

CTA Phase II Consultation Submission

(Removed)

Emailed to: consultations@otc-cta.gc.ca

Submitted by:

The Alliance for Equality of Blind Canadians, (AEBC) Corry Stuiwe

Canadian Council of the Blind, (CCB) Louise Gillis

Guide Dog Users of Canada, (GDUC) Brian Moore

The National Coalition of People who use Guide and Service Dogs, (The Coalition) Heather Walkus.

Introduction:

Thank you for this opportunity to respond to the Canadian Transportation Agency (CTA) Consultation Document in development of the Phase II Regulations.

In this document, we will first identify existing barriers and then comment on the Phase II questions.

Please note that while Guide Dogs are considered Service Dogs under Human Rights Law, we have used both terms throughout the document and recognize that currently the majority of Service Dogs (70%) in Canada are Guide Dogs for the Blind.

While gathering information from our members, comments were submitted regarding current systemic barriers identified in the three areas below. We are asking the Canadian Transportation Agency, (CTA) together with the Representatives on the CTA Accessibility Committee, to address and remove these barriers. Many people expressed concern they will be compounded when applied to the areas identified in Phase II, if not dealt with now. Further, our understanding of the ACA is that implementation of regulations should not create new barriers and if it does, once known, the barriers need to be addressed immediately.

Existing Systemic Barriers to be addressed

1) Implementation of the 1Person 1Fare (1p1f)

- There are systemic barriers in the application of the 1p1f, as each transportation provider has a different process for medical forms, criteria for decision making and length of time for approval. There are no standards or consistency and as a result this creates several barriers.

- The medical forms have upwards of 10 pages, much of which is not relevant to the disability and requires more physician time to do testing and fill out.
- The forms can be confusing, are not in accessible formats, and many people remarked they are challenging to understand as the process is very different with each transportation provider.
- Passengers with disabilities can be asked to have a medical form completed several times a year. If a person has been assessed with a disability, they should not need to continuously reaffirm medically they have one.
- Currently, when a person is approved for a support person, they are required to travel with a support person every time they travel.
- The alternative is the passenger is required to provide a medical form each time they travel and the transportation provider determines if they travel with or without a support person.
- This is a major systemic barrier for people with episodic disabilities. e.g. MS or Arthritis flareups that do not always require a support person.
- We recommend, the person with a disability and their rights must be respected to decide when or if, they require a support person to travel with them. This must be the individual's decision without further medical reports required. Each person has the right to choose what aids they decide are appropriate for them at any time. e.g. a walker, wheelchair, support person, service dog, when they travel.
- There is a disconnect between the amount of time each carrier will approve authorization for the 1p1f for the same disability accommodation. It can be from 1 month up to two years and currently there is no continuity of decision making or of approvals.
- There is a cost to the passenger for each medical form to be filled out and this is very expensive. This is in opposition to the intent of 1p1f, and results in the person with a disability being financially penalized for this accommodation. Unless this is resolved, adding more providers in Phase II, will result in compounding the existing problem.
- Many Canadians do not have access to a primary care physician and may experience delays to have tests performed by walk in clinic medical practitioners.
- There is a barrier to understand and follow the many transportation providers rules to use the Federal Transportation Network and this is not acceptable. It is frustrating, confusing, bureaucratic and punitive to the passenger with a disability.
- The current process produces a loss of dignity, creates exclusion and further demeans an individual who has a disability.
- Revenue Canada rules require the seat the support person occupies, to be taxed. We argue that an accommodation cost is never put onto the person with a disability. The Canadian Human Rights Act, the Accessible Canada Act (ACA) and the Convention on the Rights of Persons with disabilities, (CRPD) over rules the

Income Tax Act or the Excise Act. We strongly recommend the CTA negotiate the ending of the tax rule with Revenue Canada.

- We recommend all these barriers be addressed in a timely and equitable manner.

2) Making reservations and checking in online.

