travelers with disabilities and their traveling companions need be compromised. To further assist travelers with disabilities, TSA has reached out to the disability community through its website, notifying travelers with disabilities of their rights and necessary preparations to make prior to travel.⁶¹

3) Transportation needs of people with disabilities in rural areas

While there are many challenges facing Americans with disabilities living in rural areas, a 1998 Memorandum of Understanding between the Department of Agriculture (USDA) and the Department of Transportation (DOT) to address "long-term agricultural transportation, rural passenger and freight mobility challenges" has led to a number of initiatives improving access to transportation for people with disabilities in rural areas.⁶² For example, the USDA's Rural Development Rural Housing Service operates a Community Facilities Program that offers direct and guaranteed loans and grants to encourage the development of community facilities serving rural populations. Community facilities qualifying for these funds include certain public transportation services, such as off-street parking, sidewalks, bus service and equipment, as well as other forms of transportation equipment.⁶³ In this manner, rural communities can access affordable financing to enable them to undertake discrete projects that can have a profound impact on accessibility of rural transportation for people with disabilities. The USDOT Rural Transportation Initiative offers similar finance programs, such as the Rural Transportation

Accessibility Incentive Program, to assist bus operators and others in financing the capital and training costs associated with making their services accessible.⁶⁴ It should also be noted that one of the basic eligibility criteria for all USDOT programs is use of project planning activities that include people with disabilities, and other community organizations.⁶⁵ In this way people with disabilities are not merely passive recipients of projects that benefit them, but active and respected participants in claiming their access to transportation.

IV. Implementation check-list

The provision of accessible transportation is a key component in any strategy to ensure full enjoyment of human rights by people with disabilities. In light of the examples provided above, those engaged in the drafting and implementation of a convention on the human rights of people with disabilities may find the following implementation check-list of assistance when addressing the provision of accessible transportation for people with disabilities:

- Have programs/legislative initiatives to promote accessible transportation been developed through consultation with people with disabilities and their representative organizations? (As stakeholders, people with disabilities have a right to participate in the formulation of these initiatives, and are best placed to provide relevant expertise.)
- Do relevant programs/legislative initiatives have sufficient impact across all population areas? (For example, do accessible transportation programs reach people with disabilities in both urban as well as rural areas?)
- Do relevant programs/legislative initiatives address a variety of forms of transportation? (For example, accessible aircraft and trains will not be utilized if there is no accessible transportation, such as accessible taxis and buses, for people with disabilities to use to reach airports, train stations etc.)

- Is there sufficient coordination among relevant ministries, agencies, people with disabilities and other actors, to ensure that accessible transportation initiatives are developed in a systematic way that does not lead to unnecessary duplication or leave needs unaddressed? (Failure to coordinate may lead to resources not being used effectively or efficiently, and inadequate accessible transportation for people with disabilities.)
- Do relevant programs/legislative initiatives build-in automatic reporting? (Automatic reporting provides opportunities to gather data and statistics to enable ready assessment of implementation and programmatic effectiveness, as well as the production of publications and other resources that can be used by actors seeking to comply with obligations.)
- Are people with disabilities and their representative organizations actively engaged by the government and other actors in implementation assessments of relevant programs/legislative initiatives? (As noted above, people with disabilities are best placed to assess whether initiatives designed to ensure their effective access to transportation actually achieve this objective.)
- Do relevant programs/legislative initiatives ensure both physical and information access by people with disabilities? (Failure to provide both kinds of accessibility will not result in meaningful access to transportation services by people with disabilities.)
- Have sufficient information resources and training been provided to raise the awareness of relevant transportation officials and other actors of the rights of people with disabilities in relation to accessible transportation? (Absence of such trainings and resources can decrease the effectiveness of relevant programs and legislative initiatives and slow

implementation. As noted above, people with disabilities should be participants in the development of such training and resources.)

Acknowledgments

The National Council on Disability wishes to express its appreciation to Janet E. Lord and Katherine N. Guernsey, Consultants, for drafting this topic paper.

