



Family Assistance: The First Line of Defense Against Liability

20TH ANNIVERSARY
Aviation Symposium
February 4-6, 2025

Fox
Rothschild

NTSB Family Assistance History

- Presidential Memorandum
- ADFAA – 1996
- ADFAA – Foreign Flag Carriers 1997 (FACFSA)
- Task Force Recommendations (1997)
 - Report Contained 61 recommendations
- MOU between DOS and NTSB 1997
- MOU between DOT and NTSB 1997
- MOU between FEMA and NTSB 1998

NTSB Family Assistance Resources

NTSB TDA Brochures –
Information for Survivors, Family & Friends
[NTSB Family Assistance Resources Library](#)

NTSB Family Assistance Resources

- The NTSB's TDA now has information for Survivors, Family and Friends posted on its website for the following transportation accidents (in addition to Part 121 air carriers):
 - General Aviation Accident Investigations
 - Rail Passenger Accident Investigations
 - Railroad Accident Investigations
 - Marine Accident Investigations
 - Highway Safety Investigations

FAA Family Assistance Resources

- Federal Aviation Administration
 - The Aviation Event Emergency Response Plan (ERP) Review Checklist ([Aviation Event Emergency Response Plan \(ERP\) Review Checklist](#))
 - This is a tool to help FAA inspectors review 2023, for compliance with FAA policies
 - Airports are required to drill and practice their aviation emergency response plans once every three years, *See* 14 CFR Part 139.325. *See also* FAA Advisory Circular No 150/5200-31C Airport Emergency Plan (Consolidated AC includes Change 2)
 - Airports are also required to have an SMS (Safety Management System) program in place effective April 24, 2023, which includes Emergency Response Plans
 - Similarly, Part 135 certificate holders and air tour operators are required to have SMS Programs effective May 28, 2024

Other Family Assistance Resources

- International Civil Aviation Organization (ICAO)
 - Annex 9 (Facilitation) to the Chicago Convention
 - Annex 13 (Aircraft Accident and Incident Investigation) to the Chicago Convention
 - Policy on Assistance to Aircraft Accident Victims and their Families (Doc 9998)
 - Manual on Assistance to Aircraft Accident Victims and Their Families (Doc 9973)
- International Air Transport Association (IATA)
 - *See generally*, IATA Compilation of Emergency Response Planning Regulations, Standards and Guidance Applicable to Civil Aviation, Edition 1.5 October 2024

Family Assistance Resources

- European Union
 - EU Regulation 889/2002
 - EU Regulation 996/2010 (as amended)

Family Assistance Resources

- Examples of countries adopting Family Assistance Legislation
 - Australia
 - UK
 - China
 - Argentina
 - Italy
 - Brazil
 - Mexico
 - India
 - Korea
 - UAE
 - Spain
- *See generally, IATA Compilation of Emergency Response Planning Regulations, Standards and Guidance Applicable to Civil Aviation, Edition 1.5 May 2023*

Advance Payments

- ADFAA/FACFSA – Not Required
- DOT Order 2006-10-14 approving ATA's (now A4A) 2006 IPA Agreement*
- Warsaw/Montreal 1999
 - Not required, defers to local law
 - Strict liability up to 128,821 SDR's**
- European Union
 - EU Regulation 889/2002, May 13, 2002
 - Requires EU carriers to make advance payment as soon as possible but in no later than 15 days
 - Advance payment cannot be less than the equivalent in euros of 16,000 SDR's
 - Advance payment shall not constitute recognition of liability and may be offset against later payments

*Cited in Chapter One, FN 24 (page 26) of Harakas, editor, *Litigating The Aviation Case, Fourth Edition*, American Bar Association 2017.

**As of December 28, 2024. Converted to US \$167,120 as of Jan 6, 2025. Subject to adjustment as set forth in Montreal 1999 Convention.

Thank You

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