

Subject: ATPDR Consultation Paper submissions regarding Section 3: Emotional Support Animals and Service Animals Other than Dog

I wish to make some general comments that I hope will be considered in the review process. I am sympathetic to people with mental illness, and I very much believe that having pets helps greatly with mental illness. That said I do not believe that transportation carriers should be required to allow individuals with mental illness to bring untrained Emotional Support Animal (ESA) pets with them into places where pets are not allowed, without very significant restrictions. Staff and other passengers' safety and comfort is at risk in contexts where they are not able to readily escape the situation.

Underlying this debate is what appears to me to be a fundamental misunderstanding of why people with disabilities who have trained service dogs are permitted to bring those dogs with them essentially everywhere they go. Disability accommodation is not only about need, that is only half of the picture. Accommodation is also about compromise and *reasonableness*.

There are many people who are allergic to dogs, afraid of dogs, or simply don't like dogs. Those people are as entitled to exist and to access public services as are people with disabilities including those with mental illness. The service dog accommodation strikes a balance between those two competing and legitimate interests by allowing people who need assistance to be accompanied by dogs that are *trained*. Mandating ESA pet accommodation in public places subverts and disregards one of the essential components on which that balance exists: *the public conduct and safety training*.

Service and guide dogs are trained not just in assisting their handlers, but also in public behaviour. Service dog providers and handlers recognize and respect that the world is full of people who would prefer not to have dogs around them for whatever reasons that those people are perfectly entitled to have. Trainers and handlers spend a great deal of time establishing and then maintaining their dog's public behaviour training to minimize the disruption that their dog represents. In fact, the public behaviour training for service dogs is arguably the hardest part of their training and is often the reason why a dog does not ultimately graduate or is retired early. For example, when you see a service dog curled up under a table, that is not for the handler's benefit, that is for the public's benefit so that the dog is not in the way. As another example, service dogs are very strictly trained not to sniff at never mind nibble on the sliced ham in the deli aisle at the grocery store – that is not for the dog's benefit or the handler's benefit for that matter (many of whom would love to be able to give their dog the occasional piece of sliced meat), but for the benefit

of the public so that the dog never solicits or steals food from others. I could list many more examples.

Extending those rights to people with ESA pets puts the needs of people with mental illness (and we must be clear that calling this a “need” at this time is an assumption, since there is no peer-reviewed or empirical research on this) above those of the general public, and above those of people with other disabilities. Blind people are not allowed to bring whatever pet dog they want with them wherever they go, they must go through the appropriate process of obtaining or privately training a guide dog. Similarly, deaf people do not get to bring untrained pets with them simply because it makes them feel better, the dog must be trained to assist them and to not be a danger or a disruption. It is unclear to me why people with mental illness should be granted the assumed benefits of being assisted by an animal with none of the responsibilities towards the public, when that is not the case for people with any other disabilities. One possible argument might be that trained service dogs are not readily available, especially to people with mental illness, and that is a fair concern, however that is not a valid reason to circumvent or waive safety on the public’s behalf, including on behalf of people with other disabilities who rely on their trained service dogs.

All of that said, I can see contexts in which allowing people who are disabled by mental illness and comforted by their pets to have those pets with them could be appropriate, if significant restrictions are in place.

First, ESA pets should be contained in carriers. I am aware of arguments that this reduces the effectiveness of the pet because the individual cannot stroke its fur. To that I would say that unless the dog has been legitimately certified as trained for public access (which if it is, then it’s arguably a service dog at that point), it has no business being out of a carrier in a contained space with staff and passengers who have no escape. Disability accommodation is about what is reasonable in the context. There are many things that we as people with disabilities would like to have or might find effective or find more comfortable that we are not able to have for a wide variety of reasons. Public safety is one of those reasons. I am also aware that this will rule out certain sizes of animals as ESA pets for people who wish to travel. My perspective on that is that when one has a disability (as I do, I will note), we make decisions for ourselves about our needs and what our options are to meet those needs. If having an untrained pet with me for comfort when I travel is a “need”, then I also need to ensure I choose a pet that is not going to create an undue risk to staff and fellow passengers, and that means the animal must be contained. We have already seen the outcome of having unrestrained ESA pet dogs on aircraft. That is not a *reasonable* accommodation.

