

Annual Report On Disability-Related Air Travel Complaints

September 2010

Report of the Secretary of Transportation to the United States Congress

Pursuant to the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21)

INTRODUCTION

Overview

The Air Carrier Access Act (ACAA, 49 U.S.C. 41705) prohibits discriminatory treatment of persons with disabilities in air transportation. The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21; Public Law 106-181) requires, among other things, that the Secretary of Transportation “regularly review all complaints received by air carriers alleging discrimination on the basis of disability” and “report annually to Congress on the results of such review.” This is the sixth such annual report to Congress, which covers disability-related complaints that U.S. and foreign passenger air carriers operating to, from, and within the U.S. received during the 2009 calendar year, as reported to the U.S. Department of Transportation (Department or DOT) by those carriers.

This report has two components: (1) a summary of the data reported to the Department by U.S. and foreign air carriers; and (2) a detailed breakdown of the data for each carrier. To allow readers to find areas of interest easily and grasp the essence of an issue quickly, this annual report employs a graphic-intensive format for its data presentation. The 2011 report to Congress covering disability-related complaints carriers received during the 2010 calendar year will follow this same format.

Background

On May 13, 2008, the Department published a final rule to implement the requirements of AIR-21 (See 14 CFR 382.157, 73 FR 27614). [\[1\]](#) This rule requires certificated U.S. air carriers and foreign air carriers operating to, from, or within the United States, conducting passenger operations with at least one aircraft having a designed seating capacity for more than 60 passengers, to record complaints that they receive alleging discrimination or inadequate accessibility on the basis of a disability. The complaints are to be categorized according to the passenger’s type of disability and the nature of the complaint. The passenger's disability must be recorded as one of the following types:

- vision impaired
- hearing impaired
- vision and hearing impaired
- mentally impaired
- communicable disease
- allergies (e.g., food allergies, chemical sensitivity)
- paraplegic
- quadriplegic
- other wheelchair
- oxygen
- stretcher
- other assistive device (cane, respirator, etc.)
- other disability

The nature of the alleged discrimination or service problem related to the disability must be recorded in the following categories:

- refusal to board
- refusal to board without an attendant
- security issues concerning disability
- aircraft not accessible
- airport not accessible
- advance-notice dispute
- seating accommodation
- failure to provide adequate or timely assistance
- damage to assistive device
- storage or delay of assistive device
- service animal problem
- unsatisfactory information
- other

Section 382.157 also requires the covered carriers to retain copies of the applicable complaints and records of the action taken for each complaint for three years, and to submit the required disability-related complaint data to the DOT annually. The first required report covered disability-related complaints received by carriers during calendar year 2004, which was due to the Department on January 31, 2005. Carriers are required to submit all subsequent reports on the last Monday in January of that year for the prior calendar year. For example, carriers were required to submit their 2005 calendar year disability-related complaint data by January 30, 2006, their 2006 calendar year disability-related complaint data by January 29, 2007, their 2007 calendar year disability-related complaint data by January 28, 2008, their 2008 calendar year disability-related complaint data by January 26, 2009, and their 2009 calendar year disability-related complaint data by January 25, 2010.

Summary of Findings

For the 2009 reporting period, 51 U.S. carriers and 119 foreign carriers submitted the required disability-related complaint data. The total number of carriers that submitted data for the 2009 reporting period increased by 3 compared to the 2008 reporting period; however, it should be noted that a number of U.S. and foreign carriers ceased operations or discontinued passenger service to the U.S. in 2009 while other carriers received authority to operate passenger service to, from, or within the U.S. during the same time period. The Department is continuing its efforts to inform new carriers of their reporting obligations as well as to identify carriers that the reporting rule may apply to that have not filed the required reports. In this regard, in the last four years, the Department has issued fourteen consent orders with a combined assessed penalty amount of over \$300,000 against carriers that have failed to file the required annual disability-related complaint data in a timely manner.