¹ For more information on the rationale for this new convention, *see* “A White Paper – Understanding the Role of an International Convention on the Human Rights of People with Disabilities: An analysis of the legal, social and practical implications for policy makers and disability and human rights advocates in the United States,” (National Council on Disability, May 23, 2002), available at:

<http://www.ncd.gov/newsroom/publications/2002/publications.htm>. For information regarding the draft text and status of negotiations, please visit the UN Department of Economic and Social Affairs (DESA) Programme on Disability: <http://www.un.org/esa/socdev/enable/index.html>.

² For further discussion of this and other rights relevant to a convention on the human rights of people with disabilities, as well as sample provisions from existing human rights instruments, *see* “A Reference Tool – Understanding the Potential Content and Structure of an International Convention on the Human Rights of People with Disabilities: Sample treaty provisions drawn from existing international instruments,” (National Council on Disability, 2002), available at: <http://www.ncd.gov/newsroom/publications/2002/publications.htm>.

³ Human Rights Committee, General Comment No. 27: Freedom of movement (Art. 12), 2/11/99. CCPR/C/21/Rev.1/Add.9, para 1.

⁴ *Id.* para 4.

⁵ *Id.* para 5.

⁶ *Id.* para 6. This latter aspect of the right to freedom of movement is of particular relevance for people with disabilities, who are often placed in positions where their autonomy and decisions are not respected. As indicated by the Human Rights Committee, such attempts to subvert the independent decision-making of people with disabilities, to the extent that it interferes with the movement of people with disabilities, can constitute a violation of the right to freedom of movement.

⁷ Committee on Economic, Social and Cultural Rights, General Comment No. 5: Persons with Disabilities, 9/12/94. E/1995/22, para 23. The “Covenant” referred to in this quotation is the Covenant on Economic, Social and Cultural Rights.

⁸ Such issues are addressed in the Quinn Degener report (for the UN Office of the High Commissioner for Human Rights) in the context of the concept of “liberty.” Specifically, that report asserts that “it is important to characterize inaccessible transport, an inaccessible built environment and an inaccessible communications environment as factors that detract to such an extent from the value of liberty that they call into question its existence for people with disabilities.” Gerard Quinn and Theresia Degener et al, “Human Rights and Disability: The current use and future potential of United Nations human rights instruments in the context of disability,” (Office of the High Commissioner for Human Rights, 2002), p. 24.

⁹ For more examples of barriers and difficulties faced by travelers with disabilities, *see* “National Disability Policy: A Progress Report December 2000 – December 2001,” (National Council on Disability, 26 July, 2002), Chapter 10: Transportation, available at: http://www.ncd.gov/newsroom/publications/2002/progressreport_07-26-02.htm#chap10.

¹⁰ Available at: <http://www.whitehouse.gov/news/freedominitiative/freedominitiative.html>. Such national policy papers related to realization of human rights and inclusive community living for people with disabilities are utilized in many countries, *see e.g.* “The New Zealand Disability Strategy,” (Ministry of Social Development, Government of New Zealand), available at: <http://www.odt.govt.nz/publications/nzds/index.html>. It is not uncommon for provinces within federations to also develop specific disability strategies, *see e.g.* “Alberta Disability Strategy Summary Document,” (Premier’s Council on the Status of Persons with Disabilities, Alberta Government, Canada), available at: http://www.cd.gov.ab.ca/helping_albertans/premiers_council/PDF_Files/ADS_SummaryF.pdf.

¹¹ *Id.* at 18.

¹² Pub. L. No. 101-336, 42 U.S.C. Subchapter II Public Services.

¹³ 42 U.S.C. § 12132.

¹⁴ 42 U.S.C. § 12142(a).

¹⁵ 42 U.S.C. § 12143.

¹⁶ 42 U.S.C. § 12143(c)(1)(B).

¹⁷ 42 U.S.C. § 12147.

¹⁸ 42 U.S.C. § 12146.

¹⁹ 42 U.S.C. § 12162(a)(1).

²⁰ 28 CFR 35, available at: <http://www.ada.gov/reg2.html>.

²¹ 49 CFR 37, available at: http://www.fta.dot.gov/14534_5606_ENG_HTML.htm.

²² 42 U.S.C. § 12184(a).

