



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

Issued by the Department of Transportation
on the **24th day of February, 2004.**

Information Directive Concerning

**Frontier Airlines
Under 49 U.S.C. § 41708(b)**

**Docket OST-2004-17197
Served: February 24, 2004**

ORDER

By this order Frontier Airlines (Frontier) is directed to answer certain questions, provide information and/or produce documents that are necessary to enable the Department to determine whether Frontier on a particular occasion violated federal statutes prohibiting air carriers from discriminating against passengers based on their race, color, national origin, religion, sex, or ancestry. The Department may require air carriers and foreign air carriers to provide information, special reports, records, papers, documents, and specific answers to questions upon which information is deemed necessary. 49 U.S.C. § 41708(b); 14 CFR 385.15(c), (d); see also Information Directive Concerning Lufthansa German Airlines Under 49 U.S.C. § 41708(b), No. 94-11.3, 1994 WL 614035, *1 (DOT Nov. 3, 1994).

The Department, through its Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (Enforcement Office), has the duty and authority under various laws, including 49 U.S.C. §§ 40127, 41310 and 41702, to investigate allegations of unlawful discrimination. See American Airlines, No. 2003-15046-18 (DOT August 21, 2003). In this connection, the Department receives informal complaints from consumers who believe they have been discriminated against on the basis of their race, color, national origin, religion, sex and/or ancestry. (See, 14 CFR 302.403.) Upon receipt of such complaints, the Enforcement Office implements a structured and informal investigation procedure that it follows, when warranted, with each such informal passenger complaint it receives. This process necessarily involves the cooperation and provision of information by air carriers. In the past, virtually all air carriers

have participated in these investigations by voluntarily and frankly answering questions and providing requested information.

It is under 14 CFR 302.403 that the Enforcement Office received the complaint at issue. The complainant, Maria Aguirre, alleges that Frontier Airlines, through its employees, discriminated against her because she is Hispanic. Upon its receipt, the complaint was referred informally to Frontier with a request that it send a substantive written response to the complainant (with a copy to the Enforcement Office) specifically addressing the facts alleged in the complaint and providing any relevant explanatory information. The referral also requested that Frontier provide the Enforcement Office information regarding prior discrimination complaints against any specific individual or individuals employed by Frontier accused by the complainant of discriminatory conduct.

Frontier did not provide the Enforcement Office with a complete response to this request for information in that it failed to produce (1) the name of the employee or employees involved in the incident at issue, (2) a statement of whether these employees have been the subject of previous discrimination complaints of any type, (3) an explanation of each such discrimination complaint filed against these employees, and (4) a description of any action taken by Frontier in response to each discrimination complaint made against these employees. This information is essential if the Enforcement Office is to investigate Ms. Aguirre's allegations properly.

In response to Frontier's incomplete response, the Enforcement Office made several unsuccessful attempts to obtain the information from Frontier informally. The Enforcement Office sent two email requests to Frontier requesting the information. In addition, the Enforcement Office sent Frontier a letter requesting that it provide the information and explaining the basis and authority for such request. Despite these informal requests, Frontier continues to refuse to produce the requested information voluntarily. Frontier argues that release of the name of the individuals alleged to have discriminated against Maria Aguirre would be an invasion of such employees' privacy rights. Frontier asserts that it would not release such information without first receiving consent.

Frontier's reason for not providing the requested information is without merit. It is important to note that the Department does not release the names, addresses or other personal identifying information of individuals whose names appear in documents in investigation files without their consent. See 5 U.S.C. §552(b)(7)(C). As a further protection, Frontier may file the requested information with a request for confidentiality as described in 14 CFR 302.12.

Therefore, in light of Frontier's refusal to provide the requested information voluntarily and pursuant to 49 U.S.C. § 41708(b) we direct Frontier to file a full and complete response to the Department's request for information, under oath, within 7 days of the date of this order.¹ The requested information is necessary so that the Enforcement Office may properly complete its

¹ Frontier must provide information in response to the four questions listed above. In a February 3, 2004, fax sent to the Enforcement Office, Frontier asserted that it had already provided an answer to questions two, three and four. Contrary to this assertion, Enforcement Office records show that Frontier has not responded to any of these questions. Additionally, to the extent that Frontier has not fully responded to the allegations in the complaint and provided relevant mitigating information, it should do so in response to this order.

investigation, which is conducted as part of its duty to enforce federal antidiscrimination statutes against air carriers, and to allow the Enforcement Office to make a fully informed decision regarding the allegations in the complaint at issue. Failure by Frontier to file the information sought will constitute a violation of this order and 49 U.S.C. § 41708(b) and subject it to enforcement action. Pursuant to 49 U.S.C. § 46301, Frontier would be subject to a civil penalty of up to \$25,000 for violations of this order and 49 U.S.C. § 41708, and \$25,000 for each day the violations continue.

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

ACCORDINGLY:

1. Pursuant to the provisions of 49 U.S.C. § 41708(b), the Department directs Frontier Airlines to submit the (1) name of the employee or employees involved in the above-described incident involving alleged discrimination against Maria Aguirre, (2) a statement whether those employees have been the subject of previous discrimination complaints of any type, (3) an explanation of each discrimination complaint filed against those employees, and (4) a description of action taken by Frontier in response to each discrimination complaint made against those employees;
2. Frontier Airlines shall submit with the information described in ordering paragraph 1 a sworn statement as to the completeness and truthfulness of the information provided; and
3. Frontier Airlines shall deliver the information described in ordering paragraphs 1 and 2 within 7 days of the service date of this order, to the Department's Office of Aviation Enforcement and Proceedings, 400 7th Street, S.W., C-70, Room 4116, Washington, DC 20590.

BY:
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