



**U.S. Department  
of Transportation**

Office of the Secretary  
of Transportation

**GENERAL COUNSEL**

1200 New Jersey Ave., S.E.  
Washington, DC 20590

### **Record of Ex Parte Contact**

**Rulemaking:** RIN No. 2105-AF14, Ensuring Safe Accommodations for Air Travelers with Disabilities Using Wheelchairs

**Stage of Rulemaking:** Post-Notice of Proposed Rulemaking (NPRM)

**Contact Type:** Kimberly Graber, Deputy Assistant General Counsel of the Department’s Office of Aviation Consumer Protection (OACP), was invited to speak on a panel titled “Shifting Sands: Evolving Airline Consumer Compliance Standards” at the American Bar Association (ABA) 2024 Forum on Air and Space Law Annual Meeting and Conference (<https://events.americanbar.org/event/06755ab4-cf36-4564-9667-7ede8837c0ee>)

**Contact Date:** September 20, 2024

**Summary of Contact:** The panel discussed a wide-range of topics, including a brief discussion related to the Department’s NPRM on Ensuring Safe Accommodations for Air Travelers with Disabilities Using Wheelchairs.

- The moderator asked about OACP’s significant rulemakings, including the Department’s NPRM, Ensuring Safe Accommodations for Air Travelers with Disabilities Using Wheelchairs, and turned to Ms. Graber to provide an overview.
- Ms. Graber provided a disclaimer that she was appearing in her personal capacity and not making statements on behalf of the Department. Ms. Graber stated that she can only provide public information about the NPRM. She added that the wheelchair rule is intended to ensure passengers with wheelchairs can travel safely and with dignity. She explained that the NPRM proposes to strengthen rules implementing the Air Carrier Access Act (ACAA); clarify the standards for prompt, safe, and dignified assistance; enhance training for airline personnel and their contractors who physically assist passengers with disabilities and handle their wheelchairs; and clarify that any damage to a wheelchair would be a *per se* violation of the ACAA. She noted that the schedule for the rulemaking is provided in the Unified Agenda.
- Mr. Conneely stated that airlines recognize the importance of preventing mobility aid mishandling and strive to ensure safe and dignified transportation for individuals that use wheelchairs. Mr. Conneely noted that the joint Airlines for America (A4A) and International Air Transport Association (IATA) comments on the rulemaking provide the airline view that the imposition of strict regulatory liability for damage to mobility aids is

inappropriate, especially for often-frequent circumstances that are beyond the control and at no fault of the airline, and Mr. Conneely reiterated that comment. Mr. Conneely also reiterated the airlines' position that the Department does not have the authority to impose strict regulatory liability for all "mishandling" (as defined in the Department's proposal), especially imposing liability for circumstances that are beyond the airline's control or not the airline's fault. Mr. Conneely stated that such a *per se* proposal would implicate airline rights to Due Process.

The above comments concluded the discussion of the NPRM on Ensuring Safe Accommodations for Air Travelers with Disabilities Using Wheelchairs.

The other panelists were:

Anita Mosner, Holland & Knight (moderator)

Jim Conneely, United Airlines

Shani Smith Fisher, Breeze Airways

Kimberly Graber, U.S. Department of Transportation, Office of Aviation Consumer Protection