²³ As set forth in 42 U.S.C. § 12184(b)(1) and (2).

²⁴ 42 U.S.C. § 12184(b)(3)-(7).

²⁵ The Regulations are available at: <http://www.fta.dot.gov/library/legal/ada/FEDREG1001.HTM> (It should be noted that these regulations also include coverage of Title II.).

²⁶ The Regulations are available at: <http://www.ada.gov/reg3a.html>.

²⁷ The Technical Assistance Manual is available at: <http://www.ada.gov/taman3.html>.

²⁸ Settlement Agreement Under the Americans with Disabilities Act between the United States of America and Greyhound Lines, Inc., September 24, 1999, available at: <file:///C:/Consulting%20clients/NCD/Thematic%20papers%20project/Transportation/greyhound%20doj%20settlement%20agreement.htm>.

²⁹ *Id.*

³⁰ 49 U.S.C. § 41705, which is incorporated in the Department of Transportation rules “Nondiscrimination on the Basis of Disability in Air Travel,” available at 14 CFR 382, available online at: <http://airconsumer.ost.dot.gov/rules/382short.pdf>.

³¹ 14 CFR § 382.1. For the purposes of the Act “air carriers” are defined as “any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage in air transportation.” *Id.* §382.5.

³² The general prohibition against discrimination is found in 14 CFR § 382.7, and provides in relevant part that:

- (a) A carrier shall not, directly or through contractual, licensing, or other arrangements:
 - (1) Discriminate against any otherwise qualified individual with a disability, by reason of such disability, in the provision of air transportation;
 - (2) Require a person with a disability to accept special services (including, but not limited to, preboarding) not requested by the passenger;
 - (3) Exclude a qualified individual with a disability from or deny the person the benefit of any air transportation or related services that are available to other persons, even if there are separate or different services available for persons with a disability except when specifically permitted by another section of this part; or,
 - (4) Take any action adverse to an individual because of the individual’s assertion, on his or her own behalf or through or on behalf of others, of rights protected by this part or the Air Carrier Access Act.

It is also worth noting here that this general prohibition against discrimination includes a provision ((a)(2)) explicitly stating that people with disabilities need not be required to accept special services that they have not requested. Such a provision is critical to respecting the autonomy and dignity of travelers with disabilities, and ensuring that those providing air transportation are responsive to the needs as identified by travelers with disabilities.

³³ 14 CFR §382.3 (c).

³⁴ 14 CFR §382.9.

³⁵ See 14 CFR §382.21 et seq.

³⁶ 14 CFR §382.21(e).

³⁷ 14 CFR §382.23(b). Regulations relevant to ADA Title III, as promulgated by the Department of Justice are available at: <http://www.ada.gov/reg3a.html>.

³⁸ See 14 CFR Part C “Requirements Concerning Services.”

³⁹ 14 CFR §382.31(a). In general (unless the person is on a stretcher, uses oxygen, or in other limited circumstances), carriers may not require people with disabilities to produce medical certificates as a condition of travel. 14 CFR §382.53(a).

⁴⁰ 14 CFR §382.31(b).

⁴¹ 14 CFR §382.31(c).

⁴² 14 CFR §382.31(d).

⁴³ 14 CFR 382.35. In *Tallarico vs. Trans World Airlines*, 881 F.2d 566 (1989), it was found that TWA had improperly required a 14 year old girl with cerebral palsy to travel accompanied by her father, because her carriage did not violate any FAA regulations (indeed she had flown alone before), she was capable of moving about on her own by crawling, was capable of complying with reasonable safety requests of airline personnel, and she was capable of communicating her needs with the aid of assistive devices. 881 F.2d 566, 569.

⁴⁴ 14 CFR §382.57.

⁴⁵ 14 CFR §382.61.

⁴⁶ 14 CFR §382.65 and §382.70. Further guidelines addressing this reporting system are provided online by DOT at: <http://airconsumer.ost.dot.gov/rules/200300708.pdf>.