- Currently most carriers require people to contact the medical desk to make reservations and they must first go through the reservation line. We recommend a direct line be available due to long and inconsistent wait times.
- The Transportation provider websites must be accessible to allow people with disabilities to book their travel and check-in independently online. This includes provision for booking online using the 1p1f and a when travelling with a Guide Dog. Currently people with disabilities who require an accommodation, must book their reservations by phone and check-in personally at the terminals and cannot check-in online or at kiosks.
- It was overwhelmingly recommended that once a person has an authorization number from the medical desk and placed in the persons secured profile, that number will generate the established accommodation in the reservation system when booking online.
- People who use Guide Dogs are not supposed to book tickets or check in on line. Guide Dog users are quite capable of managing without assistance through the transportation network. If a person requires assistance, they will ask for it. However once at the terminal, many people report being chastised for not going through the medical desk and treated as incompetent and pushed to take an accommodation, even if none is required like a second seat for space for their service dog. A person with a disability has the right to decide if they want an accommodation and transportation providers must re-evaluate their thinking on this, especially for Guide and Service Dog users. A person with or without a disability determines their needs and assistance required. eg: if a person with a guide dog asks for sighted assistance to way find through a terminal, it should not be assumed they need to be pushed in a wheelchair or driven in a cart.
- There must also be, when making a reservation online, a list of accommodations, such as in-terminal assist, that a person may request.

3) Terminal Accessibility

- Concern was raised over the types and ways terminals are being renovated to become accessible.
- This has been shown by the growing reliance on one organizations assessment model in Canada.
- There are many excellent models that fully encompass Universal Design.

- We believe that regulations must state that Universal Design Principles as outlined in the CRPD are the expected standard.
- We strongly recommend that Universal Design be in regulations as the standard and that any assessments, design, renovation and construction going forward be done to Universal Design Standards. This would include knowledgeable people from the disability community to work on all aspects of the renovation and construction.
- Several people who use Guide Dogs have expressed concern about the new relieving areas being designed and built beyond security. They want to ensure they are being designed with the participation and expertise of the handlers.
- Currently, personal assistance in many terminals is done by the staff of the transportation providers. Many members reported they are brought to boarding gates and left, as the staff must return to their regular jobs.
- We are recommending there must be a phone number or even a device given to the person to contact assistance should they require it while waiting.

Response to Questions in the Phase II consultation document.

Section 1. Applying the Accessible Transportation for Persons with Disabilities Regulations (ATPDR) to Small Transportation Providers

Questions

1. In extending the Accessible Transportation for Persons with Disabilities Regulations, (ATPDR) to small transportation providers, what modifications to regulatory requirements, if any, are needed?

Response:

We know that passengers with disabilities already have the right to travel as any other passenger. An accommodation is required when the current system is not accessible through design, architecture, process or communication. When a small carrier cannot currently meet all obligations under the ATPDR, there must be a plan by government to support the carriers to meet these obligations.

There are two facts, the operating realities of smaller carriers and the rights of persons with disabilities to travel on them.

The issue at this time is passengers with disabilities are being asked to wait to travel until accessible transportation is available. That is the key issue. What needs to be done, how quickly can it be done and how the disability community is engaged in working with small

and large carriers to accomplish the goals and implement the ATPDR are the important issues for inclusion and accessibility.

Questions from the Blind, Deaf/Blind and Guide Dog User community.

- What are the current plans and ideas for implementation that are already on the table?
- What is the process and supports being considered by the CTA and the Department of Transportation to ensure small carriers can comply with the ATPDR?
- Are there discussions regarding a process to support the small operators financially over time to make the changes that are required?
- Is making the Federal Transportation system accessible in all parts of the country a priority by developing support through grants, tax incentives and low or no interest loans to small carriers in discussion?
- Is there significant thought given to support for carriers that are the only viable transportation service to communities?

We believe it is the government's responsibility to find ways and means to support both the inclusion and accessibility of people with disabilities and to work with smaller carriers to achieve those goals when undue hardship has been proven.

Fitting larger wheelchairs and scooters onboard and/or in baggage compartments may pose difficulties. It will be important for the CTA to work closely with manufacturers so that today's new reality will be taken into account when new equipment is being designed and manufactured. Using Universal Design is important to achieving those goals.

We are concerned the regulations in the ATPDR in sections 44, 45, 46, 47, which allows a carrier to refuse the accommodation of large devices, be resolved and not continued with the smaller carriers. We are concerned that transportation providers will use these parts of the regulation to ask for exceptions to the duty to accommodate, due to undue hardship and to try to avoid their human rights duties.

