

Memorandum

Date: August 24, 1993

To: Senator Dole

From: Alec Vachon/Kevin Gottehrer *AV KG*

Re: Letter to Peña Re Air Carrier Access Act

Attached for your approval is a letter to DOT Secretary Peña requesting a review of implementation of the Air Carrier Access Act ("Act"), which you sponsored in the Senate.

This letter follows from an August 2nd Washington Post article you sent me (attached, with a follow-up Post article on August 3rd) regarding a boarding problem encountered by Rick Douglas, Executive Director of the President's Committee on Employment of People with Disabilities. Although almost certainly a publicity stunt by Douglas,<sup>1</sup> we researched this issue. After extensive conversations with knowledgeable individuals and groups around the country, we found 3 common complaints: (1) lack of training of ground and cabin personnel; (2) lack of assistance in boarding, deplaning, and during flight (see attached Post letter of August 22nd); and (3) indifference by airlines towards disabled passengers -- doing the bare minimum to comply with the Act.

We also reviewed a list of all 696 complaints DOT has received under the Act since 1990, which confirm the anecdotal reports. (N.B.: Although the Act directed that regs were to be written by February 1987, final regs were not issued until 1990.)

A key issue for airlines is "safety," a defense allowed by the Act. We have not been able to determine if this defense is used appropriately or as an excuse. Another recent Post letter (August 14th, attached), written by an airline pilot, criticizes Douglas and the media for placing more value on the rights of the disabled than on the safety of other passengers.

In any case, the Act remains important because it supersedes ADA on air travel (see attached USA Today editorial of August 2nd). Given the complaints, a review of implementation of the Act appears timely. We considered other options for a review, including a request for a study by GAO or OTA and a call for Senate hearings; however, perhaps the best place to begin is with a letter to Peña.

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<sup>1</sup> N.B.: Justin Dart has resigned as Chair of the President's Committee effective December 1. Douglas, who apparently serves at the pleasure of the Chair, is fighting to keep his job.



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## United States Senate

WASHINGTON, DC 20510-1601

August 24, 1993

The Honorable Federico Peña  
Secretary of Transportation  
U.S. Department of Transportation  
400 Seventh Street, S.W.  
Washington, D.C. 20590

Dear Secretary Peña:

I understand from recent press reports that you are undertaking a review of an incident at Dulles Airport on July 31st where Rick Douglas, Executive Director of the President's Committee on Employment of People with Disabilities, was refused assistance in boarding a United Airlines' commuter flight.

I would appreciate receiving a copy of the report on this matter. In addition, I strongly urge you to conduct a thorough review of implementation of the Air Carrier Access Act of 1986 (P.L. 99-435) generally. As the principal sponsor of the Act in the Senate and as a person with a disability myself, I have a keen proprietary interest in its successful implementation, which has a simple but powerful purpose: to ensure that people with disabilities have equal access to air travel.

From an informal survey conducted recently by my staff, including conversations with travel agents and people with disabilities around the country, and a review of the almost 700 complaints received by DOT since 1990, I have the clear impression that there are many shortcomings in implementing the Act, including in the training of ground and cabin personnel and the availability of various kinds of assistance.

I look forward to your response. If I can be helpful in any respect, please do not hesitate to contact me or my Legislative Assistant for Disability Policy, Dr. Alexander Vachon.

With best regards,

Sincerely,

  
BOB DOLE  
United States Senate

BD/rav



# Presidential Aide for Disabled Is Forced to Crawl Onto Flight

FLIGHT, From A1

there is no flight attendant, Beneski said yesterday. "You are a potential safety threat in the event of an emergency to yourself and other passengers." United Express, based in Loudoun County, is a separate company from United Airlines, Beneski said.

Attempts to reach FAA officials who could interpret the regulations regarding disabled passengers were unsuccessful yesterday. Susan Hawes, a duty manager who answered the telephone at the FAA's central office in Washington, said that in general the airlines know the regulations and are responsible for carrying them out.

