



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation
on the day 5th of January, 2000

United Airlines

Served January 5, 2000

Violation of 49 U.S.C. 41705
and 14 CFR Part 382

CONSENT ORDER

This order concerns United Airlines' (United's) violation of 49 U.S.C. 41705 and 14 CFR 382.49 that involved its treatment of disabled travelers at security check points at Dulles International Airport (IAD). This consent order directs United to cease and desist from future violations of the relevant statute and rule and to pay a compromise civil penalty.

Section 41705 of Title 49 of the U.S. Code prohibits airlines from discriminating against disabled air travelers. The Department adopted 14 CFR Part 382, a comprehensive set of rules, to implement 49 U.S.C. 41705. Section 382.49 sets forth rules applicable to the security screening of disabled passengers. In particular, section 382.49(a) states, in part, "Security searches of qualified individuals with a disability whose aids activate the security system shall be conducted in the same manner as for other passengers. Private screenings shall not be required for qualified individuals with a disability to a greater extent, or for any different reason, than for other passengers."

In January 1999, the Department's Aviation Consumer Protection Division (ACPD) received a complaint from a disabled individual who uses a wheelchair. He stated that on a recent trip to IAD and on other occasions there the security personnel insisted that he proceed to a private room for his security screening even though he requested a public screening. In addition, he was told by the security personnel that his young son who was with him could not accompany him to the private screening room. Subsequent to that complaint, ACPD received a complaint from another individual that private screenings were being required of disabled passengers. The security personnel at IAD work for Argenbright

Security, Inc., which is under contract to United to provide required screening at the airport for all carriers there. Pursuant to 14 CFR 382.9, United is responsible for Argenbright staff's regulatory compliance with Part 382 at IAD.

As a result of these complaints, ACPD staff, over a period of several months made a number of unannounced visits to IAD with disabled and other individuals in wheelchairs and confirmed the allegations by the complainants that private screenings were being required of disabled air travelers. Notwithstanding two separate written commitments and other oral commitments by United and Argenbright staff in response to warnings from ACPD, as of September 3, 1999, ACPD staff observed persons in wheelchairs still being directed to private screening rooms by security personnel and not being provided a choice of a private or public screening unless they raised objections and got the attention of an Argenbright security manager on duty.¹ This conduct violates 49 U.S.C. 41705 and 14 CFR 382.49(a) and ACPD staff have observed this to occur over an extended period of time.² Enforcement action is appropriate here and the level of the civil penalty assessed reflects the nature of the impermissible conduct, as well as United's failure to fully correct it over time after repeated warnings.³

In mitigation and explanation, United states that its commitment to the fair and sensitive treatment of disabled passengers is unequivocal. United contends that, in each instance when it was advised of complaints about the screening process at IAD, as described above, it immediately contacted Argenbright to attempt to rectify the situation. Similarly, United states that Argenbright in each instance immediately undertook to reiterate the correct policy to its supervisors and employees and to provide appropriate training, even to the point of circulating a memorandum specifically setting forth the obligations with respect to the screening of disabled passengers. While some Argenbright employees apparently failed on subsequent occasions to implement the proper procedures, United states that neither it nor Argenbright disregarded the complaints or failed to take proper action to address them. Through repeated and continued efforts, including the posting of signage at the checkpoint, United is confident that this issue has now been properly resolved. Furthermore, United notes that, to its knowledge, this

¹ This conduct was notwithstanding the fact that signs had recently been posted in the security area advising all concerned of the right to a private or public screening.

² On September 6, 1999, ACPD staff observed that individuals in wheelchairs were being given the required choice of private or public screenings as they approached the security checkpoint and ACPD has received reports that similar, appropriate procedures were being used in December 1999.

³ Although not allowing a young child to accompany a disabled parent during a private security screening would also violate 14 CFR 382.49, we are not pursuing enforcement action on that alleged conduct here. In this case we have evidence of only one such occurrence at IAD and we also have evidence that such conduct is inconsistent with United's and Argenbright's procedures. Based on information provided by United, it appears that the occurrence here resulted from the mistaken belief of the security personnel that the child was with another party at the airport rather than with the disabled individual.

problem has not been evidenced at other locations where United has primary responsibility for the security checkpoints, but only at IAD, where many passengers in wheelchairs have in the past favored or insisted upon private screening. Finally, United notes that this case marks the first occasion in which an airline has been formally advised of the Department's interpretation that 14 CFR 382.49(a) requires airport security checkpoint screeners to advise disabled passengers in wheelchairs of the right to a public screening or to permit the passenger to expressly make that choice.

After carefully considering all the facts in this matter, the Office of Aviation Enforcement and Proceedings (Enforcement Office) believes that enforcement action is warranted. In order to avoid litigation and without admitting or denying the alleged violations described above, United has agreed to a settlement of this matter with the Enforcement Office. Under this order, United consents to cease and desist from future violations of 49 U.S.C. 41705 and 14 CFR 382.49 and agrees to the assessment of \$50,000 in civil penalties in compromise of potential civil penalties otherwise assessable under the provisions of 49 U.S.C. 46301. The Enforcement Office believes that the assessment of a civil penalty of \$50,000 in this instance is warranted in light of the nature and extent of United's violations. This order and the penalty that it assesses will provide a strong incentive for all carriers to comply with the statute and rules ensuring proper treatment of passengers with disabilities.

This order is issued under the authority contained in 49 CFR 1.57a and 14 CFR 385.15.

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that United Airlines violated 14 CFR 382.49 by not giving disabled individuals in wheelchairs the option of a private or public security screening, as described above;
3. We find that United violated the Air Carrier Access Act, 49 U.S.C. 41705, by discriminating against qualified disabled passengers, as described above;
4. We order United Airlines to cease and desist from further violations of 49 U.S.C. 41705 and 14 CFR 382.49, as described above; and
5. United Airlines is assessed \$50,000 in compromise of civil penalties that might otherwise be assessed for the violations found in paragraphs 2 and 3 of this order. Payment shall be made within 15 days of the issuance date of this order by wire transfer through the Federal Reserve Communications System, commonly known as "Fed wire," to the account of the U.S. Treasury. The wire transfer shall

be executed in accordance with the attached instructions. Failure to pay the penalty as ordered will subject United Airlines to the assessment of interest, penalty, and collection charges under the Debt Collection Act, and possible enforcement action for failure to comply with this order.

This order will become a final order of the Department 10 days after its service date unless a timely petition for review is filed or the Department takes review on its own motion.

BY:

ROSALIND A. KNAPP
Deputy General Counsel

(SEAL)