We believe the smaller carriers can accommodate many immediate opportunities in the ATPDR that specifically impact travel for members of our respective community. Our members identified these opportunities to include:

- training for staff in communication by understanding the use of accessible apps on iPads and smart phones
- using accessible software programs
- using large and raised print, braille, screen readers on computers
- hire people from the blind, deaf/blind and low vision community to assist in understanding many of the solutions.

- Hire staff who use braille, large print, screen readers.
- Ensure staff are trained in ASL, LSQ, ISL and hire people who this is their first language.
- communicate information and accessibility using personal, low and high technology
- This would support efficient movement through the terminals, identification of key facility features, boarding procedures and accessible waiting areas.

These are examples of some immediate accessibility opportunities by hiring people with lived experience, training, innovation and common sense.

2. What would be the appropriate time frame for small transportation providers to come into compliance with requirements (e.g., 1, 2, or 3 years)? Do any requirements in particular require more time?

Response:

- The timeframe for implementation parts of the ATPDR may be different for every carrier, however many believe no longer than 2 years. It is difficult to choose a time frame when the unique operating differences may allow many parts of the ATPDR to be realized immediately by some and the reality of the age and design of inaccessible transportation may not be able to be replaced within that timeframe.
 - There may be cost factors for the smaller carriers to implement the ATPDR. Undue hardship is not the point to stop. It is rather, the beginning point of government support to implement the ATPDR in every part of Canada.
 - That may include programs to assist in funding through grants, tax breaks, low or no interest loans etc. However, whatever the solutions, it is not people with disabilities responsibility to find all the solutions or to fund inclusion for transportation carriers by paying for accommodation costs, (medical reports and taxes) or accessibility aids they do not want, but must use to travel because the system is not accessible.
 - The important factor is that implementation for accessible transportation for people with disabilities cannot be halted for any reason. It may be met in stages and as financial resources are made available and structural changes or replacements can be designed and purchased.
 - We believe that much of the ATPDR implementation is attainable now for small carriers.
 - Delayed implementation of the ATPDR will continue barriers for people with disabilities and does not ensure equality.
3. Are there any special accessibility-related challenges with small operators in any mode of travel in the federal network (airlines, tourist railway companies, bus operators, ferry operators) and the terminals that serve them, particularly in remote or northern areas of Canada? What solutions would help address these challenges?

Response:

In developing assessment, timelines, training and implementation plans, bring together knowledgeable people with disabilities and decision makers. This is often missed as opportunity to address accessibility challenges. Talk to the people that are impacted by the lack of accessibility as many times we have solutions.

Publish all plans and findings from every sector, on the CTA accessible website with the progress reports. People with disabilities should know to what extent small and large carriers and terminals can accommodate them and that information should be on the CTA site as well.

Section 2. One Person, One Fare for International Travel and Small Transportation Providers

Questions

1. Should the 1p1f requirement apply to transportation to and from Canada? If so, should it apply to both Canadian and international transportation providers?

Response:

The 1p1f supports the human rights principles of equality that people with disabilities have a right to equal access to transportation.

We have the right to be treated in the same manner regardless of the underlying reason for the disability. We should not be placed at an economic disadvantage as a result of a disability. We should not pay more for transportation services than passengers who do not have disabilities. That includes the cost of accommodations like the tax on the seat of a support person and the cost to provide medical forms. That is not substantive equality.

Sufficient Room for Service Dogs

Originally, the 1p1f was interpreted to not include the duty to accommodate sufficient room for service dogs. The Federal Court of Appeal Decision: **No. 66-AT-A-2009** dated February 27, 2009, upheld the duty to accommodate sufficient room at no cost. The Canadian Carriers then began implementing the 1p1f policy to include extra floor space for service animals.

We recommend the CTA immediately negotiate the application of the Canadian ruling of sufficient space for transportation of Service Dogs, at no cost. This includes all transportation providers to and from Canada, both Canadian and International transportation providers. and their partners. We recommend this be accomplished within one year.

We encourage the CTA to continue working with States Parties who have signed the Convention on the Rights of Persons with Disabilities, (the Convention) to realize their commitment in part, through implementation of 1p1f.