"It's an ongoing issue. It raises its head every six months or so," Hawes said. It goes beyond people in wheelchairs, she added, with airlines also debating how to deal with blind and seriously overweight passengers who might have more problems in emergencies.

Spokesmen for USAir and Continental, who also operate small commuter planes, said yesterday that they could not immediately say whether they had had any disputes with disabled passengers over access to their planes. The spokesmen were not able to give details of company policy on handling passengers in wheelchairs.

Douglas, who said he travels a couple of weeks every month in his job, said he has been on small commuter flights many times before, including on planes without flight attendants, and has always received any assistance he needed in boarding.

Access to transportation has been a major issue for disabled people. Advocates for the disabled have been lobbying airlines and airports, particularly those with small commuter planes,

to invest in special lifts to get disabled people onto airplanes usually boarded using steps, Douglas said.

Under a 1988 Air Carrier Access Act, airline personnel on small planes are not obliged to carry disabled passengers by their arms and legs, but are supposed to use boarding chairs or lifts, according to Douglas, who has worked with the presidential committee on disabilities for 2½ years.

The Americans with Disabilities Act underscores the air carrier access law by requiring equal access to public transportation for disabled people, he said.

Douglas said he plans to ask the Department of Transportation to develop stronger measures on training of airline personnel and a clarification of rules on commuter flights.

"We will do whatever it takes to sharpen up the regulations," he said. "Negotiations and mediation and being nice guys with the airlines isn't working."

Dozens of airports now have lifts, which cost \$12,000 to \$25,000 each, but Douglas and Beneski said Dulles has none. Most airlines have special aisle boarding chairs to help disabled people to their seats, Douglas said.

Douglas said he and his wife had traveled Saturday from Charleston, S.C., and were transferring at Dulles to United Express Flight 6251 to Allentown. When he purchased the ticket, he explained that he is a wheelchair user, and information was put on his ticket record with the airline, he said.

But airline personnel stopped him at the gate. When he dragged himself up the steps at Dulles, the United Express ground crew "just watched me," he said. Finally, one female staff member "broke ranks" and helped him lift his legs up the steps, Douglas said.



After being told by United Express at Dulles Airport that he would have to board a plane without help, Rick Douglas pulled himself up five steps by his arms while passengers and workers watched. "It was humiliating," he said.

"All these [passengers] were watching me," Douglas said. "They looked shocked and horrified."

After landing in Allentown, none of the ground crew would help with his bags, so the copilot carried them, he said. Douglas returned from Pennsylvania on a USAir flight yesterday, and airline staff carried him up the steps in a chair, he said.

"We have gotten letters at the president's committee from people who have had similar experiences," Douglas said of Saturday's incident. "A lot of us already are giving up on air travel."

Staff writer Michael D. Shear contributed to this report.



# U.S. Says Airline Followed Rules in Refusing Help

By Stephen C. Fehr  
and Sandra Evans  
Washington Post Staff Writers

United Express personnel followed federal regulations in declining to help a disabled man board a plane Saturday at Dulles International Airport, airline and U.S. Department of Transportation officials said yesterday.

But Rick Douglas, executive director of the President's Committee on Employment of People With Disabilities, said that the airline and federal officials do not understand the regulations and that he will press Stephen Wolf, United Airlines' chairman, on the issue at a meeting today in Chicago. Wolf sent Douglas an apology yesterday.

Douglas, who uses a wheelchair because of multiple sclerosis, was trying to fly to Allentown, Pa., on Saturday to give a speech there about the third anniversary of the Americans With Disabilities Act. Told by United Express personnel that he would have to be able to board by himself, Douglas dragged himself up a set of steps onto the plane, a 19-seat Jetstream 31. After he had ascended the steps by hand, Douglas said, a United Express employee "broke ranks" to help him lift his legs.

After reading an account of the incident in yesterday's Washington Post, U.S. Transportation Secretary Federico Peña was described by a spokesman as being "very troubled" by it and ordered a review.

Peña's spokesman, Richard Mintz, said some aircraft with fewer than 30 seats, such as the Jetstream 31, are too small to allow lifts, chairs and other devices to assist a disabled person in boarding the plane.

