



September 23, 2019

The Honorable Peter A. DeFazio, Chairman
The Honorable Sam Graves, Ranking Member
Committee on Transportation and Infrastructure
The Honorable Rick Larsen, Chairman
The Honorable Garret Graves, Ranking Member
Subcommittee on Aviation
U.S. House of Representatives
Washington, DC 20515

Dear Chairman DeFazio, Ranking Member Graves, Chairman Larsen, and Ranking Member Graves:

Consumer Reports¹ is writing to inform the Committee of our continuing serious concerns about the U.S. Department of Transportation's failure to protect young children from being separated from their family members on commercial airline flights.

Under Section 2309 of the FAA Extension, Safety, and Security Act of 2016, DOT was instructed to:

review and, if appropriate, establish a policy directing all air carriers providing scheduled passenger interstate or intrastate air transportation to establish policies that enable a child, who is age 13 or under on the date an applicable flight is scheduled to occur, to be seated in a seat adjacent to the seat of an accompanying family member over the age of 13, to the maximum extent practicable and at no additional cost, except when assignment to an adjacent seat would require an upgrade to another cabin class.

Three years after enactment of this directive, DOT has taken virtually no action to address this serious problem.

¹ Consumer Reports is the world's largest independent product-testing organization. It conducts its advocacy work in the areas of privacy, telecommunications, financial services, food and product safety, health care, among other areas. Using its dozens of labs, auto test center, and survey research department, the nonprofit organization rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 6 million members and publishes its magazine, website, and other publications.

Family seating is a compelling matter of child safety and security. As the Federal Bureau of Investigation noted in its April 2018 report “Sexual Assault Aboard Aircraft,” these assaults are increasing, and the victims have included children at least as young as 8 years old.² And it is understandably a concern to families who learn, often after they buy tickets, that their children may not be able to sit with them on the flight.

Due to the long silence from DOT, in September 2018, Consumer Reports filed a Freedom of Information Act request to determine what actions the Department had taken to comply with the directive. After almost an additional year, during which we made repeated inquiries, we finally received a reply on August 27.³ The reply reveals that the Department contacted major airlines over a several-week period in late 2017, to inquire about their family seating policies and the complaints received, but did little more than that.

Unfortunately, the internal DOT summaries and discussion of those conversations were redacted. But the reply, which includes summaries of more than a hundred consumer complaints, demonstrates that consumers have serious concerns about airline family seating practices.

Of the 136 complaints provided to CR for events occurring between March 2016 and November 2018, 82 were filed against the domestic “Big Three” carriers American Airlines, Delta Air Lines, and United Airlines, along with their regional and codeshare partners. These complaints detail a pattern of insensitivity by the airlines against hundreds of families with young children.

- It is clear from these complaints that when families with young children seek to sit together inflight, airlines regularly impose or attempt to impose fees for “preferred” seat assignments and/or priority boarding, the very issues that Congress directed DOT to stop. Several complaining parents made clear that they did not understand that purchasing a Basic Economy class ticket would prevent them from being able to sit with their children.
- Numerous complaints involve airlines knowingly assigning seats apart from family to children as young as *2 years old*.
- Parents cite the emotional trauma of children sitting alone, including children who are autistic or who suffer seizures. In multiple cases, parents complain they were worried that young children sitting away from them were vulnerable to sexual

² Federal Bureau of Investigation, “Sexual Assault Aboard Aircraft,” April 26, 2018 (www.fbi.gov/news/stories/raising-awareness-about-sexual-assault-aboard-aircraft-042618). In FY 2017, 63 cases were reported to the FBI, up from 38 in 2014. According to an FBI airport liaison: “It’s safe to say that many incidents occur that are not reported.”

³ Available at <https://advocacy.consumerreports.org/research/department-of-transportation-reply-to-cr-freedom-of-information-request-on-family-seating/>.

assaults; others noted that young children sitting alone are particularly vulnerable during life-threatening emergencies.

- Families with children under the age of 5 report being forced to beg other passengers to switch seats, what one parent called “relying on the kindness of others.” In numerous cases families were asked to deplane because of the inconvenience this caused, while others ultimately decided they had to deplane because of their concerns for their children.
- In several cases, parents complained that children over the age of 2 were forced to fly as “lap children,” in clear violation of Federal Aviation Regulation 14 CFR § 135.128.
- Numerous complaints detail a family having lost reservations with seats together due to cancelled flights, aircraft equipment changes, and airline information technology failures. In the most egregious cases, families who had to re-book their flight to ensure they were seated together were forced to pay exorbitantly higher fares, in one case totaling \$4,341 more, and in another case totaling \$14,084 more.

The Department has provided two explanations for its failure to take action. Last week, DOT issued a public statement and updated the Department’s website page. The “DOT’s Review of U.S. Airline Family Seating Policies” states: “Based on the low number of complaints received and review of airline family seating policies, the Department determined it was unnecessary to direct airlines to establish policies on family seating.”⁴ Instead, as it tells families who manage to find the information on its website, DOT is leaving the burden on the families to check and comply with whatever the airline’s policies and restrictions might be.⁵

This is a flawed basis for inaction. Failure to implement this Congressional mandate based on the number of complaints received about family seating problems disregards the physical and emotional vulnerability of young children traveling apart from their caregivers.

Previously, when we raised the family seating issue at a meeting between DOT officials and consumer advocates in August 2019, a DOT official stated that the Department wanted to ensure that any regulation regarding family seating “doesn’t impose undue burdens” on the airlines. That is likewise not an acceptable basis for ignoring this problem.

⁴ U.S. Department of Transportation, “DOT’s Review of U.S. Airline Family Seating Policies,” updated September 27, 2019 (www.transportation.gov/individuals/aviation-consumer-protection/review-us-airline-family-seating-policies).

⁵ U.S. Department of Transportation, Aviation Consumer Protection (<https://www.transportation.gov/individuals/aviation-consumer-protection/family-seating>).

The DOT web page claims that the Department “recognizes the importance that families place on sitting together when flying.”⁶ It is clear from the Department’s inaction, and the fact that families continue to submit complaints about being separated from their small children, that DOT does *not* recognize the importance of this problem.

We hope you will agree that the response of the Department of Transportation – to do nothing, after three years of silence – is unacceptable. And we urge the Subcommittee to use time at the oversight hearing this week to demand that the Department do more to protect children and to ensure that small children are able to sit together with their families on flights – at no extra cost, and without having to beg their fellow passengers to switch seats with them.

Thank you for your attention to our concerns. We request that this letter be made part of the hearing record.

Respectfully,



William J. McGee
Aviation and Travel Adviser
Consumer Reports



George P. Slover
Senior Policy Counsel
Consumer Reports



Anna Laitin
Director, Financial Services
Consumer Reports

cc: Members, Committee on Transportation and Infrastructure

⁶ *Id.*