

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE GENERAL COUNSEL
OFFICE OF AVIATION ENFORCEMENT AND PROCEEDINGS
WASHINGTON, D.C.**

Passengers' Right to Fly Free from Discrimination

Federal law guarantees all passengers the right to fly free from all forms of unlawful discrimination. Likewise, the Department of Transportation (the Department or "DOT") is committed to protecting the civil rights of all passengers, irrespective of race, color, national origin, religion, sex (including gender identity and sexual orientation), or ancestry. The Department is committed to ensuring that a passenger's right to fly free from unlawful discrimination is not compromised while also balancing important safety and security concerns. This fact sheet is intended to assist the flying public in understanding their right to fly on commercial airlines free from discrimination.

Question 1: What role does the Department play in aviation safety and civil rights?

The Department is tasked with the role of ensuring a safe flying experience while ensuring the protection of civil rights for all passengers. The Federal Aviation Administration (FAA) (a sub-agency within the Department) and the Department's Office of Aviation Consumer Protection (OACP), which is located in the Office of the Secretary of Transportation's Office of the General Counsel, each play a key role in carrying out this function.

The FAA is charged with the responsibility of regulating airline safety, and OACP is responsible for enforcing the statutes that prohibit unlawful discrimination by airlines against air travelers because of their race, color, national origin, religion, sex (including gender identity and sexual orientation), or ancestry.¹ The transportation industry analyst in the OACP process and investigate consumer and civil rights complaints.

Question 2: Which federal agency is responsible for aviation security?

DOT does not have jurisdiction over aviation security. Rather, the Transportation Security Administration (TSA), which is part of the U.S. Department of Homeland Security, has responsibility over civil aviation security, including the screening of passengers and property at airports and deployment of Federal Air Marshals on designated foreign and domestic flights. TSA imposes various requirements upon travelers and the aviation industry to ensure a secure aviation environment. This fact sheet document pertains solely to activities and authorities under the purview of the Department of Transportation. Additional information on TSA aviation security activities is available here: <https://www.tsa.gov/travel/frequently-asked-questions>.

¹ See 49 U.S.C. § 40127. The Department has also interpreted 49 U.S.C. §§ 41310(a), 41712, and 41702 as prohibiting discrimination against air travelers.

Question 3: What are my rights when I fly on a commercial airline?

All passengers have the right to fly free from all forms of unlawful discrimination. In particular, you are entitled to the following protections:

- Individuals may not be denied boarding or removed from a commercial airline because they appear to be Muslim, Arab, Sikh, and/or South Asian; because they speak Arabic, Farsi, or another foreign language; or because they speak with an accent that may lead another person to believe they are Muslim, Arab, Sikh, or South Asian. Likewise, a person may not be removed from a commercial airline because they are reading materials that are in Arabic, Farsi, or any other foreign language.
- Individuals may not be denied boarding or removed from a commercial airline based on their appearance or mode of dress that is associated with a particular national origin or religion. For example, removal of a woman because her hair is covered or because she is wearing a veil is unlawful discrimination. Similarly, removal of a man from a commercial airline because he has a long beard or hair covering is unlawful discrimination. Likewise, preventing a man from boarding a commercial airline because he is wearing a turban is unlawful discrimination.
- Individuals who are, or may be perceived to be, Muslim, Arab, Sikh, and/or South Asian have the right to be treated with the same respect and dignity as persons of other races, colors, national origins, and religions, and all persons should be treated in a polite, respectful, and friendly manner.

Question 4: Can I be denied boarding or removed from a flight by a commercial airline?

Yes, under certain circumstances. Federal law allows U.S. and foreign airlines to refuse to transport a passenger if the airline determines that the passenger is, or might be, a threat to safety or security.² This determination may be made by the pilot in command of the flight (or other airline personnel such as a Ground Security Coordinator). Decisions cannot be arbitrary. The Department's OACP will look at whether the denial of boarding or removal was justified based on specific facts and circumstances known at the time. The pilot bears the ultimate responsibility of ensuring the safety of the aircraft.

Before making a determination to deny a passenger boarding or remove a passenger from a flight based on safety or security reasons, the airline has the responsibility to conduct a reasonable inquiry into the facts supporting such action. Note, however, that the airline's discretion is not unfettered. Federal law guarantees all passengers the right to fly free from all forms of unlawful discrimination. A passenger's race, color, national origin, religion, sex (including gender identity and sexual orientation), or ancestry may not be the determinative factor in a commercial airline's decision to deny boarding or remove a passenger from a flight.