In the alternative, if ESA pet dogs are to be permitted outside of carriers, there should be a requirement that they be muzzled. I say that as someone who loves dogs and hates muzzles, but I prioritize the safety and comfort of my fellow humans.

Secondly, the documentation required should be specific, current, detailed and provided by a licensed (and therefore at least theoretically accountable) healthcare professional who indicates that they are treating the person, and not simply rubber stamping a request.

Questions

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

If carriers are to be required to accept ESA pets, the conditions should be:

- Proof of medical need by way of a current document that is from a licensed healthcare professional in the passenger's jurisdiction of residence, confirming that (a) the passenger is their patient, (b) the passenger has a mental illness disability, and (c) the passenger requires that their pet be with them during travel; and
 - The ESA pet must be contained in a carrier or, if a dog outside of a carrier, muzzled.
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)?

I have no opinion on this specific question beyond what I have already stated above: any ESA pet should be contained in a carrier.

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 traveller's feet.

See above.

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?

I do not have enough expertise to comment on this specific question.

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?

Yes. All ESA pets should be contained in a carrier, and therefore could be transported in the passenger's lap.

6. In the United States, enforcement action is not taken if an airline refuses to transport more than three service animals for one traveller, 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?

Yes, there should be a limit. In my opinion the limit should be one ESA pet, two service dogs. The use of multiple service dogs at one time is an extremely niche and rare practice. Multiple ESA pets is probably more common, but again it is not reasonable to expect carriers, staff and other passengers to accommodate multiple animals for individual passengers, especially if they are untrained pets, and especially considering our One Person One Fare policy (which I fully support!).

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 traveller with a need related to their disability.
 - o 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 traveller requires the animal to travel, for medical reasons, as indicated by a health care practitioner who is treating the traveller and confirms that the traveller 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.

Medical documentation should absolutely be required. The documentation that is required should be provided by a healthcare professional who is licensed in the traveller's province of residence and must indicate that the traveller is in their care. Otherwise, it is open for people to simply obtain these documents from unscrupulous individuals online, as we have already seen occurring.

A self-declaration that the animal will not need to relieve itself, bark, growl or act aggressively is meaningless as people will sign that document whether it's true or not. I am at a loss as to why the US authorities would consider a statement to be at all useful

or enforceable. North American society has already demonstrated its willingness to engage in all kinds of deception in order to bring untrained and unsafe pets in places where they're not allowed. The honour system has not worked, and this has created danger for the general public and for people with other disabilities. ESA pets should be contained or at the very least muzzled.

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?

The notice period should be the same as for service animals.

9. Should transportation providers be permitted to require that ESAs be tethered, leashed, harnessed, and/or enclosed within a travel carrier? Would any of these requirements prevent travellers from using ESAs therapeutically?

Yes, all ESA pets should be contained within a travel carrier. Presumably if petting is needed, one could slip one's hand into the carrier. While it may reduce the full effectiveness of having the animal, individuals with mental illness will, like other disabled persons, already know that disabilities often require us to have multiple coping skills and/or medications at our disposal to utilize in any given situation. Relying solely on the animal is not something that even people with trained service dogs do, as animals are not robots and can make mistakes, miss cues, fall ill, any number of things can happen. All that to say that we can only use animals for assistance in ways that are reasonable, safe, and ethical for the animals and the other humans around us, and we must all accept the limitations that are inherent with the animal we choose to utilize. Whether or not the assistance would be more effective for the individual if any those conditions are not met is not something that I see as an option for us to consider.

10. Apart from the issue of ESAs, should transportation providers be obligated to accept service animals other than service dogs? If so, should any restrictions apply?

No. I am aware of a very small number of individuals who have chosen to use miniature horses, and I have recently been made aware of a teenager who claims to have trained

a rabbit. I do not think it is reasonable to create binding regulations for what are at this time fringe situations.

As regards miniature horses, I do not believe that we have established that it is safe or ethical for horses to be put in the same situations as service dogs, especially on airplanes, nor have we as a society considered whether this is something that should be considered a reasonable accommodation. For example, service dogs can curl and tuck themselves into small spaces whereas horses cannot. I personally would not take the word of a few miniature horse handlers on this, I would want to see information from reputable, established sources. People with disabilities of course have the right to choose to work with non-conventional assistance animals if they wish, but that is their choice; our laws were drafted and designed with assistance dogs in mind. Any change to that should be by way of legislation that involves wide public consultation and debate, not by changes to rules or regulations.