We Believe:

- If a passenger requires the 1p1f determination of an extra seat or seats in domestic travel, including with small carriers, it is obvious this passenger would also require assistance on international travel, where the time onboard can be much longer.
 - This should include all connecting flights to get to the persons final destination and return regardless of the airlines used.
 - The 1p1f provision should be extended to all flights both Canadian and International transportation providers entering and leaving Canada, within two years and the accommodation for service dogs to be within one year.
2. Achieving consistent approaches to accessibility for International air travel requires discussions and cooperation among many jurisdictions. Given this, it may not be possible to achieve the goal of completely barrier-free international travel through the CTA's regulations. What strategies -- as a complement or an alternative to changes to CTA regulations -- could be pursued to help remove barriers to Canadians with disabilities when they fly to or from other countries?

Response:

- Work with countries that also signed the Convention to develop a shared goal of accessibility.
- Particularly work on implementation of Article 20 -Mobility Rights and Article 32- International Co-operation, between States Parties. In discussions use our regulations as an important model in their countries work on implementation of the Convention.
- Utilize knowledgeable representatives of the CTA Accessibility Committee to form working groups with a cross section of industry and consumer groups funded by CTA. The work would identify barriers of implementation Internationally and work on solutions.
- This can include working with International consumer organizations and their country counterparts on shared travel issues in those countries.
- **Inclusion is not a hardship. Exclusion of people with disabilities is.** Every delay of the implementation of true accessibility and inclusion in the transportation system, will continue the undue hardship faced by people in the disability community.

- The 1p1f is one basic fundamental way to address a piece of that exclusion that will begin to meet the obligations in the Convention they signed. That is the message to bring to carriers flying Internationally into and out of Canada.

3. Should 1p1f apply to small transportation providers?

Response:

- Yes. We require the same accommodations regardless of what transportation provider we use.
- If the carrier is successful in proving undue hardship, the rights of people with disabilities should not held up or denied. Instead, it is the government's responsibility to ensure they support the carrier to comply and remove the undue hardship.
- The government should create programs to address any undue hardship in the transportation sector.
- These programs would likely be consistent with the principle of substantive equality underlying the Charter (section 15(2)) and human rights law and would promote inclusion of persons with disabilities.
- In terms of older equipment and buildings that were not universally designed, there must be a process and timeframe in which to replace, retrofit and support the needed changes as quickly as possible using Universal Design.

Section 3. Emotional Support Animals and Service Animals Other than Dogs

Questions

1. What do you think about a potential requirement for transportation providers to accept ESAs? What conditions, if any, should apply?

Response:

We adamantly oppose the concept of transportation providers providing any kind of recognition or special status to what people call emotional support animals. We recommend that to ensure the safety and wellbeing of all travelers, the CTA only allow trained Service Dogs to travel on a transportation provider, outside of a crate. The CTA must continue to use only, the definition in the ATPDR of a Service Dog and consider all others to be pets.

Our reasons are set out below.

A. Untrained Animals May Pose Serious Risks

As far as our organizations are informed, emotional support animals do not receive any kind of specific training to perform tasks, and in particular, do not receive training on how to behave appropriately in public places. Placing an untrained animal in a transportation environment which may require being confined to small and cramped spaces surrounded by unfamiliar people may be stressful for the animal causing it to behave inappropriately. This situation may pose a safety risk for the animal, its owner, passengers, transportation staff, and trained guide dogs. For example, the members from all organizations have heard anecdotally from handlers about their guide and service dogs being attacked and in some cases injured by untrained animals while traveling with transportation providers.

Guide Dogs, as an example of a Service Dog, are required to undergo extensive training which prepares them to perform well in public. For this reason, it is vitally important that the CTA refrain from regarding ESAs to be the same as trained guide or service dogs. To illustrate our point, we wish to provide a brief overview of the training that all North American guide dog training facilities follow.

Guide dogs have been trained and in use for over 92 years in North America. Rigorous international training standards have been developed to ensure that Guide dogs perform their work safely and appropriately while in public. A Guide Dog begins its training as a puppy learning basic proper behaviours such as how to behave on leash, respectful etiquette when around people, appropriate times and places for relief, and how to lay or sit quietly in busy public places and not get startled by large crowds. Upon completion of their training, a guide dog must be able to remain calm and handle a variety of situations, including sudden loud noises, the presence of other dogs or animals, working among strangers, negotiating complicated traffic conditions, and riding on many modes of transportation. They are extremely well socialized and are not allowed to be territorial, bark inappropriately or be allowed to sniff out and lick people. A puppy that does not excel in learning these basic behaviours will likely be cut from the program.