Under a five-year-old law, airline personnel "are not required to carry the handicapped person onto the aircraft by hand." Furthermore, Mintz said, federal regulations require the airline to notify the disabled person of the problem when the reservation is made.

Although the Transportation Department

is trying to make flying as accessible as possible, Mintz said, "some aircraft such as the J-31 make it very difficult to access for the handicapped, and that's unfortunate."

Barron Beneski, a United Express spokesman, said the policy is intended for the safety of the disabled person as well as airline personnel. United Express and United Airlines are separate companies, but United contracts with United Express for regional air service.

"We're not trying to be callous," Beneski said. "We're caught between a rock and a hard place. We're sympathetic to this situation, but it's a technological problem."

A USAir spokesman said yesterday that that airline uses special chairs to assist disabled people onto its Jetstream 31 commuter planes.

"The bottom line is that we will get the [disabled] passenger on, regardless of the size of the plane," said spokesman David Shipley.

Beneski said Douglas was traveling with his wife, Nancy Flinn, who, he said, airline officials assumed would help her husband onto the plane. He also said United Express offered Douglas and his wife a flight on a larger plane.

Douglas said his wife is ill and unable to help him. He said he was not offered another flight.

When making the reservation, Douglas said, no one explained the aircraft's limitations.

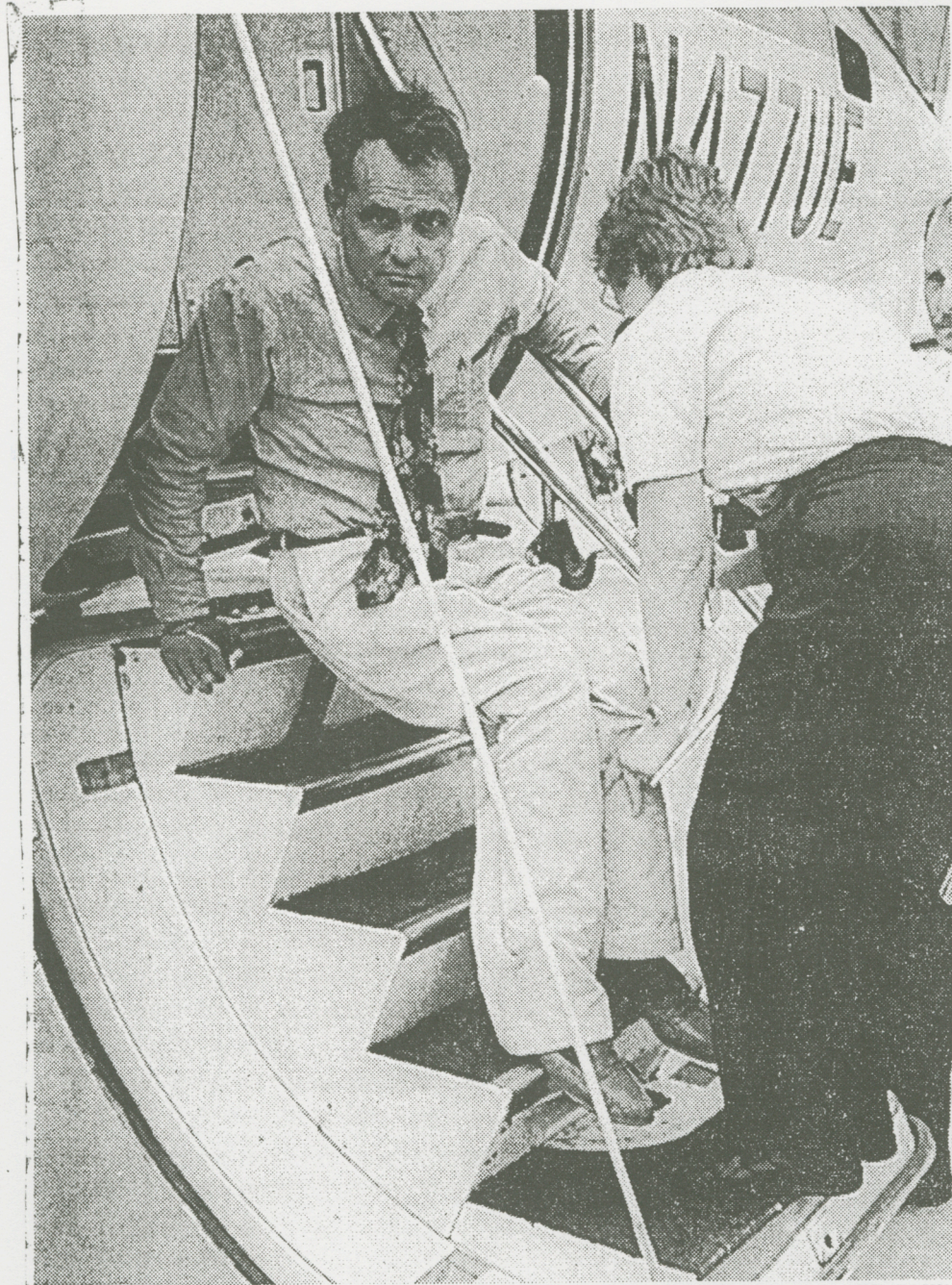
Douglas said he has flown on other Jetstream 31 planes and was assisted by airline personnel. He said lifts are available that would allow him to be hoisted up to the plane.

