

January 11, 2024

Maegan Johnson
Office of Aviation Consumer Protection
U.S. Department of Transportation
1200 New Jersey Ave. S.E.
West Building at the Ground Floor
Washington D.C. 20590-0001

Submitted electronically at portal and via e-mail

Regarding: *Traveling by Air with Service Animals; Reinstatement of Information Collections at Docket Number DOT-OST-2018-0068*¹

Dear Colleague:

I thank the Department and its subsidiary agency for this opportunity to comment as a Past Civil Rights Chair at the Maryland Commission on Civil Rights, who was its first Chair partnered with a guide dog to so serve. I provide this as background of my legal expertise but also personal experience with this information collection and how this aforesaid paperwork burden must be reconsidered among other issues with the Final Rule issued in 2020. The issuance provides that comments will be received on these following questions, and we hope heard; arguing these questions miss the point that these forms should be abrogated.

- Whether the collection of information is necessary for the proper performance of the functions of the Department.
- Whether the information will have practical utility.
- And of importance, the accuracy of the Department's estimate of the burden of the proposed information collection.

Specifically, the Department should re-open the Final Rule through directed rulemaking to fix the many problems with that Final Rule in the first instance. In addition, the undersigned are civil rights lawyers who are concerned with advancing the rights and responsibilities of people with disabilities and other historically marginalized individuals. We disagree with the many problems, including what seemed like implicit presumptions about people with disabilities, in the Final Rule issued in 2020.

Paperwork: This joins other individuals or organizations in expressing our deep experience and concern that the handlers of service animals are subjected to either bias or discrimination based on having to complete this paperwork burden. If that is not true, certainly these individuals, which includes me on a semi-regular basis, may be well inconvenienced in their air travel based on presumptions rather than informed understanding of the unique challenges confronted by people who work with trained service animals.

¹ This public comment has been filed timely.

1. We found the Final Rule and its paperwork or requirements contradictory to the stated goals of the Trump Administration on eliminating paperwork upon American citizens. We had hoped the service animal community would have filed under a statutory scheme known as the Congressional Review Act to negate the questionable Final Rule. For an Administration that relied on that statutory scheme on several occasions, it is odd that the Administration foisted paperwork burden upon people with disabilities, not to mention arguable illegal requirements to fly as all other citizens. The least of which includes that the “attestation form” demands signatories to pledged to its authenticity on the penalty of perjury. We wonder if non-disabled citizens know their disabled counterparts are required to attest themselves to legal penalties merely to fly. In this way, we believe that this paperwork burden does not serve a suitable purpose, if an illegal one.

2. Evolving public policy hopes for its Stewarts to approach the public with a person-centered approach. This issuance reiterates implicitly or explicitly that this form is not a paperwork burden. Regrettably, the estimated time demand of fifteen-minutes is both based on carriers and more importantly is based on the entire lack of understanding of the real-world experience by service animal handlers in completing this form and then in managing airport staff.
 - Fifteen-minutes is entirely inaccurate as an estimate.
 - Arguably, the form lacks any bearing on a relationship between my service animal and I productively and safely flying; it only adds time delay. Because of the form, many airports demand I use the “special services line” to review the form. Whether that happens or I only present the form to a standard checkout “ticket agent,” the real-world experience is the same. Staff typically glance at the form. This fortifies that the form is irrelevant in the first place.
 - To return to the questionable time estimate, that alone does not account for the inaccessibility and non-usability challenges service animal handlers with sensory based disabilities have encountered and continuously encounter with the form. The least proof is that we know the federal government has documented challenges in complying with its legal requirements under Section 504 or 508 of the Rehabilitation Act of 1973, as amended.
 - Certainly, most staff do not possess the requisite credentials to evaluate if the form reflects the skills and the ability of a service animal handler to fly in accordance with federal regulations.

Best Practices: We join a concern expressed by a public policy advocate and consultant. She is a Past President of a guide dog advocacy non-profit entitled: Guide Dog Users, Inc. Specifically, many public policy advocates related to the rights and responsibilities of people with disabilities only learned of this opportunity the conclusion of December or the first week of January.

If agencies actually want to solicit the informed input of its stakeholders, longer amounts of comment time should be provided.² As support, this cites to the annual conference of the Administrative Law Section of the American Bar Association for the reasonable approach. Considering the level of work involved in any Federal Register issuance; it is a best practice to provide a longer amount of time for comment opportunities. Therefore, we must infer a lack of intent either for outreach to service animal policy experts or a lack of intent to address real-world problems, including missed flights by some service animals, which have arisen because of the “attestation forms.”

In conclusion, we thank the Department for this opportunity to provide this public comment expressing our actual real-world experiences or concerns with this “information collection” as well as the paperwork burden that has been imposed upon service animal handlers since the effective date of the Final Rule. When the goal served the best interests of the American people in our evaluation as lawyers, we valued that the Trump Administration claimed it would work on paperwork burden removal within Departments and agencies. We applaud the Biden Administration for its demonstrated commitment to equity and to civil rights. This “attestation form” serves neither Administration’s laudable policy goals. Please do not hesitate to communicate with me as representative of the undersigned.

Sincerely,



Gary C. Norman, Esq. L.L.M.
Lawyer, Consultant, and Adjunct Law Professor³

On behalf of:

Sheila L. Durant, Esq.

Debra A. Vey Voda-Hamilton, Esq.

Richard E. Shermanski, Jr. Esq.

² The Administrative Procedure Act at Title 5 of the United States Code only requires thirty-days for notice-and-comment. However, this does not prohibit longer periods to be established as a “best practice.”

³ I must suspect that the Department did not adequately or sufficiently rely upon the Federal Advisory Act when first writing the forms. I have worked with guide dog partners since August 2001, flying multiple instances on an annual basis. I document that flying is not for the faint of heart for any American, nevertheless a person with a disability. Clearly, the forms do not internalize this reality.