Once the dog has mastered basic behaviours, which is usually one year or more, it goes on to learn specific guiding skills such as learning to pull while in a harness, stopping at down and up curbs, being aware of traffic, learning to follow commands and how to work with a handler. That process can take 4-6 months or more. At anytime a dog can be cut from the program for failing to successfully meet any of these training standards. In fact according to Guide Dogs for the Blind approximately 40-50% of dogs in training can be cut from training programs because of their unsuitability. This rigorous adherence to training standards underscores the importance of quality and excellence in all aspects of a guide dog's work including traveling on public transportation.

B. Handlers Must be Capable of Managing their Animal's Behaviour

Of equal importance is the handler's capability to responsibly manage the behaviour of a working dog. Again, to illustrate our point, we turn to the assessment and training protocols employed by guide dog training facilities. A guide dog handler must be able to responsibly manage the training, care and welfare of their dog at all times before they are allowed to work independently with their dog.

Service Dogs are extremely well trained as are their handlers. While many dogs are trained at schools, many are trained privately to the same high standards. One example is the training of PTS Dogs and their handlers. There are several others and using the ATPDR definition, this would include dogs that are trained to do tasks for a person with a disability and that can include, dogs that perform tasks to alert for seizures, diabetic lows and highs, and alert for sounds.

Prior to entering a guide dog training program, the prospective handler must undergo a comprehensive assessment. The assessment begins with a medical evaluation of a person's physical capacity to ensure they can successfully participate in the training program and manage a dog as well as their vision assessment. It is up to the trained professionals of the training facility to determine if the person could benefit from a guide dog and if they have the maturity and ability, orientation and mobility skills to manage and maintain the guide dog's training standards. A handler who is unable to manage a dog will either be required to participate in further training or be advised that working with a guide dog is not the best option for them. Most guide dog training facilities provide ongoing assistance throughout the partnership of handler and dog to ensure that they continue to work safely and effectively.

With respect to ESAs, it is our understanding that owners of emotional support animals generally do not receive any training equal to that of a Service Dog or any ongoing support on how to manage their animal's behaviour when in public. We have heard of instances where doctors have written letters supporting a person's use of an emotional support animal. However, and with the greatest of respect to the medical profession, we question whether this profession really has the required skills, training and experience to determine what animal would be most suitable, its necessary training and if the person has the capacity to manage/handle the behaviour of an animal.

C. Human Rights Law Protects the Rights of Persons Who Use Service Animals

Much of Canadian human rights law defines the term "service animal" to include the requirement that the animal be trained to perform a task or tasks related to a person's disability. Dogs are the only animals functioning as service animals in Canada.

Emotional support animals are not considered to be service dogs, unlike Guide and Service Dogs, ESAs are not trained to perform specific tasks related to a person's

disability. Thus we assume that owners of ESAs do not have the same human rights protection as handlers of guide dogs or service dogs.

Canadian Human Rights law suggests handlers of guide and service dogs have a presumed right of access to all public places including transportation systems. We do not believe that this presumed right extends to persons with ESAs.

D. Canadian and U.S. Regulations regarding Service Dogs

In the US, persons who use ESAs are not protected by the Americans with Disabilities Act (ADA), only persons with a disability who use Service Dogs are. This is similar to the protections in Canada through Human Rights Law.

The US Department of Transportation (DOT) on Jan 22, 2020, proposed new regulations and is currently in a 60 day public comment period. These regulations include the ban of ESAs as they will be classed as pets on all Air Carriers. Further, the DOT proposes that only Service Dogs will be permitted to travel on Airlines which is more in line with the ADA and with Canadian Human Rights Law.

We recommend that the CTA regulations only allow Service Dogs onto any Transportation provider with a person with a disability. Any other must be regarded as a pet and be in a crate.

Although not in the DOT proposed regulations, we recommend that the CTA use this 60 day comment period to lobby to implement 1p1f and the provision to make available sufficient space for service dogs at no cost, with the DOT.

We further recommend that the CTA continue its current focus on its obligations under human rights law, The Canadian Charter of Rights and Freedoms, the Accessible Canada Act (ACA) and the Convention on the Rights of Persons with Disabilities (CRPD).