The federal regulation says airline personnel are "not required" to carry disabled passengers, Douglas said, which means that airline employees may assist at their own discretion. "They do it all the time," he said.

On Sunday, Beneski said airline personnel were justified in not aiding Douglas because the plane had no flight attendant, saying it was a safety issue. Yesterday, Beneski said the lack of a flight attendant was not an issue.

Staff writer Richard Weintraub contributed to this report.

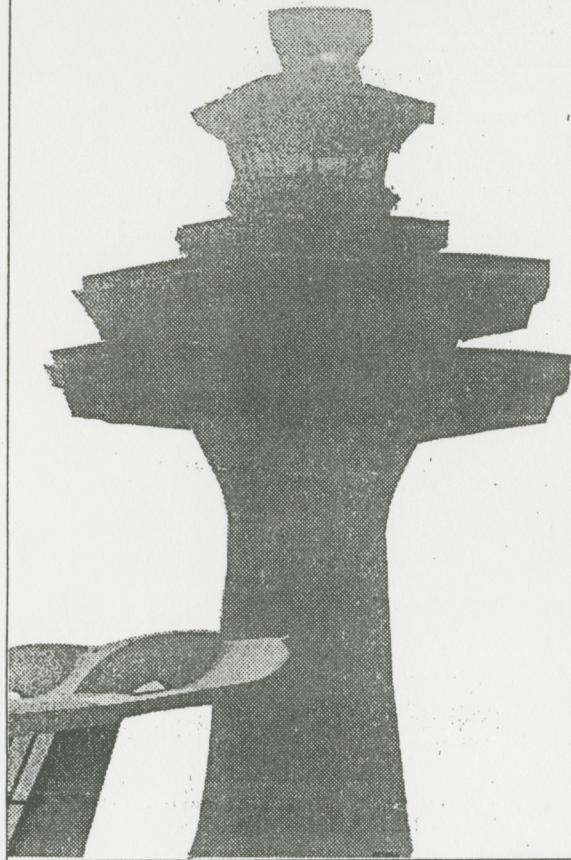




ASSOCIATED PRESS

**Rick Douglas** was helped Saturday onto a United Express plane at Dulles by a ground crew employee. Douglas is to meet today with United Airlines' chairman to discuss disabled rights.





### *Heathrow could show Dulles how.*

In June I traveled with a disabled friend via British Air from Dulles Airport to Manchester, England, with a two-hour layover at Heathrow Airport in London. The shabby treatment that my friend received at Dulles gave rise to our expectations that our journey would be a nightmare.

The first problem occurred when my friend rose from the wheelchair at Dulles—which was tardily and reluctantly provided—to lamely, but gamely, make her way through the security arch. She arrived on the other side of the arch only to find that an attendant had made off with the wheelchair. After contentious behavior on the part of airport personnel, another wheelchair was provided, reluctantly.