⁴⁷ The first report, issued in January 2004 is available at: <http://airconsumer.ost.dot.gov/legislation/aaaa/200401-implementing.pdf>. Currently, individuals cannot institute a private right of action under the ACAA, and there is also no provision allowing DOT to order a violating party to make restitution to an individual who has suffered a physical or economic injury caused by discrimination on the basis of disability. The National Council on Disability has issued a position paper calling for this situation to be rectified: "Position Paper on Amending the Air Carrier Access Act to Allow for Private Right of Action," (National Council on Disability, July 8, 2004), available at: <http://www.ncd.gov/newsroom/publications/2004/aircarrier.htm>.

⁴⁸ The DOT provides a general complaints web resource, with links for consumers to follow depending upon the nature of their complaint: <http://airconsumer.ost.dot.gov/problems.htm>.

⁴⁹ The regular publication of Air Travel Consumer Reports by the DOT provides information regarding types of complaints issued against different airlines, and includes information on disability-related as well as other types of reports. Reports are available at: <http://airconsumer.ost.dot.gov/reports/index.htm>. For an example of a specific report see November 2004, available at: <http://airconsumer.ost.dot.gov/reports/2004/0411atcr.pdf>. Non-governmental organizations also provide resources to travelers related to air travel. For example, Flying With A Disability offers guides and travel tips related to air travel, and provides a forum for travelers to share their experiences: <http://www.flying-with-disability.org/index.html>.

⁵⁰ "Executive Order: Human Service Transportation Coordination," Executive Order #13330, February 24, 2004, available at: <http://www.whitehouse.gov/news/releases/2004/02/200402249.html>.

⁵¹ *Id.* at § 1(b).

⁵² *Id.* at § 1(c).

⁵³ *Id.* at § 1(f).

⁵⁴ The current members of the Council are the heads of the following federal agencies: Department of Transportation, Department of Health and Human Services, Department of Labor, Department of Interior, Department of Veteran Affairs, Department of Justice, Department of Housing and Urban Development, Social Security Administration, Department of Agriculture, and the National Council on Disability.

⁵⁵ "Executive Order: Human Services Transportation Coordination," Executive Order #13330, February 24, 2004, § 3 – 4.

⁵⁶ For more information about the United We Ride program, please visit:

<http://www.fta.dot.gov/CCAM/www/index.html>.

⁵⁷ Non-governmental organizations associated with the initiative include: Easter Seals (which implements Project Action: <http://www.projectaction.org>), the Community Transportation Association (which implements the Community Transportation Assistance Project: <http://www.ctaa.org/>), and the American Public Works Association (which implements the National Rural Transit Assistance Program: <http://www.apwa.net/>).

⁵⁸ "Executive Order: Human Service Transportation Coordination," Executive Order #13330, February 24, 2004, § 5.

⁵⁹ National Council on Disability, Letter to The Honorable J. M. Loy, Administrator, Transportation Security Administration, March 14, 2003, available at: http://www.ncd.gov/newsroom/correspondence/2003/loy_03-14-03.htm.

⁶⁰ *Id.*

⁶¹ The TSA has a webpage dedicated to advising people with disabilities (and other people with certain medical conditions) of their rights and the ways in which they can prepare themselves and their belongings for screening processes. See <http://www.tsa.gov/public/display?theme=156>. Rights include the right to move to a private area if a personal search is required, the right to request a visual inspection of medication and related supplies in lieu of x-ray

screening, and the right to discretion on the part of the person conducting the screening. *Id.* “Tips for the Screening Process.” (With regard to accessibility of this information, it should be noted that § 508 of the Rehabilitation Act requires the websites of federal agencies to be accessible to people with disabilities, whether they are federal employees or members of the public.)

⁶² The Memorandum of Understanding is available at: <http://ntl.bts.gov/ruraltransport/memorandum.pdf>.

⁶³ For more on the Rural Housing Community Facilities Program, *see* http://www.rurdev.usda.gov/rhs/cf/non_profit_cf.htm#Community%20Facilities%20Direct%20Loan.

⁶⁴ For more information please see, <http://www.fhwa.dot.gov/tea21/factsheets/rtaccess.htm>.

⁶⁵ *See* “Transportation Toolbox for Rural Areas and Small Communities,” available at: <http://ntl.bts.gov/ruraltransport/toolbox/index.cfm>.