² Passengers may also be denied boarding for business reasons, such as the flight being oversold, because of drunkenness or other bad behavior, or for other reasons consistent with the airline's contract of carriage.

Question 5: What happens if a commercial airline refuses to allow me to board or asks me to leave the aircraft because of security or safety concerns?

You should cooperate with all airline requests or instructions, such as moving to the loading bridge for a private conversation. If a commercial airline denies you boarding or removes you from a flight for safety or security reasons, airline personnel may contact the appropriate authorities to determine if additional screening is necessary. Additional screening may involve TSA, the Federal Bureau of Investigation (FBI), and/or other federal, state, or local law enforcement agencies, depending on the level of screening deemed necessary under the circumstances.

If you believe that a commercial airline has denied you boarding or removed you from a flight on the basis of your race, color, national origin, religion, sex (including gender identity and sexual orientation), or ancestry, you should contact the DOT to file a complaint.³

Question 6: What is a reasonable basis for airline personnel to remove a passenger from a flight?

There are many circumstances that could result in airline personnel determining that a passenger should be removed from a flight because he or she may pose a threat to safety or security, or is disruptive. However, a passenger's race, color, national origin, religion, sex (including gender identity and sexual orientation), or ancestry may not be the determinative basis for the decision to remove him or her from the flight. While the pilot in command has broad discretion when it comes to the safety and security of the aircraft, the airline does not have a license to unlawfully discriminate.

The determination of whether or not an airline's decision to remove a passenger from a flight is lawful is driven by the facts and circumstances known to the pilot or airline personnel at the time of the incident. DOT suggests that airline personnel conduct a comprehensive evaluation of the facts known at the time, considering the totality of the circumstances. Such an evaluation should include whether a passenger's race, color, national origin, religion, sex (including gender identity and sexual orientation), or ancestry is the sole or determinative factor causing concern. DOT suggests that airline personnel, in the course of their evaluation, ask themselves, "*But for this person's perceived race, color, national origin, religion, sex (including gender identity and sexual orientation), or ancestry, would I believe there is a need to remove this passenger from the flight?*" If the answer is "no," then removing the passenger would likely be considered unlawful discrimination against the passenger.

Question 7: How should I respond if I am asked to deplane?

Even if you do not like an airline's actions, a failure to comply with airline personnel instructions is a ground for denying you boarding or removing you from a flight. Therefore, all passengers should cooperate fully with airline personnel. In the event that you believe that you have been unlawfully discriminated against, you may file a complaint with the airline and the Department

³ See <http://airconsumer.dot.gov/escomplaint/ConsumerForm.cfm>.

of Transportation and an investigation will be conducted. You may also contact or retain an attorney to assist you with the filing of such a complaint.

Question 8: How do I deal with a passenger who feels “uncomfortable” with my presence?

If you are faced with a situation where another passenger expresses discomfort with your presence and/or exhibits hostile behavior toward you, do not engage with the passenger. Rather, you should report any unlawful or harassing behavior by another passenger to airline personnel immediately.

Question 9: What are my rights after I have been denied boarding or removed from a flight, completed additional screening, and been cleared to fly by appropriate authorities?

If you have been removed from a plane and have been cleared to fly by appropriate authorities, you should be allowed to re-board the flight if it has not yet departed and the airline does not have any business or other legitimate reason for refusing to carry you on that flight. However, an airline is not required to delay departure of a flight in order to allow time for additional security screening and resolution of any safety or security concerns. In the event that your original flight has departed, you should be rebooked on the next available flight. Airlines are advised that passengers should be treated with respect and dignity at all times.

Question 10: Who should I contact if I believe that my rights have been violated?

If you feel that you have been the subject of discriminatory actions or treatment by a commercial airline, you may file a complaint with the specific airline and DOT’s Office of Aviation Consumer Protection.⁴ Complaints to DOT may be filed using our web form, available at: <http://airconsumer.dot.gov/escomplaint/ConsumerForm.cfm>. Complaints may also be mailed to the following address:

Office of Aviation Consumer Protection
U.S. Department of Transportation
1200 New Jersey Ave. S.E.
Washington, DC 20590

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⁴ You may file a complaint yourself or retain an attorney to assist you.