At no time did any airport personnel help us maneuver the wheelchair, which had misaligned wheels and was difficult to push. Fortunately, my friend wasn't required to drag herself up into the plane, as we boarded from a tunnel connecting directly to the shuttle car. But we were anticipating with dread the labyrinths of airport connections at Heathrow.

However, at Heathrow we were met by a courteous attendant who had a wheelchair ready for my friend. He saw us through immigration in

short order and then saw us aboard a shuttle fitted to lift the wheelchair. The shuttle took us to the domestic terminal, where we were met by another courteous attendant, who took us to our boarding area for our flight to Manchester.

As we had a two-hour layover, the attendant left us there on our own, but he returned to see us onto our flight. This same VIP treatment was afforded us at the Manchester airport and continued through customs until we were met by our hosts. At no time were we required to maneuver the wheelchair on our own.

Of course on our return to Dulles in mid-July, we experienced the same neglect that we had run into on the way out. I was ashamed that an American airport suffered so completely in comparison with a foreign one, both in such an essential service and in basic courtesy.

I learned from one of our attendants at Heathrow that the magnificent VIP treatment we received in England was provided by a service hired by the airports. And the service is free to the disabled.

Just who is it who runs the Dulles airport anyway?

—*Iris M. Streich*



## More Media Hype

As an airline pilot, I am appalled at the media coverage of Rick Douglas's problems in boarding a commuter flight [Metro, Aug. 2]. This was presented as a handicapped rights issue when, in reality, it is an issue of the personal safety of everybody else on board that aircraft.

Federal aviation regulations prohibit airlines from allowing nonambulatory passengers on aircraft without flight attendants, such as the one Douglas was trying to board. Douglas has a right to disregard his own safety, but in the event of an accident, his presence represents a possible hazard to other passengers if, for example, he is blocking an emergency exit.

Douglas has choices in air travel on aircraft with flight attendants on the route he took to Allentown. It appears, by pictures of him in the airport and boarding the aircraft, that this was intended as a media event from the start.

I question Douglas's value as a presidential adviser when he accuses airlines of discrimination when they are merely following federal regulations. Once again political correctness overcomes logic in media coverage and the "new social awareness."

—*M. D. Hoffman*



## Disabled deserve dignity

Try to imagine being confined to a wheelchair and suffering the humiliation of being told that the only way you can board a small commuter flight is if you get on by yourself.

Rick Douglas, who has multiple sclerosis, doesn't have to use his imagination. This outrage actually happened to him at Dulles International Airport in Washington, D.C., Saturday.

Ironically, Douglas is executive director of the President's Committee on Employment of People with Disabilities and was on his way to make a speech to celebrate progress under the Americans with Disabilities Act of 1990. Douglas dragged himself up the small craft's steps "on my butt" and into a seat while other passengers gawked.

All Americans should be embarrassed that incidents like this still happen. An airline spokesman said that for safety reasons it doesn't allow completely non-ambulatory passengers on planes with-

out flight attendants. He said the airline complies with FAA regulations.

Complying with rules is not the point. The spirit of the disability rights act is to open doors to new opportunities for the 43 million Americans with disabilities.

In that spirit, Attorney General Janet Reno is trying to resolve as many complaints as possible out of court, so businesses can spend their money on opening access instead of on legal fees.

Equal opportunity is the goal. That means more than building ramps, widening aisles and installing devices. It means changing attitudes to allow the disabled the dignity they deserve.

Local governments and businesses should act aggressively to provide access to disabled employees, customers and clients. Not just because it's a civil rights law. Or because it can be good business.

They should make new opportunities available for people with disabilities because it is the right thing to do.

### Is the Americans With Disabilities Act working?

Tell USA TODAY readers whether you think the law giving civil rights to disabled residents has been effective. Or comment on other topics. Our opinions are reached in daily debates of a 15-member editorial board — people of many backgrounds and interests. We value your views, too.

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