2. Should transportation providers be required only to accept certain species/animal types as ESAs (e.g., dogs, cats, and rabbits)? Or should transportation providers be required to accept all species excluding a few (e.g., insects and snakes)?

Response:

We do not support an ESA category. Even as pets the CTA and transportation providers must seriously evaluate the need for every type of pet to be brought onto all carriers.

3. As an alternative to a species-based approach, would it be preferable to have a criteria-based approach for the acceptance of ESAs? The criteria for carriers to accept or refuse

to transport an animal could include habits of the species, age, size, or the potential allergy trigger to that the animal may create. For example, they could refuse to accept animals that gnaw, whose young age is likely to result in unacceptable behaviour, that pose a high allergen risk, or do not fit in a travel carrier or on the floor at a passenger's feet.

Response:

We do not support an ESA category. However, we are concerned how the CTA and the Transportation Network will assess what types of pets will be allowed in a crate, on any form of transport. Our dogs can be put at risk and their wellbeing harmed from being frightened by the presence of another animal close by and the potential of it getting loose. That includes barking, growling, lunging dogs in crates.

We believe that the CTA regulations should include the requirement to carry out a robust threat assessment and risk analysis yearly. Further, the CTA regulations should require all areas of the Transportation Network, every year, to include mandatory reporting of incidents involving the carriage of pets. This will assist to mitigate the harm to passengers, crew, service dogs and that report must be posted publicly. This includes assessing the risk if an animal was let out of their crate either on purpose or accidentally. We are especially concerned that any animal as a pet may carry viruses etc that can harm passengers or our service dogs. Our Guide and Service Dogs are well looked after and have regular health checks and immunizations. Pets may not have this high degree of health care and that can potentially harm a passenger, including a passenger with a disability and their Service Dog. Further, passengers should have the right to know what kind of animals are being allowed on board as pets in crates.

The CTA and the Transportation providers have a fiduciary responsibility to keep all passengers safe from harm.

4. Should all transportation providers be required to accept the same types of ESAs or should there be differences based on the mode of transportation (air, rail, marine, or bus)? If you think there should be differences based on mode, what differences?

Response:

We do not support an ESA category.

5. Should the same requirements for ESAs apply to large and small transportation providers? Should consideration be given to the size or seating capacity of aircraft, rail car, bus, or ferry?

Response:

Yes. They should as in the ATPDR, only Service Dogs should be allowed. We do not support an ESA category.

Further if a person who uses a Guide or Service Dog as defined by the ATPDR, has reason to believe the wellbeing of their dog is in danger by a pet in a crate, they must have the right to be heard when asking that the safety of their dog is paramount over a pet. Crews must have the authority to intervene and make seat changes or have a pet removed if required.

6. In the United States, enforcement action is not taken if an airline refuses to transport more than three service animals for one passenger, including ESAs. In Canada, should there be a limit on the number of service dogs and/or ESAs that persons with disabilities can travel with on-board? If so, what limit?

Response:

Only one Service Dog. We could not find any reason or evidence why a person would need or would manage more than one Service Dog at a time. Under the new DOT proposed regulations, they have recommended a limit of two. We do not agree with that recommendation.

7. Under the ATPDR, transportation providers can require a person with a disability travelling with a service dog to provide documentation issued by an organization or person specializing in service dog training. The documentation must identify the person with the disability. It must also attest that the service dog has been individually trained by a specialized organization or person to perform a task to assist that passenger with a need related to their disability.
 - What documentation, if any, should transportation providers be able to request with respect to travel with ESAs with the aim of mitigating health, safety, or fraud concerns? For instance:
 - that the passenger requires the animal to travel, for medical reasons, as indicated by a health care practitioner who is treating the passenger and confirms that the passenger has a disability and needs the animal to travel for disability-related reasons;
 - that the animal will not need to relieve itself during transportation, and will not bark, growl, or act aggressively.

Response:

We do not support an ESA category.

8. The ATPDR allow transportation providers to require that persons with disabilities provide 48 hours' advance notice prior to departure for most services, including travelling with service dogs. In some situations, they may request up to 96 hours' notice to verify that documentation is in order and authorize an animal for travel. However, they must still make reasonable efforts to provide the service, even if notice is not given.
 - o How much notice would be appropriate with regard to ESAs?

Response:

We do not support an ESA category.

