



August 5, 2020

Secretary Elaine Chao  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Acting Secretary Chad Wolf  
U.S. Department of Homeland Security  
3801 Nebraska Avenue, NW  
Washington, DC 20395

Secretary Alex Azar  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Secretary Chao, Acting Secretary Wolf, and Secretary Azar:

The National Disability Rights Network (NDRN) writes to thank you for the jointly issued guidance “Runway to Recovery The United States Framework for Airlines and Airports to Mitigate the Public Health Risks of Coronavirus”. We urge you to provide federal mandates based on the guidance so that air carriers can better implement processes and procedures to ensure access for passengers with disabilities and to protect all passengers during air travel.

NDRN is the voluntary membership association for Protection and Advocacy (P&A) and Client Assistance Program (CAP) agencies. The P&A and CAP agencies are a nationwide network of congressionally mandated, cross disability organizations operating in every state in the United States, the District of Columbia, Puerto Rico, and the U.S. Territories (American Samoa, Guam, Northern Mariana Islands, and the US Virgin Islands). There is also a P&A and CAP affiliated with the Native American Consortium which includes the Hopi, Navajo, and San Juan Southern Paiute Nations located in the Four Corners region of the Southwest.

While we appreciate your respective Departments’ initiative to issue the joint guidance, which specifically outlines that measures should protect the full range of passenger rights under the Rehabilitation Act, the Americans with Disabilities Act, and the Air Carrier Access Act, it has become increasingly clear over the last few weeks that the guidance is woefully inadequate in protecting access for passengers with disabilities. We strongly urge you to reexamine the guidance and work to implement appropriate federal mandates which will better protect passengers, including those with disabilities, from infection when travelling and provide a mechanism by which airlines can properly enforce infection mitigation protocols.

As COVID-19 cases continue to surge in many parts of the country, the federal government must take a more proactive approach to address infection mitigation in air travel. The guidance recommends “Everyone should correctly wear a mask or cloth face covering over their nose and mouth at all times in the passenger air transportation system (excluding children under age 2, or anyone who has a medical condition that causes trouble breathing, is unconscious and unable to be awakened, or otherwise unable to remove the mask without assistance)... Reasonable accommodations should be made for persons with disabilities or ailments who cannot wear masks or cloth face coverings.”

While we appreciate both the guidance’s recommendation that everyone wear masks along with the clarifying language regarding reasonable accommodations, at this point in the public health crisis **we believe a federal mask mandate and/or regulation, with exemptions for people with disabilities, is necessary in order to truly keep passengers safe from infection when traveling.** The scientific consensus on the effectiveness of masks on infection mitigation is clear and airlines and airports should have the appropriate federal support to enforce compliance with mask use.

While every major U.S. airline has mandated masks, inconsistent enforcement particularly on board aircraft has proven to be more difficult<sup>1</sup>. Additionally, some major U.S. airlines are not following the joint guidance given that two major U.S. carriers recently updated their mask policies to explicitly exclude exemptions for most people with disabilities.<sup>2 3</sup> This enforcement issue and exclusion of exemptions in mask policies could be rectified with a clear uniform mandate, with exemptions for people with disabilities, from the federal government.

In addition, the guidance recommends “Airlines should ensure crew have adequate onboard Personal Protective Equipment (PPE) to mitigate the spread of COVID-19”. When assisting some passengers with disabilities, air carrier personnel and contractors sometimes provide hands-on transfer assistance or use other techniques that require both individuals to be in such close proximity that socially distancing is not possible, at least temporarily.

It is absolutely crucial that adequate PPE be available and used in these situations and **thus we believe a federal mandate and/or regulation is necessary to ensure that PPE is used during these exchanges in the context of the pandemic.**

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1 Jackie Wattles, CNN Business. (2020, July 10). Delta CEO says federal government should issue a mask mandate. Retrieved from <https://edition.cnn.com/2020/07/10/business/delta-ceo-masks-airplane-ed-bastian/index.html>

2 Airline Cleanliness and Cleaning Standards | Southwest Airlines. (2020). Retrieved from <https://www.southwest.com/promise/?amp=1#mask-faq>

3 American Airlines to Adopt a No Fly Policy for Customers without Face Coverings. (2020). Retrieved from <http://news.aa.com/news/news-details/2020/American-Airlines-Strengthens-Its-Commitment-to-Safety-With-Expanded-Face-Covering-Requirements-and-Enforcement-OPS-DIS-07/>

We previously recommended to major airlines that air carrier personnel and contractors who assist passengers with disabilities must use appropriate PPE and be trained on its use.<sup>4</sup>

The guidance also recommends “Airlines should consider the feasibility of limiting seat availability to enable passengers to maintain social distance from each other during the flight. Maximum risk reduction results from maintaining a social distance of six feet between passengers unless seating a family/unit together.” The science on social distancing as an effective infection mitigation technique is also clear and **thus, we agree with the physical distancing guidance as written.** We previously recommended to major airlines that passengers with disabilities who are at a higher risk of catching COVID-19 should be allowed additional space such as no row mates, if requested and can be accommodated.<sup>4</sup>

We also agree with one of the overarching principles of the guidance that aviation is a driver of economic recovery. This principle is especially important given the dire economic uncertainty gripping the country. However, there cannot be an economic recovery without meaningfully addressing the public health crisis. Without federal mandates supporting this guidance, a system of patchwork enforcement and policies will continue while infection rates soar and consumer confidence in the airline industry plummets.

Again, we urge you to reexamine both the specific provisions of the guidance referenced in this letter and the guidance as whole in order to develop appropriate federal mandates that support implementation of the guidance and protect all passengers including those with disabilities. Please do not hesitate to contact Cyrus Huncharek (cyrus.huncharek@ndrn.org) with any questions.

Sincerely,



Curtis L. Decker  
Executive Director

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<sup>4</sup> Considerations for Assisting Air Travel Passengers with Disabilities During the Coronavirus Pandemic (June 5, 2020), <https://www.ndrn.org/wp-content/uploads/2020/06/COVID-Considerations-for-Passengers-with-Disabilities-FINAL.pdf>