The 51 U.S. carriers that submitted data for the 2009 calendar year reported receiving 15,496 disability-related air travel complaints, and the 119 foreign air carriers reported receiving 1,572 complaints during the same time period, for a total of 17,068 complaints received by these 170 carriers. Similar to the last few years, about half of the complaints reported (8,653) concerned the failure to provide adequate assistance to persons using wheelchairs. Overall disability-related complaints received by carriers for calendar year 2009 increased by approximately 22 percent over complaints received by carriers for calendar year 2008, with 2,939 more complaints received by U.S. carriers and 123 more complaints received by foreign air carriers. This negative trend is consistent with complaint data received by DOT and is more troubling because domestic and international passenger enplanements by U.S. carriers also decreased between 2008 and 2009 from approximately 743.7 million to approximately 703.9 million and overall consumer complaints received by DOT decreased by approximately 17 percent from 2008 to 2009 reflecting a general decrease in service problems in the air transportation industry. In part as a result of the negative trend in disability complaint data, the

Enforcement Office is pursuing a number of investigations of carriers for substantive violations of the Department's disability rules. A table that presents a summary of the disability complaint data for 2004, 2005, 2006, 2007, 2008 and 2009 is set forth below.

	Total Number of Disability Complaints Received by Domestic Carriers	Total Number of Disability Complaints Received by Foreign Carriers	Total Number of Disability Complaints Received by All Carriers
2004	10,193	1,326	11,519
2005	12,194	1,398	13,592
2006	12,075	1,691	13,766
2007	13,926	1,364	15,290
2008	12,557	1,449	14,006
2009	15,496	1,572	17,068

As noted in last year's Report to Congress, although the overall number of complaints may appear to be large, it must be noted that millions of persons with disabilities in the United States travel by air each year, and the vast majority of them do not file a disability-related air travel complaint.^[2]

The substance of the complaints filed with the carriers has not been reviewed to determine whether the incidents constituted violations of the Air Carrier Access Act or the provisions of 14 CFR Part 382. Such an undertaking would require resources beyond the Department's investigative capabilities. Therefore, the complaint numbers should not be interpreted as reflecting violations of law. Moreover, the data being provided were taken directly from reports submitted by carriers and have not been audited or verified by the Department. However, the Department's Enforcement Office does audit carriers as it deems necessary to ensure accurate reporting. For example, during an on-site regulatory compliance inspection at the headquarters of Continental Airlines, Inc., (Continental), the Department's Enforcement Office discovered that Continental was improperly coding disability complaints. As a result, after a thorough investigation by the Enforcement Office, the Department issued a consent order against Continental on May 10, 2010, that assessed a \$100,000 civil penalty for failure to properly categorize and report disability-related complaints that Continental received from its passengers and ordered the carrier to cease and desist from further violations.^[3] The Department's Enforcement Office also currently has six pending investigations against air carriers for failure to properly categorize and report the disability-related complaints they received as required by section 382.157. In addition, the Enforcement Office investigates each disability-related complaint filed directly with DOT's Aviation Consumer Protection Division.

Four categories of information are being presented in this report: data from each carrier; summary totals for U.S. air carriers; summary totals for foreign air carriers; and summary totals for all carriers. The data are presented in charts similar to the charts in which covered U.S. and foreign air carriers are required to submit their reports; each chart contains 13 categories of disabilities on the horizontal axis and 13 categories of complaints on the vertical axis.

^[1] The original rule to implement the requirements of AIR-21 was published July 8, 2003 (See 14 CFR 382.70, 68 FR 40488).

^[2] According to data obtained through the National Household Travel Survey conducted by DOT's Bureau of Transportation Statistics (BTS) in 2001 and 2002, more than 17 million persons with disabilities in the U.S. travel by air each year. The most recent National Household Travel Survey was completed in 2009; however, the 2009 National Household Travel Survey does not include data regarding the number of persons with disabilities that traveled by air. However, based on the increase of domestic and international enplanement by U.S. carriers from approximately 625.3 million persons in 2001 to approximately 743.7 million persons in 2009, it can be assumed that more than 19 million persons with disabilities traveled by air in the U.S. in 2009.

[\[3\]](#) See *Continental Airlines, Inc., Violations of 14 CFR Part 382 and 49 U.S.C. § 41705*, Order 2010-5-9 (May 10, 2010).