9. Would any of these requirements prevent passengers from using ESAs therapeutically?

Response:

We do not support an ESA category.

10. should transportation providers be obligated to accept service animals other than service dogs? If so, should any restrictions apply?

Response:

Only Service Dogs should be accepted as defined in the ATPDR. Given the almost century of training experience of many schools, Dogs are the only type of animal that can be successfully trained and are able to perform both the level of tasks required and be able to operate safely in public spaces, travel successfully outside in many weather conditions and ride on many transportation modes and keep their level of concentration and performance up and enjoy the work.

Section 4. Planning and Reporting Obligations under the Accessible Canada Act

This part of our submission was written in partnership with ARCH Disability Law Centre, developed with people belonging to a cross section of disability consumer organizations. This work included members of the Canadian Council of the Blind, Alliance for Equality of Blind Canadians, Guide Dog Users of Canada and the National Coalition of People who use Guide and Service Dog Users in Canada. This describes an inclusive policy framework that fits with the Principles stated in the actual legislation of the Accessible Canada Act.

In lieu of responding to every question in this section we decided to address five areas we determined must be included.

- 1) Report the level and types of inclusion of people with disabilities that were and are involved in the development of accessibility plans, monitoring, training, timelines implementation and updating.
- 2) Post all the plans, updates and progress reports, including who or what department the public can contact. The format must be fully accessible and in an accessible searchable data base on a fully accessible CTA website. This must include ASL, LSQ , large print, accessible with screen readers and other formats such as braille and descriptive videos. This would relieve the administrative burden of the smaller carriers to ensure they had a place to publish this information and give the public one place to find all the documents.
- 3) Identify the level and type of accessibility that passengers can expect in all areas of the Federal Transportation network and post this information on the CTA fully accessible website. e.g. What wayfinding services does the terminal have including providing low and high tech and personal support options. How does a passenger access these options.
- 4) Use Universal Design Principles as the expected standards in all aspects in the development of regulations, both in process and physical architecture.
- 5) Incorporate substantive equality as an important framework which must be included in the approach to regulatory development. Substantive equality should be thought of not as a stand-alone regulatory principle, but rather as an overarching objective for the entire legislative and regulatory scheme set out in the ACA. Indeed, the Bill itself requires this, since its Preamble, Purpose and Principles sections state that the goal of the legislation is the achievement of substantive equality for persons with disabilities in certain areas within federal jurisdiction.

Accessibility Plans

Accessibility plans should explain:

- what actions the transportation provider will take to remove barriers and timeline for doing so

- how the transportation provider will measure success in terms of barrier removal

Staff training:

- The content of the training and the disabilities it covers
- In addition to a wide range of disabilities, training should also cover intersectionality
- it is important that the training demonstrate that not all accessibility concerns, barriers and disabilities can be treated the same – a “one size fits all” approach will not work
- List the company or group doing the training
- Organizations should, whenever possible, hire and compensate persons with disabilities to develop training materials and deliver training sessions
- Persons with disabilities can be trained and empowered to do this work that relates to their expertise -- their lived experiences, their situations and their needs

Updates

- Ideally, an organization should update their accessibility plan on a rolling basis, as circumstances change and as they achieve their goals
- They should set deadlines to address straightforward barrier removal (the low-hanging fruit) immediately, rather than waiting 3 years
- We recommend the regulation should include a provision mirroring section 5.2 of the ACA:

“Nothing in this Act, including its purpose of the realization of a Canada without barriers, should be construed as requiring or authorizing any delay in the removal of barriers or the implementation of measures to prevent new barriers as soon as is reasonably possible.”

Progress Reports

Progress reports should be published within 2 years of the accessibility plan (or more often if possible)

- They should be released on a cycle that coordinates with the updates to the accessibility plan at 3 years

Consultations on Accessibility Plans and Progress Reports

- The CTA Accessibility Committee has member representatives that can identify persons in the disability community to support consultations.
- Participants and facilitators must be compensated and provided with supports and fully accessible resources
- Include information about how industry has consulted with the disability community and with whom

- Transportation providers terminal operators, etc should consult and hire persons with disabilities and consult with consumer-driven organizations as well as disability organizations that provide services
- Work towards more than just consultation. Real participation and involvement of people with disabilities is needed
- Hire people with the lived experience and skills, to work within the entire Transportation Network, not as a token gesture but as people that have expertise to offer making the transportation system accessible.
- Persons with disabilities should be included in the process of developing and implementing accessibility plans in more than a token way
- Inclusion means a meaningful opportunity to engage with all aspects of the Transportation Network, to collaborate on solutions, and to know how feedback was considered and why
- It is important for providers to engage, listen and follow up as consultation is not enough.
- Section 6(f) of the ACA says that “persons with disabilities must be involved in the development and design of laws, policies, programs, services and structures”
- When organizations develop their accessibility plans, they must do so taking into account section 6(f) and the other principles

Publication of Accessibility Plans and Feedback Processes

Accessibility plans and feedback processes should be published in one central location – on the CTA’s fully accessible website – in a searchable accessible database

- In this accessible searchable database, all organizations in the Transportation Network should include a summary of what level of accessibility they have and any accessibility features/amenities. They should update this summary as things improve and more accessible features are added.
- eg: accessible washrooms, accessible planes/trains, assistance onto the plane/train/etc.
- What is expected at security, customs and immigration stops
- This allows persons with disabilities to compare providers to find one that meets their needs. They can make plans and decisions with dignity, rather than arriving at a transportation provider that is not well-equipped to accommodate them
- The accessible searchable database should also include information for a contact person with the transportation provider who can give more information and can receive feedback.

Universal Design

In developing accessibility plans and regulations use the 7 Universal Design Principles and assessments based on these design principles as the expected standards in all aspects of development of regulations, both in process and physical architecture.

They are:

- Principle 1: Equitable Use.
- Principle 2: Flexibility in Use.
- Principle 3: Simple and Intuitive Use.
- Principle 4: Perceptible Information.
- Principle 5: Tolerance for Error.
- Principle 6: Low Physical Effort.
- Principle 7: Size and Space for Approach and Use.

We would like to end our submission by asking the CTA to design these regulations with the concept of substantive equality as the basis of how they are developed and written.

Substantive Equality in the Development of Regulations

- Substantive equality is an important legal concept, which has been recognized by the Supreme Court of Canada and is part of the legal framework established by provincial and federal human rights statutes, the Canadian Charter of Rights and Freedoms, and Canada's international obligations under the Convention on the Rights of Persons with Disabilities. A useful description of substantive equality can be found in the Law Commission of Ontario's A Framework for the Law as it Affects Persons with Disabilities.^[1] This framework is grounded in substantive equality as an underlying value or goal. The Law Commission describes substantive equality as follows:
- Substantive equality requires government and private actors to take the steps necessary to advance access by all citizens to benefits, supports, programs, goods and services in a way that is responsive to their particular needs. Its goal might also be thought of as full "citizenship" in society.
- It incorporates but is not limited to non-discrimination, meaning that no distinctions are imposed upon disadvantaged persons that, in purpose or effect, withhold or restrict access to opportunities, benefits or protection from the law, or impose burdens, obligations, or disadvantages that are not imposed on others. It also means, however, that persons with disabilities are not defined by the barriers they face, but are recognized as members of society who are able to make contributions and have obligations, as do other members.
- Substantive equality is about intangible concepts such as dignity and worth, but also about concrete opportunities to participate, have needs taken into account and have society and its structures and organizations develop in a way that does not treat persons with disabilities as outside mainstream society.^[2]

As an overarching objective, substantive equality should be applied to the development of regulations in 2 concrete ways:

- First, it should influence the interpretation and meaning assigned to the regulatory principles that have been identified.
- Second, once the regulatory scheme has been developed, it should be evaluated to determine whether it advances the overarching objective of substantive equality for persons with disabilities.

It is important to explicitly include substantive equality as an overarching objective for this and future regulations. Identifying it explicitly in the regulatory concepts will help to ensure that the concept will be applied during the development and application of the regulations.

There is one last over arching principle: Nothing about us, without us.

Thank you. This concludes our submission

^[1] Law Commission of Ontario, A Framework for the Law as It Affects Persons with Disabilities: Advancing Substantive Equality for Persons with Disabilities through Law, Policy and Practice. (Toronto: September 2012), available online: <https://www.lco-cdo.org/wp-content/uploads/2012/12/persons-disabilities-final-report.pdf>

^[2] Ibid at p 65.

Arch Disability Law Centre <https://archdisabilitylaw.ca>